

Hon. EDWIN W. EDWARDS,
*Governor, State Capitol,
Baton Rouge, La.*

DEAR GOVERNOR EDWARDS: This is perhaps the hardest letter I have ever had to write.

I am sure you are familiar with the continuing controversy that has surrounded my election to Congress. My own personal investigation and that of the House Committee has convinced me that there were fraudulent and illegal votes cast in my favor and in favor of my opponent. I sincerely believe and have always felt that if all the fraudulent and illegal votes were subtracted from the total I would still be declared the winner.

However, what I believe is not important. What must be protected is our beloved Louisiana and this Nation. That fraudulent votes were cast at all is deplorable. This democracy must be protected and the people of the First Congressional District must rest with the assurance that their Congressman has been elected by a majority of the people.

I have enjoyed nothing as much as serving my people in Congress. I know I have been a good Congressman.

But the divisiveness must be cured and the will of the people in the First Congressional District must be definitively recognized.

For these reasons, I hereby tender my resignation as the United States Representative for the First Congressional District.

I respectfully request that you call a new election as soon as possible so that the people of my district will not be without representation for any significant length of time.

Sincerely,

RICHARD A. TONRY.

§ 17. Ninety-sixth Congress, 1979–1980

§ 17.1 Perkins v Byron

The general election for the office of Representative to Congress from the Sixth District of Maryland was conducted on November 7, 1978.⁽¹⁾ The general election candidates were Beverly Byron (the Democratic candidate) and Melvin Perkins (the Republican candidate). The official returns indicated that Mrs. Byron had received 122,374 votes, while Mr. Perkins had received 14,276 votes. On November 30, 1978, Mrs. Byron was certified as the winner of the election by the Maryland State Board of Canvassers.

On November 28, 1978, Mr. Perkins (hereafter the “contestant”) filed a notice of contest with the Clerk of the House, which was forwarded to the Committee on House Administration for its review. The notice of contest asserted that Mrs. Byron (hereafter the “contestee”) had been improperly selected by the state Democratic party to stand in the election in place of her

1. This summary is derived from the report filed by the Committee on House Administration relating to this election contest. See H. Rept. 96–78, 96th Cong. 1st Sess.

husband, who had died prior to the general election. The contestant argued that a special election should have been held to fill the vacancy.

On December 28, 1978, contestee filed both a motion to dismiss (based on lack of proper service) and a motion for a more definite statement. A supplemental motion to dismiss was filed by contestee on February 23, 1979, on the basis that contestant had not properly claimed a right to the seat, and that contestant had failed to state grounds sufficient to change the result of the election.

The Committee on House Administration formed an ad hoc panel of three Members to review the case. On February 28, 1979, the panel met to hear oral arguments, and, after executive session deliberation, voted to recommend that the contestee's motion to dismiss be granted. On March 1, 1979, the full committee voted to recommend dismissal of the case.

In its committee report, the Committee on House Administration found that the statutory requirement that contestee be properly served with the notice of contest had not been met. It further concluded that contestant had not stated grounds sufficient to change the result of the election. Contestant "failed to present any documentary evidence supporting his allegations,"⁽²⁾ nor did contestant attempt to demonstrate how the allegations, if true, would have changed the outcome of the election. The committee report noted provisions of state law regarding the death of candidates and the circumstances under which special elections are to be held, and concluded that there was no requirement to hold a special election in this case. The committee therefore recommended that the contestee's motion to dismiss be granted.

On March 29, 1979,⁽³⁾ the committee filed its privileged report, and the House (by unanimous consent) adopted House Resolution 189 to dismiss the contest:

DISMISSING ELECTION CONTEST AGAINST BEVERLY BYRON

Mr. NEDZI, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-78) on the resolution (H. Res. 189) dismissing the election contest against BEVERLY BYRON, which was referred to the House Calendar and ordered to be printed.

Mr. [Lucien] NEDZI [of Michigan]. Mr. Speaker, I ask unanimous consent for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 189

Resolved, That the election contest of Melvin Perkins, contestant, against Beverly B. Byron, contestee, Sixth Congressional District of the State of Maryland, be dismissed.

2. H. Rept. 96-78, 96th Cong. 1st Sess. p. 3.
3. 125 CONG. REC. 6832-33, 96th Cong. 1st Sess.

The SPEAKER.⁽⁴⁾ Is there objection to the request of the gentleman from Michigan? There was no objection.

The SPEAKER. The gentleman from Michigan (Mr. NEDZI) is recognized for 1 hour.

Mr. NEDZI. Mr. Speaker, the rules of the House and title 2 of the United States Code place contested elections under the jurisdiction of the Committee on House Administration. This year five contested elections were filed with the committee.

In order to insure the timely and responsive handling of these election contests, so that all five might go forward simultaneously, the committee has established five three-member panels, consisting of two members of the majority and one member of the minority, with majority and minority legal staff assigned to support the panels.

Each panel examines the record of the particular case assigned to it, and then conducts hearings and factfinding as may be necessary. After considering the information presented by the parties, and after due deliberation, the election panel then recommends to the full committee what it considers to be the appropriate disposition of the contest. The committee then reviews the recommendation, makes a final determination, and refers its final action to the House. This procedure has been extremely successful in insuring that both the contestant and contestee have a timely and responsive forum for consideration of each contest.

The election contest before the House this afternoon is Perkins against Byron. It is the first of five which the House will consider under the elections panel procedure this Congress. Each of these contested elections is being considered under the provisions of 2 U.S.C. 381 et seq., which was enacted in 1969. The first contest decided under the 1960 act was Tunno against Vesey. [*sic*]⁽⁵⁾ There the contestant alleged various irregularities, and contestee moved to dismiss the contest. The committee examined the contestant's arguments, and his showing that the allegations, if true, would change the result of the election. However, notwithstanding contestant's allegations, he failed to demonstrate to the satisfaction of the committee that further proceedings would be fruitful. The committee then recommended, and the House adopted, a resolution dismissing the case, without a full presentation of the evidence, because contestant had failed to demonstrate that his allegations, if true, would have changed the results of the election. Such a failure is statutory defense to a contest.

The legislative branch is a policy-making body with a constitutional responsibility to determine its own proceedings, such as elections contests, impeachment matters and other similar pronouncements. The standards and procedures must, of course, be fair to all sides. However, the legislative branch is not the judicial branch, either in its constitutional duties or its procedures. In that regard, the House has determined by statute that it need not proceed to full presentation of evidence on the merits, when it is evident on the face of the allegations and supporting materials, that an elections contest is frivolous, or that the results of the election will not be changed. Thus the burden, on a motion to dismiss, properly rests on the contestant, who must demonstrate, by more than mere allegation, that there is some documentable basis for his allegations.

To quote the House report in Tunno against Veysey,

It has been the experience of Congress that exhaustive hearings and investigations have, in the past, been conducted only to find that if the contestant has been required at the outset to make proper allegations, with sufficient supportive evidence that could

4. Thomas O'Neill (MA).

5. As in the original. Text should read: Veysey.

most readily have been garnered at the time of the election, such further investigation would have been unnecessary and unwarranted.

Under the new law, then, the present contestant, and any future contestant, must have presented, in the first instance, sufficient allegations and evidence to justify his claim to the seat in order to overcome the motion to dismiss.

Mr. Speaker, I yield 10 minutes, for the purposes of debate only, to the gentleman from New York (Mr. PEYSER), the distinguished chairman of the Ad Hoc Elections Panel which reviewed the contest.

Mr. [Peter] PEYSER [of New York]. Mr. Speaker, I thank the gentleman from Michigan, the ranking member of the Committee on House Administration, for his clarification of the act.

This elections contest was filed by Mr. Melvin Perkins against Mrs. BEVERLY BYRON for the seat in the Sixth Congressional District of Maryland. In the election held November 7, 1978, BEVERLY BYRON received 122,374 votes to Mr. Perkins' 14,276 votes, a margin of 108,098 votes. The election results were certified by the Maryland State Board of Canvassers on November 30, 1978. BEVERLY BYRON was sworn in and took office on January 15, 1979, after presenting her credentials to the House.

On November 28, 1978, Melvin Perkins filed a handwritten notice of contest with the Clerk of the House. The notice of contest was somewhat ambiguous, and portions were illegible. But the general allegation was that Mrs. BYRON was improperly selected by the Democratic State Central Committee of Maryland to replace her husband, the late honorable Goodloe Byron, who was selected by primary election as the Democratic nominee for reelection, but who died before the date of the general election. The notice of contest asserted that a special election should be held to fill the vacancy during the unexpired term.

On December 28, 1978, Mrs. BYRON filed a motion to dismiss the contest and subsequently filed a supplemental motion to dismiss. The grounds for the motion were: First, improper service of the notice of contest; second, failure of the contestant to allege grounds sufficient to change the result of the election; and third, failure of the contestant to claim a right to contestee's seat—all statutory grounds for dismissing an election contest under the provisions of 2 U.S.C. 383.

