

MINUTES OF THE SELECT HOUSE COMMITTEE ON ELECTION CONTESTS.

The meeting was called to order by Chairperson David Heinemann at 8:00 a.m. on February 6, 1995 in Room 313-S-of the Capitol.

All members were present.

Committee staff present:

Dennis Hodgins, Legislative Research Department
Norm Furse, Revisor of Statutes
Mary Ann Torrence, Revisor of Statutes
Cindy Wulfkuhle, Committee Secretary

Conferees appearing before the committee:

Victor Miller - Attorney for Joe Shriver
Doug Witteman - Attorney for Danny Jones
Eric Rucker - Attorney for Danny Jones

Others attending: See attached list

Chairman Heinemann stated that each attorney would present their oral arguments of issues and facts before the committee.

Doug Witteman, attorney for Danny Jones, presented his oral argument. (see attachment 1 from February 3 committee minutes)

RB3 ballot had been counted in the original canvass. It contained a mark on the ballot in the oval where a write-in voter would be marked. There was no name in the write-in blank and the voter made a heavy "X" through this oval. The voter then darkened the oval next to Danny Jones' name. The issue in question is what was the voter's intent.

Donna Schalk had changed her name because of a divorce, she cast a ballot in 2B where she was registered to vote under her married name. Because her name had been changed she voted a challenged ballot and her ballot was counted.

Edith Dickerson cast her ballot at 4D which is the polling place located at her place of employment. A poll worker indicated that Ms. Dickerson, who had recently moved, could vote at her present precinct polling place and was given a challenged ballot. Ms. Dickerson indicated that she had vacated her old residence on October 14, 1994. The statute allows a registered voter to vote without reregistering if that voter moves within 30 day of the election, K.S.A. 25-3701. The court determined that the voter did ask about where she should vote and the election worker gave her an answer. Ms. Dickerson should not be disenfranchised and her vote should count.

Moddie Graham registered to vote on August 27, 1992 and listed her residence as 614 N. 5th, precinct 4A. In this election she cast an challenged ballot a precinct 3A. Ms. Graham indicated that she had moved subsequent to the time of her registration. The court determined that Ms. Graham was an unqualified elector who cast an illegal ballot. However, because her vote was counted and already placed into a bag with other ballots it could not be determined who she voted for. When asked by the court she stated that she couldn't remember. Upon investigation Ms. Graham commented to Eric Rucker that she had voted for Joe Shriver and again after the trial she commented to a friend that she had voted for Joe Shriver. The issue is that Ms. Graham's vote was cast illegally and should be subtracted from Mr. Shriver's total.

Ruby Schalk's name was not in the poll books in precinct 1D, but was allowed to cast a challenged ballot. She had moved to her present address in September of 1992 and re-registered at the Arkansas City, Kansas Water Department. Ms. Schalk commented at trial that she remembers this because she had just moved and wanted to be able to vote in the upcoming presidential election. The Cowley County Elections office indicated that they sometimes misplace registration cards. The court ruled that her vote should not count. The issue is that she should not be disenfranchised by the errors of the election office workers, and whether her challenged ballot should be counted.

CONTINUATION SHEET

MINUTES OF THE HOUSE SELECT COMMITTEE ON ELECTION CONTEST, Room -Statehouse, at p.m. on February 6, 1995.

Gladys Weigand was not properly registered to vote and she voted for Danny Jones. The court agreed and subtracted her vote from Jones' total. Danny Jones believes there is evidence that shows she was registered to vote on August 2, 1994 and that her registration materials were misplaced or lost while in the custody of the election officials and therefore her vote should be counted.

Victor Miller, attorney for Joe Shriver, presented his oral argument. (see attachment 2 from February 3 committee minutes)

Michael & Penny Dorrell are registered voters in the 78th district. However, the 78th and 79th district were voting in the same location. It is believed that the Dorrell's were given a ballot for the 79th district and because their name was not on the poll book they cast a challenged ballot.

Edith Dickerson who changed her residence and had not re-registered to vote went to vote at Presbyterian Manor, her place of employment. She indicated to the poll workers that she had moved and didn't have time to vote at her precinct after work. She was issued a challenged ballot and voted. The court ruled that her vote should count. Mr. Shriver believes that her vote shouldn't count because she changed her residence more than 30 days prior to the election and had not re-registered as required by K.S.A. 25-1315c.

Daniel & Jammie Templeton moved about one year ago. They were still registered at their old address. They did not inform the poll workers of their change of residence and voted without being challenged. These two votes were illegally cast and should not be counted.

The committee recessed at 10:00 a.m. The committee reconvened at 1:00 p.m. in room 313-S.

The committee asked questions of and discussed with the attorney's the ballots in question.

Representative Garner commented that in order to give the committee a higher comfort level there should be a recount of several precincts which have had different totals two or more times. The committee agreed to count five precincts: 1B, 2B, 3A, 3C, & 4B. The committee divided into three groups to count ballots. Each group consisted of: one staff, one republican and one democrat. The count was identical to the count previously stipulated to by attorney's for both sides.

The committee meeting adjourned at 6:30 p.m. The next meeting is scheduled for February 7, 1995.