On February 28, 1979, the ad hoc elections panel, consisting of myself as chairman, the honorable ED JONES, and the honorable CARROLL A. CAMPBELL, JR., held an open hearing for the purpose of receiving oral argument on the motion to dismiss. Contestant Perkins and his counsel were present, and counsel for Mrs. BYRON was present. Each side was provided 20 minutes to argue on the motion. Upon conclusion of the hearing, the election panel reviewed the record before it, and considered the oral arguments. After due deliberation, the panel adopted a motion, by a vote of 3 ayes and 0 nays, to recommend to the full committee that contestee's motion to dismiss be granted. On March 1, 1979, the full committee reviewed the panel's recommendation and by a rollcall vote of 23 ayes and 0 nays, adopted a resolution recommending dismissal of the contest to the House. That recommendation is before you now.

In assessing the record of the contest, the panel noted that contestant Perkins failed to provide documented proof of service of the notice of contest on Mrs. BYRON in accordance with the provisions of section 282 of title 2, United States Code, and that Mr. Perkins failed to state grounds sufficient to change the result of the election. The panel did not deem it necessary to reach the question of whether contestant failed to claim a right to Mrs. BYRON'S seat.

Although contestant is not required to prove his case on a motion to dismiss, contestant must initially support his allegations and conclusions with documentary evidence, or provide some other showing which would change the result or the election.

Contestant Perkins failed to present any documentary evidence supporting his allegations, which claimed that the Maryland Democratic Central Committee failed to provide adequate notice of the meeting at which the successor to the late Honorable Goodloe Byron was nominated. Furthermore, Perkins failed to demonstrate that his allegations, if true, would have changed the results of the election.

The panel concluded that the case should be dismissed, because contestant Perkins failed to provide service of the notice of contest on Mrs. BYRON in accordance with the requirements of the act, and failed to support his allegations with evidence sufficient to meet contestant's burden in overcoming a motion to dismiss, and failed to demonstrate that his allegations, if true, would have changed the election results.

The decision is, therefore, based both on the procedural defect of lack of proper service, and on the substantive defect of failure to allege grounds, and to support such grounds with documentary evidence sufficient to change the election results.

Mr. Speaker, I want the House to know that the ad hoc committee gave every opportunity to Mr. Perkins to present his case and to listen to him beyond the time normally allotted, and that the questioning was very careful and thoughtful. I particularly want to thank my colleague who served with me on that committee, the gentleman from South Carolina (Mr. CAMPBELL) who pursued a line of questioning that was very important in reaching a decision.

Mr. Speaker, I would be glad to yield at this time to the gentleman from South Carolina.

Mr. [Carroll] CAMPBELL [of South Carolina]. I thank the gentleman for yielding, and I thank him for his comments. As the gentleman has stated, the line of questioning was pursued, and there was no substantiation of the allegations that were made. The findings were that Mrs. BYRON was not properly served. We found that we did not have to go into the further motion for dismissal by Mrs. BYRON which alleged that a dismissal at that time should be made because of the failure to claim a right to the seat. That was not a matter that we had to bring up. It might also be pointed out, as the gentleman from New York (Mr. PEYSER) has so eloquently stated here, that there were no irregularities in the election vote whatsoever. Because of the hearings and because of the work of the chairman of the subcommittee who did such an outstanding job, I rise to support the resolution, and, as he has pointed out, it was a unanimous recommendation.

Mr. PEYSER. I thank the gentleman for his comments.

Mr. Speaker, I yield back the remainder of my time.

Mr. NEDZI. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

§ 17.2 Freeman v Mitchell

The general election for the office of Representative to Congress from the Seventh District of Maryland was conducted on November 7, 1978.⁶ The

6. This summary is derived from the report filed by the Committee on House Administration relating to this election contest. See H. Rept. 96-226, 96th Cong. 1st Sess.

general election candidates were Parren J. Mitchell (the Democratic candidate) and Debra Freeman (an Independent candidate). The official canvass indicated that Mr. Mitchell received 51,996 votes, while Mrs. Freeman received 6,626 votes. On November 30, 1978, Mr. Mitchell was certified as the winner by the Maryland State Administrative Board of Election Laws. His credentials were presented to the House of Representatives, and on January 15, 1979, he was duly administered the oath of office without objection or challenge.

On November 17, 1978, Mrs. Freeman filed a petition in state court seeking authorization to inspect voting machines and an injunction against certifying the election. This petition was denied and an appeal was subsequently filed.

On December 29, 1978, Mrs. Freeman (hereafter the “contestant”) filed a notice of contest with the Clerk of the House, which was forwarded to the Committee on House Administration for its consideration. On January 26, 1979, Mr. Mitchell (hereafter the “contestee”) filed a motion to dismiss and an answer to the notice of contest. On January 30, 1979, the Committee on House Administration established an ad hoc panel of three Members to evaluate the pleadings.

In her notice of contest, contestant alleged that both contestee and election officials engaged in a variety of illegal acts to win the election, including tampering with voting machines, intimidating voters, fraud, extortion, and other “dirty tricks.”⁽⁷⁾ Contestee’s motion to dismiss asserted that the contestant had not stated ground sufficient to change the result of the election, and further alleged that the notice of contest had not been filed in a timely manner under the statute.

On February 26, 1979, contestant filed several additional pleadings: (1) a motion to stay the proceedings pending the outcome of the state litigation then on appeal; (2) a motion to enlarge the time for discovery; and (3) notices for depositions and subpoenas *duces tecum* for election officials. The ad hoc panel temporarily quashed the subpoenas pending a determination on the contestee’s motion to dismiss. On March 14, 1979, the panel met to hear oral arguments on the motion to dismiss.

On April 3, 1979, the panel deliberated and recommended that contestee’s motion to dismiss be granted. The panel concluded that the contestant had not shown “by documentary evidence or otherwise”⁽⁸⁾ that the alleged illegal behavior had the effect of reversing the outcome of the election.

In its committee report, the Committee on House Administration agreed with the conclusions of the ad hoc panel. The entirety of the contestant’s

7. H. Rept. 96-226, 96th Cong. 1st Sess. p. 2.

8. *Id.*

evidence consisted of unsupported allegations in the notice of contest and “four affidavits from campaign associates.”⁽⁹⁾ These documents were insufficient to carry the burden under the statute, and therefore the committee recommended dismissal of the case.

On June 12, 1979,⁽¹⁰⁾ the committee offered House Resolution 198 (dismissing the contest) as a privileged matter, and the House adopted the resolution by voice vote:

DISMISSING THE ELECTION CONTEST AGAINST PARREN J. MITCHELL

Mr. [Frank] THOMPSON [of New Jersey]. Mr. Speaker, I call up a privileged resolution (H. Res. 198) dismissing the election contest against PARREN J. MITCHELL, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 198

Resolved, That the election contest of Debra Hannania Freeman, contestant, against Parren J. Mitchell, contestee, Seventh Congressional District of the State of Maryland, be dismissed.

The SPEAKER.⁽¹¹⁾ The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, under the Constitution and the Rules of the House, the Committee on House Administration is charged with the responsibility for investigating contested elections. In this Congress five election contests were filed. In each case I, as chairman of the committee, appointed an ad hoc panel to conduct the investigation.

In the contest before the House today, Freeman against MITCHELL, the panel was chaired by our colleague, the gentleman from Connecticut, Mr. WILLIAM RATCHFORD. Also serving with Chairman RATCHFORD were the committee members, the gentleman from North Carolina, Mr. CHARLES ROSE, and the gentleman from Georgia, Mr. NEWT GINGRICH.

Mr. Speaker, I now yield such time as he may consume to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. [William] RATCHFORD [of Connecticut]. Mr. Speaker, I thank the gentleman from New Jersey, the chairman of the Committee on House Administration.

This election contest was filed by Mrs. Debra Hannania-Freeman against PARREN J. MITCHELL for the seat in the Seventh Congressional District of Maryland. In the election held on November 7, 1978, PARREN J. MITCHELL received 51,996 votes to Mrs. Freeman's 6,626 votes, a margin of 45,370 votes. The election results were certified by the Maryland State Board of Election Laws on November 30, 1978. PARREN J. MITCHELL was sworn in and took office on January 15, 1979, after presenting his credentials to the House.

On December 29, 1978, Mrs. Freeman filed a notice of intention to contest against Mr. MITCHELL with the Clerk of the House. The notice of contest alleged inadequate and insufficient police protection of voting machines, conspiracy between Mr. MITCHELL and

9. *Id.* at p. 5.

10. 125 CONG. REC. 14457–58, 96th Cong. 1st Sess.

11. Thomas O'Neill (MA).

election officials, malfunction of voting machines due to tampering, improper and illegal certification of Mr. MITCHELL and various acts of fraud, violence, intimidation, assault, theft, extortion, and "dirty tricks."

On January 26, 1979, Mr. MITCHELL filed a motion to dismiss and answer to the notice of intention to contest. The grounds for the motion and answer were: First, The notice of intention to contest was not timely filed within the required statutory period; second, The notice of intention to contest failed to state grounds sufficient to change the results of the election; and third, The contestee was without sufficient knowledge or information to respond to the remaining allegations.

Counsel for the contestant made his appearance on February 26, 1979, and subsequently filed the following papers with the committee:

First. Motion for stay of proceeding pending resolution of appeal to the Court of Special Appeals of Maryland;

Second. Motion to enlarge time for discovery by 30 days;

Third. Two notices of depositions, and

Fourth. A motion to strike and answer to motion to dismiss.

On March 5, 1979, the attorney general of Maryland filed a motion to quash subpoenas, and I issued an order on March 6, 1979, which temporarily quashed subpoenas without prejudice to the contestant.

The ad hoc election panel consisting of the Honorable CHARLES ROSE, the Honorable NEWT GINGRICH and me as chairman held an open hearing on March 14, 1979, for the purpose of receiving oral argument on the motion to dismiss. Contestant Freeman and her counsel were present, counsel for the contestee was present, and the assistant attorney general for the State of Maryland was present. All sides were provided 20 minutes each to argue on the motion.

All parties were heard and upon conclusion of the hearing, the election panel took the case under advisement.

On April 3, 1979, the panel, on my motion, voted unanimously to go into executive session to discuss the oral argument, pleadings and motions on the case. After due deliberation the panel adopted a motion, by a vote of 3 ayes and 0 nays, to recommend to the full committee that the contestee's motion to dismiss be granted. On April 4, 1978, the full committee reviewed the panel's recommendation and by voice vote unanimously adopted a resolution recommending dismissal of the contest to the House. That recommendation is now before the House.

In assessing the record, the panel noted that contestant Freeman failed to provide sufficient record to support the allegations contained in her notice of contest in accordance with the provisions of 2 U.S.C. 383, and that Mrs. Freeman failed to state grounds sufficient to change the result of the election. The panel did not deem it necessary to rule on the remaining motions.

Although contestant is not required to prove her case on a motion to dismiss, contestant must initially support her allegations and conclusions with documentary evidence, or provide some other showing which would change the result of the election.

Contestant Freeman failed to present documentary evidence sufficient to support her allegations of inadequate and insufficient police protection of voting machines, conspiracy, malfunction of voting machines, improper and illegal certification, fraud, intimidation, extortion or "dirty tricks." Furthermore, contestant failed to demonstrate that her allegations, if true, would have changed the results of the election.

The panel concluded that the case should be dismissed because contestant Freeman failed to support her allegations with evidence sufficient to meet the contestant's burden in overcoming a motion to dismiss.

The decision is therefore based on the substantive defect of failure to allege grounds, and to support such grounds with documentary evidence, sufficient to change the election results.

Mr. Speaker, at this point I yield to the gentleman from Georgia (Mr. GINGRICH).

Mr. [Newt] GINGRICH [of Georgia]. I thank the gentleman for yielding.

Mr. Speaker, I just want to commend the gentleman from Connecticut (Mr. RATCHFORD). The hearings made it very clear that there was no evidence that was substantial enough to warrant any question about who won the election. I think it was very clear there were a number of allegations with no proof. I would hope that the House would vote to dismiss the charges and to vote for passage of House Resolution 198.

Mr. RATCHFORD. Mr. Speaker, we have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. [John] ERLNBORN [of Illinois]. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 378, nays 0, not voting 56, as follows:

[Roll No. 208] . . .

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

§ 17.3 Rayner v Stewart

The general election for the office of Representative to Congress from the First District of Illinois was conducted on November 7, 1978.⁽¹²⁾ The general election candidates were A. A. Sammy Rayner (the Republican candidate) and Bennett M. Stewart, Jr. (the Democratic candidate). The official canvass indicated that Mr. Stewart received 47,581 votes, while Mr. Rayner received 33,540 votes. The Board of Canvassers declared the result on November 19, 1978, and certifying credentials were signed by the Secretary of State and Governor of Illinois on November 30, 1978. Mr. Stewart's credentials were presented to the House of Representatives, and on January 15, 1979, to he was duly administered the oath of office without objection or challenge.

Mr. Rayner filed suit in a U.S. district court, but the case was dismissed due to lack of jurisdiction. In the court's memorandum opinion of March 14,

12. This summary is derived from the report filed by the Committee on House Administration relating to this election contest. See H. Rept. 96-316, 96th Cong. 1st Sess.

1979, the judge held that the House of Representatives had exclusive jurisdiction over the final determination as to the outcome of an election to one of its seats.

On December 27, 1978, Mr. Rayner (hereafter the “contestant”) filed a notice of contest with the Clerk of the House, which was referred to the Committee on House Administration for its consideration. On January 22, 1979, Mr. Stewart (hereafter the “contestee”) file a motion to dismiss the contest. In contestant’s notice of contest, he alleged “massive errors, irregularities, fraud and mistake in the conduct of said election.”⁽¹³⁾ Contestant further alleged illegal assistance to voters in casting ballots, irregularities in voting displays, removal of poll-watchers, and other errors. Contestee’s motion to dismiss asserted that the notice of contest had numerous procedural deficiencies (lack of proper service, failure to name the proper party, untimely filing, etc.) and further, that contestant had failed to state grounds sufficient to change the result of the election.

The Committee on House Administration formed an ad hoc panel of three Members to review the pleadings. The panel met on March 6, 1979, to hear oral arguments. On April 25, 1979, it met again and recommended that contestee’s motion to dismiss be granted.

In its committee report, the Committee on House Administration agreed with the conclusions of the ad hoc panel. To prevail against a motion to dismiss, the contestant “must initially support his allegations and conclusions with documentary or other evidence.”⁽¹⁴⁾ The committee found that the contestant had not produced such evidence, and the documents that were provided were insufficient to support the allegations. The committee also took issue with technical deficiencies in contestant’s pleadings, and thus rendered its decision “based both on procedural and substantive grounds.”⁽¹⁵⁾

On June 28, 1979,⁽¹⁶⁾ the committee filed its privileged report with the House. By unanimous consent, the House took up House Resolution 344 (dismissing the contest), and adopted the resolution by a division vote of 63 to 0:

DISMISSING THE ELECTION CONTEST AGAINST BENNETT M. STEWART

Mr. NEDZI, from the Committee on House Administration, submitted a privileged report to accompany a resolution (H. Res. 344) on the election contest of A.A. Sammy Rayner, Jr., contestant, against BENNETT M. STEWART, contestee, First Congressional District of the State of Illinois, which was referred to the House Calendar and ordered to be printed.

13. H. Rept. 96-316, 96th Cong. 1st Sess. p. 2.

14. *Id.* p. 3.

15. *Id.* p. 5.

16. 125 CONG. REC. 17225-26, 96th Cong. 1st Sess.

Mr. [Lucien] NEDZI [of Michigan]. Mr. Speaker, I ask unanimous consent for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 344

Resolved, That the election contest of A.A. Sammy Rayner, Jr., contestant, against Bennett M. Stewart, contestee, First Congressional District of the State of Illinois, be dismissed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. NEDZI) is recognized for 1 hour.

Mr. NEDZI. Mr. Speaker, the Rules of the House and title 2 of the United States Code, place uncontested elections under the jurisdiction of the Committee on House Administration. This year five contested elections were filed with the committee.

The election contest before the House this afternoon is Rayner against Stewart. It is the fourth of the five contests which the House will consider under the elections panel procedure.

This election contest was filed by Mr. A. A. Sammy Rayner, Jr., against Mr. BENNETT M. STEWART for the seat in the First Congressional District of Illinois. In the election held on November 7, 1978, BENNETT STEWART received 47,581 votes to Mr. Rayner's 33,540, a margin of 14,041 votes. The election results were certified by the Board of Canvassers on November 19, 1978. The results were filed with the Cook County Circuit Court on November 20, 1978. Certifying credentials were signed by the Secretary of State and the Governor, and were issued to Mr. STEWART on November 30, 1978. BENNETT STEWART was sworn in and took the oath of office on January 15, 1979, after presenting his credentials to the House.

On December 27, 1978, Mr. Rayner filed with the Clerk of the House a "petition under the Federal Contested Elections Act" against the Chicago Board of Election Commissioners and the Clerk of Cook County. Nowhere in his pleadings did Mr. Rayner mention Mr. STEWART as a party to the proceeding. The petition went on to allege "massive errors, irregularities, fraud, and mistakes in the conduct of said election which impaired the plaintiff's right to vote and the right to have his vote counted." The petition further alleged illegal vote totals on the backs of voting machines, illegal assistance to voters in casting their votes, prohibition of Rayner vote watchers from polling places, numerous counting errors and electioneering at or near the polls.

On January 22, 1979, Mr. STEWART filed a motion to dismiss the contest. The grounds for the motion were as follows:

First. The notice of contest failed to state grounds sufficient to change the result of the election.

Second. The notice of contest was not filed within the statutory 30-day period in accordance with the provisions of 2 United States Code 282(a);

Third. The notice of contest failed to name a proper party—BENNETT M. STEWART, in accordance with the provisions of 2 United States Code 381(d).

Fourth. The notice of contest failed to State that Mr. STEWART had 30 days in which to answer pleadings, in accordance with the provisions of 2 United States Code 382(b); and

Fifth. The notice of contest was insufficient for failure of Mr. Rayner to show proof of service upon Mr. STEWART, as required by 2 United States Code 382(c).

On March 6, 1979, the Ad Hoc Elections Panel, consisting of myself as chairman, the Honorable ROBERT H. MOLLOHAN, and the Honorable JERRY LEWIS, held an open hearing for the purpose of receiving oral argument on the motion to dismiss. Contestant Rayner and his counsel were present, and counsel for contestee STEWART was present. Each side was provided 20 minutes to argue the motion. Upon conclusion of the arguments, the panel took the matter under advisement.

After a thorough review of the record, and after due deliberation, on April 25, 1979, the Panel adopted a motion by a vote of three "ayes" and no "nays," to recommend to the full committee that the contestee's motion to dismiss be granted.

On April 25, 1979, by a unanimous voice vote, the Committee on House Administration adopted the panel's resolution to recommend dismissal of the contest to the House. That recommendation is before you now.

In assessing the record of the contest, the panel noted that contestant Rayner failed to overcome any of the contestee's procedural defenses in his motion to dismiss. However, the principal deficiency in contestant's pleading and upon which the committee primarily relied, was contestant's failure to state grounds sufficient to change the result of the election.

Although contestant is not required to prove his case on a motion to dismiss, contestant must initially support his allegations and conclusions with documentary or other evidence, and must provide some showing that his allegations, if true, would change the result of the election.

Contestant Rayner failed to present sufficient documentary or other evidence supporting his allegations of massive errors, irregularities, fraud, and mistake. For example, contestant alleged the "possibility of 10,449 (vote) forgeries", but did not demonstrate by affidavit or other showing, a single convincing instance of forgery. Contestant alleged an "8,000 vote discrepancy", but failed to explain how that discrepancy, if true, would change the results of the election. Contestant filed 12 affidavits which alleged questionable circumstances at polling places. But even if such circumstances were assumed to be true, contestant was unable to demonstrate that the circumstances would change the result of the election.

The panel concluded that the case should be dismissed because of the contestant's numerous technical errors, and because contestant failed to support his allegations with documentary or other evidence, sufficient to meet the contestant's burden in overcoming a motion to dismiss. Contestant further failed to demonstrate that his allegations, if true, would have changed the election result.

The decision is therefore based both on procedural deficiencies, and on the substantive defect of failure to allege grounds sufficient to change the election results and to support such grounds with documentary or other evidence.

Mr. Speaker, I yield to our colleague and member of the panel, the gentleman from California (Mr. LEWIS).

Mr. [Jerry] LEWIS [of California]. Mr. Speaker, I thank the gentleman from Michigan for yielding. It was my responsibility to serve with my chairman of the subcommittee and to share his responsibility. It was very apparent that the chairman was more than willing to take testimony, respond to questions, and ask questions. There was a 15,000 vote spread in this election. There was no evidence presented whatsoever for a change of the vote.

Mr. Speaker, I personally would recommend an “aye” vote on this motion, and support the position of the committee.

Mr. NEDZI. I thank the gentleman.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and on a division (demanded by Mr. SYMMS) there were ayes 63; noes 0.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

§ 17.4 Wilson v Leach

The general election for the office of Representative to Congress from the Fourth District of Louisiana was conducted on November 7, 1978.⁽¹⁷⁾ The general election candidates were Jimmy Wilson (the Republican candidate) and Anthony C. Leach, Jr. (the Democratic candidate). The official canvass indicated that Mr. Leach received 65,583 votes, while Mr. Wilson received 65,317 votes. Mr. Leach’s margin of victory was therefore 266 votes. The Louisiana Secretary of State and Governor certified Mr. Leach as the winner of the election on November 21, 1978. Mr. Leach’s credentials were presented to the House of Representatives, and on January 15, 1979, he was duly administered the oath of office without objection or challenge.

On December 20, 1978, Mr. Wilson (hereafter the “contestant”) filed a notice of contest with the Clerk of the House, which was referred to the Committee on House Administration for its consideration. On January 11, 1979, the contestant filed an amended notice of contest. On January 22, 1979, Mr. Leach (hereafter the “contestee”) filed a motion to dismiss, on the basis that contestant had failed to state grounds sufficient to change the result of the election.

Shortly after the election, a Federal investigation began regarding allegations of vote-buying by the contestee. On July 20, 1979, contestee was indicted on 11 counts relating to payments to individuals to secure his election. The committee deferred action on contestee’s motion to dismiss until after court proceedings had concluded. On November 3, 1979, contestee was acquitted on all 11 counts.

Thereafter, the Committee on House Administration formed an ad hoc panel of three Members to review the case. On November 28, 1979, the panel met to hear oral arguments from the parties. The panel also agreed to extend its investigation to include the Department of Justice’s criminal

17. This summary is derived from the report filed by the Committee on House Administration relating to this election contest. See H. Rept. 96-784, 96th Cong. 2d Sess.

case against contestee. A member of the panel reviewed FBI interviews of voters conducted during its investigation. On December 20, 1979, the panel voted to recommend that the contestee's motion to dismiss be granted.

In its committee report, the Committee on House Administration reiterated the high burden that must be overcome if a contestant is to prevail against a motion to dismiss. The contestant must show with specific evidence not only that irregularities occurred, but that "but for"⁽¹⁸⁾ the irregularities, the result of the election would have been different.

The committee acknowledged that evidence of fraud and irregularities did exist in this case, but further noted that such irregularities were not connected to the contestee, that contestee had been acquitted of involvement in those activities by a Federal jury, and that the contestant had withdrawn claims of alleged involvement by the contestee. The committee report discussed the FBI's investigation of vote-buying, and concluded that while some accounts were substantiated, they were insufficient to cause a reversal of the election's outcome. The committee thus recommended dismissal of the case.

Members of the minority party filed separate minority views to accompany the committee's report. In those views, the minority party Members recognized the need to quickly dispose of frivolous contests, but asserted that the committee must fully investigate situations where there is substantiated evidence of fraud and illegal conduct. The minority would have denied the motion to dismiss in order to proceed to the discovery stage under the Federal Contested Elections Act and gather additional evidence. Only after such a process could a determination be made as to which individual is entitled to the seat in question. In short, the minority believed that the contestant had carried his burden under the statute.

On March 4, 1980,⁽¹⁹⁾ the committee called up House Resolution 575 (dismissing the contest) as a privileged matter. The House adopted the resolution by a vote of 241 to 153 (with three Members voting "present" and 36 Members not voting):

DISMISSING THE ELECTION CONTEST AGAINST ANTHONY CLAUDE LEACH,
JR.

Mr. [Frank] THOMPSON [of New Jersey]. Mr. Speaker, I call up a privileged resolution (H. Res. 575) dismissing the election contest against ANTHONY CLAUDE LEACH, Jr., and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 575

Resolved, That the election contest of Jimmy H. Wilson, contestant, against ANTHONY CLAUDE LEACH, JUNIOR, contestee, Fourth Congressional District of the State of Louisiana, be dismissed.

18. H. Rept. 96-784, 96th Cong. 2d Sess. p. 3.

19. 126 CONG. REC. 4491-98, 96th Cong. 2d Sess.

The SPEAKER pro tempore.⁽²⁰⁾ The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in this case I also appointed an ad hoc panel of House Administration Committee members to conduct the investigation of the Wilson against LEACH matter. The panel was chaired by our colleague JOHN BURTON. Also serving with Chairman BURTON were JOSEPH G. MINISH and ROBERT E. BADHAM.

Mr. Speaker, at this point I yield for purposes of debate only such time as he may consume to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON [of California]. Mr. Speaker, the election contest before the House today was filed by Mr. Jimmy H. Wilson against Mr. ANTHONY CLAUDE LEACH, JR., for the seat in the Fourth Congressional District of Louisiana. The official canvass of the Fourth District of Louisiana showed that in the November 7, 1978, election Mr. LEACH received 65,583 votes and Mr. Wilson received 65,317 votes, a difference of 266 votes. Mr. LEACH was certified by the State of Louisiana as the elected representative from the Fourth District and he presented his credentials and was sworn in and took office on January 15, 1979.

On December 20, 1978, Mr. Wilson filed with the House of Representatives a notice of contest. The matter was referred under the rules of the House to the Committee on House Administration. The chairman of the committee appointed an ad hoc panel which I chaired and on which I was joined by Mr. JOSEPH MINISH and Mr. ROBERT BADHAM of the committee. The panel reviewed the evidence and held hearings on the matter, reporting its findings to the full committee. After careful deliberation the committee voted to recommend to the House that the contest be dismissed.

This is not an instance where the incumbent's involvement in the alleged vote fraud is at issue. He has been acquitted of all such charges by a Federal district court jury, and just as important, the contestant has withdrawn any allegation of his involvement. As is clear from the case of Evans against Turner, which is reprinted as appendix A in the committee's report, it would be inappropriate to ascribe to Mr. LEACH any fraud or irregularities involving third parties.

So it is clear that the question before the House today is not his guilt or innocence; that has already been decided. The question today is simply the sufficiency of the contestant's evidence.

It is clear under the governing statute and House precedent that a contestant has a substantial burden to carry. A contestant must provide the House with evidence not only that fraud or irregularity existed but that the fraud or irregularity was sufficiently widespread to have changed the outcome of the election.

In the present contest, the contestant, Mr. Wilson, consequently, was required to allege and support with specific evidence that at least 266 votes, the margin of the incumbent's victory, were illegally cast for the incumbent. It is the judgment of the majority of the committee that the contestant has not met this burden.

The record fails to substantiate the claim that more than 266 votes were fraudulently cast for the incumbent. In fact the evidence falls short of this mark. The evidence offered specifically identified only 32 potentially illegal votes. And even going outside the record, as the committee has done, to review the evidence generated by the FBI in its investigation of vote buying in the election, at most only an additional 34 votes become suspect.

20. Carroll Hubbard, Jr. (KY).

The contestant relies on a notebook which was offered in evidence at the trial of Mr. LEACH to support his claim that the outcome of the election was affected. He claimed that the notebook contained the names of 440 voters who were paid to vote in the election for the incumbent.

The FBI, however, interviewed 283 of the 440 voters named in the notebook. The vast majority of those interviewed, 225 of the 283, stated that they were not paid to vote. Only 58 admitted receiving payment and of those 17 were not instructed on how to vote and only 14 were instructed to vote for Mr. LEACH.

A thorough investigation by the U.S. attorney's office and the FBI revealed only 14 votes illegally cast for the incumbent. The contestant has provided the House with no reason to believe a further investigation by the House would be more successful.

That an election contestant feels that he may, some day and in some unspecified way, show sufficient fraud is not the point; he must demonstrate to the House a likelihood that further investigation will bear fruit. The contestant has not done so. Given the substantial burden of proof imposed, the contestant has been unable to demonstrate that the result of the election would be changed by whatever deplorable illegal activity might have occurred in the election.

Given the choice between dismissing the contest or embarking on a fishing expedition, House precedent and reason call for the dismissal of the contest. In that recommendation, a majority of the committee concurred.

I would, before yielding for purposes of debate only, like to say that the committee's report was delayed for some time because, after allegations were brought and indictments were brought by a Federal grand jury, our discussions with the Department of Justice indicated their very strong desire that we not proceed further until the legal proceedings had come to an end. It is for that reason we were forced into a delayed time.

I would also like to commend my colleague, the ranking minority member of the subcommittee task force for the time and effort that he has put into this matter. I would like to further commend him, for in this matter he rose above the position of partisanship and press conferences and addressed himself to the issues as best he could, and to some questions that were in his mind. Although we disagree on the final disposition of this matter, I know he does this from a point of view that he just feels another disposition other than dismissal would be in order. We feel also, as a matter of conscience, given the statutes and the precedents of the House, that the dismissal is the only course of conduct that the committee or the House could take.

Mr. THOMPSON. Mr. Speaker, I yield for purposes of debate only 10 minutes to the gentleman from California (Mr. BADHAM).

Mr. [Robert] BADHAM [of California]. I thank the distinguished chairman. I hope I will have the opportunity to thank him more as time progresses.

Mr. THOMPSON. I would say to my distinguished colleague, the gentleman from California, that I hope so, too. Let us see how we do with the first third.

Mr. BADHAM. That is certainly agreeable to me, I will say to my distinguished chairman.

Mr. Speaker, we are confronted here today with a most trying and difficult situation that involves a Member of this House, the integrity of this House, and the situation that we might be facing in the future when allegations are brought against Members of this House, as have been brought recently in the so-called Abscam, and about how we proceed as a body that is responsible for its own membership, and the terms of membership as opposed to court proceedings that are for the purpose of uncovering criminal matters.

First of all, let me state as a member of the panel in the matter of the contested election of the gentleman from Louisiana (Mr. LEACH) that I and my colleagues on the committee can find no fault with the actions of Mr. LEACH because Mr. LEACH is not on trial in these proceedings, or in the panel, or in the resolution before the House, because, as my distinguished friend and colleague, the gentleman from California, Mr. BURTON, has so aptly pointed out, Mr. LEACH has been acquitted by a Federal jury in Louisiana of 12 men tried and true by a vote of 12 to 0. So, again, this is not a criminal proceedings in any stretch of the imagination.

What we have before us, on the contrary, is a contest of election which, as in previous contests that have been brought before this body. We understand this procedure prescribes very difficult hurdles for a contestant to surmount. First of all, the contestant must demonstrate in a specific allegation that a sufficient number of votes were illegally cast so as to change the outcome of the election. In this case when specific allegations were brought by Mr. Jimmie Wilson of the 4th District in Louisiana, he surmounted the hurdles and established a prima facie case.

In the particular election contest at hand, we have specific allegations made by the contestant that over 400 votes were illegally cast and the election was fraught with fraud. There is nothing in the brief of the contestee, Mr. LEACH, that would tend to deny this. In sworn testimony by over 20 people who were convicted in court or entered guilty pleas in Federal court trial in the State of Louisiana, that these votes were, indeed, illegally cast. The majority and, indeed, my good friend, the chairman of the panel, the gentleman from California, Mr. BURTON, has made the statement that it is true that the guilty pleas add up to approximately 33 illegally cast votes. The prosecution allowed each of the defendants to plead guilty to only one count of vote-buying. Sworn testimony in the Federal court in Louisiana indicates otherwise, but these guilty were allowed to plead on one count alone and that added up to about 33 votes.

I would now like to read into the RECORD a portion of the transcript of sworn testimony by the former mayor of the town in which all of this went on. The gentleman who was the mayor was a fellow named Ralph D. McRae, Jr., who served as mayor of the town of Leesville. Mr. McRae testified to the following:

Mr. Ralph D. McRae, Jr., called as a witness by counsel for the government for the purpose of giving evidence, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. LYDICK:

Q. Would you tell us your name, please?

A. My name is Ralph D. McRae, Jr.

Q. And how do you spell the last?

A. M-c capital R-A-E.

Q. Where do you live, Mr. McRae?

A. I live in Leesville.

Q. Were you raised in the Leesville area?

A. Yes, sir.

Q. How long have you lived in Leesville?

A. All my life except for the time spent in the Service and at college.

Q. How old are you?

A. I am thirty-five.

Q. Are you married?

A. Yes, sir.

Q. Do you have any children?

A. Yes, sir.

Q. How many?

A. I have three.

Q. Have you ever served in the Armed Forces?

A. Yes, sir.

Q. In what capacity and during what period of time?

A. I was an infantry officer and a pilot from June, 1966 until August, 1972.

Q. Were you decorated while in the Service?

A. Some, yes, sir.

Q. What decorations did you receive?

A. Distinguished Flying Cross, Bronze Star, Vietnamese Cross of Gallantry. I have at over twenty-eight Oak Leaf Clusters, Army Accommodation Medal, numerous campaign and service ribbons.

Now, this is not your ordinary, run-of-the-mill, vote buyer; and he said in sworn testimony, unrefuted, unchallenged the following:

Question. Did you talk with other people about the term commercial voters?

Answer. Yes, sir.

Question. What did that term commercial voters mean between the people that you talked with?

Answer. Sir, the term refers to a person who has, in the past, or expects to be paid to vote.

Question. Do you recall where it was?

Answer. Yes, sir. It was in an automobile.

Question. What was said on that occasion?

Answer. On that occasion Mr. Leach told me that he had reconsidered and he would like for me to help him in the commercial area in District Two. I told him I thought five thousand dollars would do it.

Question. Did you have any additional discussions at that time concerning that money?

Answer. Yes, sir. I told him that the way I arrived at the five thousand dollars was I felt that we could get by with paying five dollars a vote, and we would need about twenty-five hundred dollars to pay the voters and twenty-five hundred dollars to pay the drivers.

Question. What occurred during that meeting, Mr. McRae?

Answer. Well, that meeting was kind of a repeat of the first. Mr. Leach was in a hurry. He was on his way someplace. Shreveport, I guess. And he asked me how it was going. I told him I thought things were in pretty good shape. And he gave me a thousand dollars at that time.

Again I want to stress that Mr. LEACH is not on trial. What is on trial are two things here: The integrity of the U.S. House of Representatives and the integrity of the election held in the Fourth District of Louisiana on November 7, 1978. While Mr. LEACH is not on trial; the election process of this country is; and it was found to be faulty; admittedly fraudulent by the majority of the panel. This puts us in a terrible dilemma. First of all, from a question of timeliness, the House of Representatives Committee on House Administration's panel on this contested election had to delay any sort of investigation until the case was prosecuted fully in the Federal courts, and only then on resolution of that could we then legitimately, without obstructing prosecution in the Federal courts, conduct our own investigation if one was to be held. Now we are in the 2d session of the 96th Congress. The case almost a year and a half old, and the question comes out, then, Could we at this point investigate? That is the question that should be answered by the House of Representatives because the panel could not and did not. Neither did the full committee.

But, Mr. Speaker, I say that we have a situation where fraud was conducted in an election for membership to this body. Such being the case, it falls squarely upon us to investigate fully and to determine whether or not a person was beneficiary of a fraudulent election. The people of that district have the right to be represented in a true election.

Mr. Speaker, I feel that this resolution to dismiss must be opposed because not only has the matter not been investigated from the standpoint of the integrity of the House of Representatives, but I might add that the criminal prosecution and the criminal investigation of this same election on November 7, 1978, is not only still under investigation,

but the grand jury, a Federal grand jury in Louisiana, has within the past week accepted another guilty plea to another count of vote buying in that election race of 1978, and two others indicted on February 29 in Shreveport on multiple counts of vote buying in Sabine Parish. The indictment named names of people who were given money to vote for candidates in that congressional race in the primary and in the general election.

Mr. THOMPSON. Mr. Speaker, I yield to the gentleman from California (Mr. BADHAM) an additional 20 minutes for purposes of debate only.

Mr. BADHAM. I thank the distinguished gentleman.

Mr. Speaker, both in the primary and in the general election—and a Mrs. Lorraina Sepulveda was indicted by that same grand jury on nine counts of vote buying in that same election. It is to be noted that both grand juries above mentioned are still in session. The Shreveport one announced it had heard 52 witnesses and it would reconvene this matter on March 17, 1978.

Mr. Speaker, I cannot believe, in all conscience, that the Members of the body in which we are privileged to serve can condone this and call it just a little bit of fraud, as was the gist of the Kentucky case.

For purposes of debate I now yield of my time 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. [William] FRENZEL [of Minnesota]. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think this is an important vote for the House of Representatives. I have the feeling some of the Members may want to look on this as something very routine—a normal dismissal of a contest for election.

It is a good deal more than that because of the widespread fraud which did occur in this particular district. I believe that fraud cast a kind of a shadow over the whole House of Representatives.

This matter is one that should not be dismissed without a great deal of thought, a great deal more investigation, and, certainly, until the completion of the legal actions that are going forward in the State of Louisiana.

Mr. Speaker, I look upon this resolution as not being pernicious but certainly being very premature under the circumstances.

In the Committee on House Administration there is a precedent that we are very careful about accepting election contests. We try to make sure that we do not overturn the opponent will of the people unless we have very strong evidence that the will of the people was somehow controverted by fraud, miscount or some other reason. That is a good precedent. We should stick to it.

However, Mr. Speaker, we have a case where there was widespread fraud. There were 22 guilty pleas. Not one or two or an isolated one. Not disadvantaged, uneducated people. The exmayor of the town is involved in this election fraud.

Mr. Speaker, I would like to repeat the words of my distinguished colleague from California (Mr. BADHAM). We are not talking here about our colleague, BUDDY LEACH. The gentleman's innocence has been determined by a jury of his peers and of that we are glad. However, we are talking about the process that brought Mr. LEACH into this body.

Mr. Speaker, if we compare the Daschle case which has just been dispatched by this House, we will recall that there we let the State supreme court make the decision. We deferred action until all the local dust had settled.

In this case, as was pointed out by gentleman from California (Mr. BADHAM), grand juries are still in operation. There were two guilty pleas accepted last week. Obviously

grand juries are still sitting on this matter. The matter has not been completed in Louisiana and there is no reason for this House to dismiss the complaint.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BADHAM. Mr. Speaker, I yield 2 additional minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, the contestee has submitted documentation showing 440 allegedly bought votes. That contest was won by our colleague, the gentleman from Louisiana (Mr. LEACH) by 266 votes. The 22 people who pleaded guilty are certainly not going to plead guilty for any more than they have to, so we have a very small number of votes that have been admittedly bought.

However, Mr. Speaker, I think, when we have 22 guilty pleas previously, a couple of more now and a grand jury still sitting, there is a strong presumption that more than 266 votes may have been involved.

Mr. Speaker, because the election process is so fundamental and our representativeness is so fundamental, I think it would be a terrible mistake, and a terrible precedent, for this House to dismiss this case at this time.

Obviously, the House should retain jurisdiction of this contest until all of us are absolutely certain that there is no pall, no shadow hanging over the election of our colleague.

Therefore, Mr. Speaker, I recommend very strongly, as strongly as I can to this body, do not take this measure lightly. It is not some kind of indictment of the gentleman from Louisiana (Mr. LEACH). It is simply an earnest desire on our part to find out what indeed happened in that election district. We have not yet found out.

Mr. BADHAM. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. DICKINSON).

Mr. [William] DICKINSON [of Alabama]. Mr. Speaker, at this time I rise to express my strong opposition to the pending motion in the House to dismiss the election contest from the Fourth Congressional District of Louisiana.

I am certain that many of my colleagues have shared my shock and outrage at the various revelations which have been made through court testimony and FBI reports as to how improper influences were exerted to affect the outcome of this race for a seat here in the U.S. House of Representatives. One could easily come to the conclusion that this was one of the most sordid election contests in modern times—and, yet, the majority on the Committee on House Administration would have us believe that there was not enough wrongdoing to question the 266-vote margin in this election.

On the basis of information obtained to date, it would, of course, be impossible to say how many fraudulent votes were cast in favor of the alleged winner in this race. We do know that 24 individuals have been convicted of vote-buying activities and a notebook was offered in evidence at one of the trials in this case containing the names of 440 voters who were purportedly paid to vote for the contestee in the general election. Various investigations and court proceedings are still underway in this matter.

Under these circumstances, I must disagree with the conclusion of the majority of the Committee on House Administration that the “contestee LEACH received the majority of the votes cast and was duly elected by the voters of the Fourth Congressional District.” I do not think that the House should give its stamp of approval to the outcome of a race which is so shrouded in uncertainty and chicanery.

Therefore, I urge the House to reject this motion dismissing the election contest against Mr. LEACH and I further urge that the Committee on House Administration then examine the case on its merits by conducting a full inquiry into all available evidence—something which the committee has not done to date.

Mr. BADHAM. Mr. Speaker, I now yield 3 minutes to the gentleman from South Carolina (Mr. CAMPBELL).

Mr. [Carroll] CAMPBELL [of South Carolina]. Mr. Speaker, the House is today taking up House Resolution 575, dismissing without full investigation the election contest against our colleague from Louisiana. As a small step toward restoring public confidence in this institution, this resolution should be defeated.

The House Administration Committee majority sees its responsibility in election disputes as one of separating challenges which “merit a full investigation from those where further investigation appears to be unwarranted,” and I concur.

In this case, the record is clear that further investigation is in fact warranted. The committee report states that:

It is apparent that fraud and irregularities were involved in the election in question.

And bases its recommendation for dismissal on the grounds that there is no hard evidence that the contestee himself was directly involved with the vote buying that evidently went on. Nothing in the statute, however, suggests that a fraudulent election is any less so whether or not the beneficiary of that fraud actively participates.

The majority contends that since there are only 58 proven cases of vote buying and the margin of the contestee’s victory was 266 votes, there is no reason for further investigation. Again, however, the record suggests strongly that the votes still in question may well have changed the outcome of the election.

Mr. Speaker, I make no accusation against any Member of this House, but I believe we owe it to the American people—and to ourselves—to avoid even the appearance of coverup where the integrity of this body is at stake.

Mr. BADHAM. Mr. Speaker, I would just like to say that the remarks made by the Members who have served on the Committee on House Administration with me are remarks that are proper. I would again recite the facts that the House of Representatives has never taken an investigative posture or role in this case; that indictments are still coming down from the Federal grand juries at work in the State of Louisiana; that the FBI did only a very cursory examination and did not even inquire of people under oath as to the reasons for and matters surrounding their activities and their presence in various notebooks.

I think it would be a shame for the House of Representatives at this juncture to give up the jurisdiction of this case.

I would like to thank the distinguished chairman of the panel, the gentleman from California, for his understanding in this matter, and the committee chairman for allowing the minority to have this time, because I think it is serious and I think the integrity of this House is further cast in a light that is not altogether good for this House with the people of the United States, whom we represent.

Mr. [John] ROUSSELOT [of California]. Mr. Speaker, will the gentleman yield?

Mr. BADHAM. I yield to my colleague from California.

Mr. ROUSSELOT. Mr. Speaker, could the gentleman tell us, did the committee have any kind of hearing of fact on this?

Mr. BADHAM. I can respond to the gentleman by saying, yes, we did have a hearing in that the representatives of the contestant and the representatives of the contestee were both allowed time before the committee to make statements and plead their case, as it were, but as far as investigation or hearings into the actual fact, I will have to say “no.”

Mr. ROUSSELOT. So, as the gentleman has already stated then, there really was not an adequate investigation on our part?

Mr. BADHAM. That is correct.

Mr. ROUSSELOT. Well, it is certainly unfortunate because we have enough problems as it is with credibility these days, and that is certainly too bad. I am sorry to hear that.

Mr. BADHAM. I thank the gentleman.

May I inquire of the Speaker as to how much time I have remaining?

The SPEAKER pro tempore. The gentleman has 8 minutes remaining.

Mr. [Elliott] LEVITAS [of Georgia]. Mr. Speaker, will the gentleman yield for a question?

Mr. BADHAM. I will be happy to yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, along with other Members of the House I have been sitting through this debate, trying to read the committee report and form a judgment. There were two points that I am still not clear about, and certainly I want to make a judgment based on the facts and not some partisan consideration. I am sure the gentleman from California feels likewise.

In the opening statement of the gentleman from California he read or referred to testimony from a Mayor McRae of Leesville, I believe it is, Louisiana. Does the gentleman from California know whether Mayor McRae's testimony was given at the trial of Congressman LEACH, which resulted in his acquittal?

Mr. BADHAM. Yes. The record will show that the testimony that I referred to was given by former Mayor McRae of Leesville in the trial of Congressman LEACH.

Mr. LEVITAS. The reason I asked the question is, if that testimony were to be believed by myself or by a jury, then it was pretty clear that Congressman LEACH was guilty of the crime alleged; and since the jury acquitted him, it must have been based on some judgment by that jury that Mr. McRae's testimony was not credible.

Mr. BADHAM. I find the gentleman's analysis striking. I find the gentleman's analysis extremely logical, and I have a hard time believing the whole thing, too.

Mr. LEVITAS. May I ask another question?

Mr. BADHAM. I would be delighted to yield.

Mr. LEVITAS. The other question is this, and it was a point which both the gentleman from South Carolina and the gentleman from California made; that is, there was another reason that perhaps the committee should retain jurisdiction. That relates to the fact that there are ongoing investigations by other grand juries involving this same matter.

I wonder if the gentleman from California (Mr. BADHAM) or the gentleman from California (Mr. JOHN L. BURTON) would care to give some guidance to those of us who are not on the committee as to the significance of the ongoing grand jury investigations?

Mr. BADHAM. Well, I think it is somewhat clear that the Federal Justice Department is not satisfied that all the wrongdoing pertinent to that particular election has been uncovered and brought to the Federal court.

I would be happy to yield to the gentleman from South Carolina for further response.

Mr. CAMPBELL. Mr. Speaker, the point being that in the committee report we state that there was—paraphrasing—there were not enough votes that were proved to have been bought to overturn the result of the election. Now, in the process of pleading, plea bargaining, many of the people involved plead to one instance of vote buying when in fact there had been a number of instances under question. The fact that now there are other instances coming to light strengthens the argument that there were in fact enough

votes in question, and that in fact if the investigation were to continue and we were to consider all of the numbers that were in question as fraudulent votes, that it would probably be enough to change the result of an election. Not knowing that fact at this time, we are making the argument that this committee should retain jurisdiction until such time as it is closed out, and that we are satisfied completely that there are enough votes.

I am not condoning a little sin in the process, but that is the way the committee has operated on this, and we have tried to look at all elections along those lines.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Speaker, I thank the gentleman for yielding. I have got my own time. I was just standing.

Mr. BADHAM. Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON. Mr. Speaker, how much time does my colleague, Mr. BADHAM, have remaining?

The SPEAKER pro tempore. The gentleman from California (Mr. BADHAM) has 2 minutes remaining.

Mr. THOMPSON. Could it be agreed that the gentleman reserve the balance of his time, but that the last 2 minutes be given to the chairman of the panel, the gentleman from California (Mr. JOHN L. BURTON)?

Mr. BADHAM. I have no objection to that.

Mr. THOMPSON. We want to be fair in this debate.

Mr. BADHAM. If the gentleman will yield, I have always agreed that the gentleman, the distinguished chairman, is eminently fair.

Mr. THOMPSON. I thank the gentleman.

Mr. BADHAM. And the distinguished gentleman, the chairman of the panel, also.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Speaker, I would ask the distinguished chairman of the full committee if I may be yielded such time as I may consume.

Mr. THOMPSON. The chairman yields such time as he may consume to the gentleman from California, with the request that the chairman be informed as to when we approach the last 3 minutes.

Mr. JOHN L. BURTON. Mr. Speaker, the precedents of the House must be followed. We have a duty to ourselves. I think we also have a duty to the contestants, we have a duty to the voters of that congressional district, and certainly, in the words of our great friend and colleague, the chairman of the Republican Policy Committee, Representative SHUSTER of Pennsylvania, who said:

The position is that the people of the Fourth District of Louisiana have a right to a final determination of this question, or this matter.

Mr. Speaker, I submit that is what we are doing.

Unsupported allegations of fraud or irregularity are insufficient to overturn an election. This is in the matter of Mr. Pierce, who was a contestant, versus Mr. PURSELL, a member of the minority party, an incumbent. I was on that panel. I chaired that panel, and we held in favor of a member of the opposition that unsupported allegations of fraud or irregularity were insufficient, that there must be specificity, and that we cannot just go on a fishing expedition.

I think my good friend, the gentleman from California (Mr. BADHAM), will admit that he is not sure what we would do if we did not dismiss today, but we probably should go somewhere and look at something. Notwithstanding the fact the FBI investigation was alleged to be cursory, however, I submit it is a crime to lie to a law enforcement official in his official capacity, whether one is under oath or not.

We were asked to take the testimony of an admitted felon, former Mayor McRae, but the jury listened to it and did not agree to it at the time they acquitted Mr. LEACH of any wrongdoing.

Allegations of fraud or irregularity absent a showing of the contestee's involvement must be supported by evidence sufficiently specific—and I underline that—to support a finding that final and further investigation will likely bear fruit.

Nobody is saying this is likely to bear fruit. They are saying we should go on a fishing expedition in order to find out whether it bears fruit.

Mr. [Daniel] LUNGREN [of California]. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. Mr. Speaker, if I could finish this first, I will be happy to yield. Let me finish this reference to Evans against Turner, and then I will be happy to yield to my friend, the gentleman from California.

The case of Evans against Turner in the 56th Congress was very persuasive at least on this Member as we were trying to determine what the facts are and if there were any irregularity in election, and yet the person thought to be penalized, if you will, was not a participant in those irregular activities.

In this case, Mr. Speaker, there was a circulation of a general circular proposing bribery, of which the contestee was not cognizant, and it did not vitiate the election although it was accompanied by acts of bribery.

On February 5, 1900, Mr. Romulus R. Linney, of North Carolina, from the Committee on Elections No. 1, submitted a report in the Kentucky case of Evans against Turner. The grounds of the contest alleged by the contestant were fraud and bribery, the specifications of which were denied by the sitting Member.

Again, Mr. Speaker, it seems to be right on all fours with this matter.

The opinion states that the sitting Member had been returned by a plurality of 568 votes, a close election. The committee decided the contestant had not successfully attacked that vote, and enough votes were not vitiated.

Again, Mr. Speaker, that is the finding the majority panel made.

The evidence offered by the contestant tends to prove the allegations of fraud and bribery, and much of it discloses the resort to methods which were disreputable—

As was the case here with whatever actions other people were taking.

To continue, Mr. Speaker:

it is in evidence that on the morning of the election a circular was issued and generally distributed in the city of Louisville among the political workers of the contestant, printed on the paper of the Congressional Campaign Committee, on that date, and containing a proposition to place \$100 in each precinct, and requesting Captains of each ward, if they did not get the money by 6:30 on the morning of the election, to come to headquarters. The circular was issued by enemies of the contestant. This is a novel method in the history of political struggles in the United States, and in the opinion of the committee demands the unqualified condemnation of the committee.

And, Mr. Speaker, I would say the activities that were engaged in by persons were admitted felons, including one whose testimony was read to the House or to those who

are persons unknown at this time, are equally reprehensible to this Member of Congress and, I am sure, to the entire House.

Returning to the finding, Mr. Speaker:

This evidence tends strongly to establish the contention of the contestant but does not show the contestee was a party to the fraud.

There is no evidence tending to show that the contestee had anything to do with the fake circular, and there is much evidence offered by the contestee showing the propositions of bribery came from persons who were organized for the purpose of obtaining money from someone—anyone from whom they could obtain it. Upon a careful consideration, the committee was unable to determine the exact number of votes tainted and violated by fraud and bribery.

Then, Mr. Speaker, without debate or division, I might add, the House agreed to the resolutions confirming title on the sitting Member.

Mr. Speaker, I would also like to point out that the allegations concerned a certain area in Vernon Parish, ward 1, precinct 11, called the “Crossing.” Historically, in 1971 Representative LEACH got 71.6 percent of the vote against two candidates. In 1975 that total was raised when he was a State senator by 15 percentage points, and he received 86.7 percent of the vote. In this election it was increased by less than 7 percent, by 6.3 percent or half of the increase over the prior 4 years, and he received 93 percent of the vote.

I mention this just to indicate that the historical support here was predominantly, if not totally, black. It was a black constituency that the incumbent had, and it is highly unlikely that he would have to buy allegiance at this time. It was evident in fact that he was so popular in the community that a variety of candidates—I think, including the school board and the county sheriff or parish sheriff, who parenthetically received 15 percent of all Federal revenue sharing right off the top in the State of Louisiana, and in fact including the distinguished senior Senator—were attaching themselves to his coat-tails, and he was leading several slates.

Mr. Speaker, I believe that the people do, as our good friend, the gentleman from Pennsylvania (Mr. SHUSTER), said, have a right to a resolution of this matter. It is our opinion that the only resolution can be dismissal, and to go on a fishing expedition, I think, is unfair and does not resolve the matter for them nor for the incumbent.

Again the testimony of an admitted felon who was relied upon here was listened to by a jury of 12 men and women, good and true, and it is a fact in judicial law that they were there watching the demeanor of and were able to assess the credibility of that person and chose to believe that person was not in fact telling the truth. I think we are in a situation where we cannot gainsay that.

Mr. BADHAM. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. I am happy to yield to the gentleman from California.

Mr. BADHAM. Mr. Speaker, I would like to inquire of the Chair if it is not true that we are to use our remaining 2 minutes after the time the gentleman speaks?

Mr. JOHN L. BURTON. Mr. Speaker, may I inquire, how much time do I have remaining.

Mr. [Carroll] HUBBARD [of Kentucky]. The Chair will state that the gentleman from New Jersey (Mr. THOMPSON) has 12 minutes remaining.

Mr. JOHN L. BURTON. Mr. Speaker, I would be happy to yield 1 minute to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, may I begin by saying that the gentleman from California (Mr. BADHAM) made a good point.

Mr. JOHN L. BURTON. Mr. Speaker, if I may interrupt, I will ask the Chair to remind me when I have 5 minutes remaining. I yield 1 minute now to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, as the Members know, I am not a member of this committee, but I have been trying to listen to find out what the criteria is that was used for this resolution.

I heard the gentleman from California tell us that unless there is sufficient evidence that shows there is in fact a true contest of an election, the resolution before us would be appropriate, and I would like to ask two questions of the gentleman from California.

First, do we have in this House in past experience a situation which parallels this, that is, one in which 24 people have already been convicted either by a plea or by a conviction of a court of vote fraud?

Second, I would like to ask the gentleman, is it not true that most of us who have been involved with legal proceedings know that plea bargaining usually amounts to a lessening of the charges that were originally brought and may in fact not really limit themselves to all of the charges that were brought?

Mr. JOHN L. BURTON. If the gentleman will yield, I will be happy to answer the question.

Mr. LUNGREN. I yield to the gentleman.

Mr. JOHN L. BURTON. The 34 was the number that totaled those in the indictment, not the plea bargaining. So the 34 was what they were indicted for. They plea-bargained that down to a lesser number. The number 34 was the number of illegal votes that were named or alleged in the indictments. So that answers that question.

Mr. LUNGREN. There were 24, I understand, who have been convicted to this point, although 2 more are in the process.

Mr. JOHN L. BURTON. Thirty-four was the total number of tainted votes that were alleged in the indictments and, as the gentleman knows, an indictment is an accusation and not a fact.

Mr. LUNGREN. My question then is this: Is the gentleman suggesting that the 24 who have been convicted is the total sum and substance of all of the possible fraud? And I mean by "possible," for which there is some credible evidence that existed in that election. Is that what we are to believe and, therefore, are consistent in saying that in no way could there have been 266 falsehoods?

Mr. JOHN L. BURTON. I think we would be consistent in saying that in no way do we know in any election in the Nation there may or may not have been a fraudulent vote cast.

I would just respond by saying—and then I will yield to the gentleman from Louisiana for debate only—that under the rules of the House, and as the chairman of the task force involving a member of your party, a member of this party over here, we ruled at that time that there would have to be specific allegations that lead you somewhere and you cannot just say there has been some fraud and to go about it. Even our good friend, the gentleman from California (Mr. BADHAM), was at a specific loss to tell us what to do except that our committee somehow could have done a better job than the FBI. I do not believe that we could have. I believe, with the precedents of the House, with the allegations that were made, specific allegations that were made by Mr. WILSON, that the numbers do not add up to a total. That in no way says a little fraud is not a bad thing. A little fraud, like a little bit of learning, is a dangerous thing.

Mr. Speaker, I yield to the gentleman from Louisiana (Mr. BREAU) for purposes of debate only.

Mr. [John] BREAUUX [of Louisiana]. I thank the gentleman for yielding.

Mr. Speaker, I take this time, although I did not plan to, just to make a couple of observations.

I think, somehow, that the gentleman from Louisiana (Mr. LEACH) really becomes a victim of the political climate, and I think, in making him the victim of the political climate, we really make the House a victim of the political climate. I say that because I think that our minds are really made up on this issue and it is basically being made up because of which party we happen to belong to. This election contest is not being decided based on how we should interpret the law that we passed in this area, but it is being decided based on how many press releases we can issue on Congressman LEACH'S election.

I think we do ourselves a disservice in this area. We passed a law which should govern what action we should take in this regard, and it says that the person who is challenging must show grounds sufficient to change the result of the election, not the fact that there was fraud, or that there were votes bought in the election. That is admitted. A trial has cleared Congressman LEACH of any wrongdoing in that regard completely. In fact, the challenger does not even contest LEACH'S involvement any more.

But if you accept as fact all of the votes that the challenger says were bought were in fact bought, it does not affect the outcome of the election. And the law that we in this House passed clearly states that the challenger must show that enough votes were fraudulently cast to change the outcome of the election. That clearly has not been done.

We have been looking at this election for over a year; the U.S. attorney has; the FBI has; and you can book it that the challenger has. And despite all of that, despite all of those interviews, they still have not come up with a standard that we ourselves have placed on the challenger, that he has to show that there were votes bought and that it would in fact change the result of the election.

So are we interested in doing a service to this House and to this body and not just to our party? I think we have to look at those facts, forget the press releases, and do justice to the gentleman whose career, really, is at stake and indeed the integrity of this House is at stake.

Mr. THOMPSON. Mr. Speaker, I yield such further time as he may consume to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. [Corinne] BOGGS [of Louisiana]. I thank the gentleman from California and the gentleman from New Jersey.

Mr. Speaker, I would like to address myself to the climate that we have indeed created here or have simply reflected here, and there is another climate that we have to think about aside from the integrity of this House, and that is the integrity of the people of Louisiana and the integrity of all of the people who have worked for so many years in trying to make certain that all of the chores of democracy have been properly done, that the voters are properly registered, that the voters know what the issues are, that the voters know where the polling places are, that they have easy access to the vote, that the vote will be administered over by honest and efficient commissioners, that the vote will be properly counted, honestly counted and promptly promulgated.

There have been groups in Louisiana which have been working in these regards for over 40 years. We were one of the first States to having voting machines, we were one of the first States to have permanent registration since 1941. We worked diligently to

enlarge the franchise, particularly to blacks and other minorities, and many of the people who have worked in this regard also worked very diligently in the campaign of the gentleman whose contest is before us today.

So I do think we have to remember these elements as well.

I have been a member of the Elections Subcommittee of House Administration, and I have worked with many of the Members who have spoken previously today. I think I have agreed on that committee very, very often with the gentleman from Minnesota (Mr. FRENZEL). I have also agreed with the gentleman from California (Mr. JOHN L. BURTON). And I do think that we all know that in other contests that we have looked at, we agreed that it was not worth the time and the effort and the moneys that would have to be expended to attorneys and other investigators to look into cases where not sufficient amounts of evidence had been shown that the election could be overturned by the number of votes that were in contest.

I hope that my colleagues will join me in voting to dismiss this contest.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. THOMPSON) has 4 minutes remaining, and the gentleman from California (Mr. BADHAM) has 2 minutes remaining.

Mr. BADHAM. Mr. Speaker, I yield 30 seconds to the gentleman from South Carolina (Mr. CAMPBELL).

Mr. CAMPBELL. I thank the gentleman for yielding.

Mr. Speaker, one point should be made. There was a statement made concerning partisanship of this nature, and I think that the majority side would agree that we have heard many contested elections this year and that we on the minority side have in every instance agreed with the majority in all cases in dismissing challenges by, in all cases, the minority candidates. And, this happens to be one that we stand on the merits of the case, and I do not think that it should be inferred that this is strictly partisanship on the part of the minority. Rather, it is a stand against fraud in the election process.

Mr. BADHAM. Mr. Speaker, I reserve the balance of my time.

Mr. JOHN L. BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to respond that the members of the committee have never raised this on a partisan level, and I commended the gentleman from California (Mr. BADHAM) for it. The gentleman from California (Mr. BADHAM) was out of the country on official business at the time that your leadership held a press conference before our first meeting on it, to let us know what they were going to do. So any remarks certainly would not go to any of the minority members of either the task force or the committee. So the gentleman is to be commended for approaching this with an open mind. It was the Republican leadership which chose to make this a partisan issue and practically decide what the votes were going to be before we had our hearing on it. I wanted to make that straight, to differentiate the gentleman from the position of the leadership. I think the gentleman did approach it, as we did, with as open a mind as possible, but it was their leadership press conference that sought to put this in a somewhat partisan light. I do not think the members of the committee did, because it was not an easy situation for them.

Mr. BADHAM. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would like to just mention a couple of comments that were made by the Members from Louisiana, that really one of the basic items here at question is the book of 440 people, allegedly the commercial vote, were they taken to the polls as just innocent black folks being driven to the polls, or were they actually paid? That is where the whole thing turns. We have had no investigation of that.

Mr. Speaker, I yield the balance of my time to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. [E.G.] SHUSTER [of Pennsylvania]. I thank the gentleman for yielding.

Mr. Speaker, we are not questioning the integrity of the gentleman from Louisiana (Mr. LEACH). We are not even asking for a final disposition here today. We are simply saying that this should not be swept under the rug. We are simply saying that there is evidence of fraud. After all, several people have already been convicted. There is an ongoing, continuing FBI investigation. Eight people are still under investigation. So there is evidence of fraud; the question of how many votes were bought is still at issue. We have no issue over whether or not some votes were bought, that is agreed upon.

The issue is how many votes were bought, and we think that not only Republicans but Democrats, as well, should join in not permitting this to be swept under the rug. The issue is not Mr. LEACH'S integrity.

The issue is the integrity of the electoral process.

Let us vote down this resolution so that the committee can proceed with a full hearing into this contested election.

Mr. THOMPSON. I yield 2 minutes to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. I thank the chairman of the Republican policy committee of the House for his nonpartisan statement.

I also thank him for the bipartisan statements that were made before we even had our first hearings. I would refer him to his own statement:

The position is that the people of the Fourth District have a right to a final resolution of this matter.

This is what we are trying to do. We differ as to whether or not a House committee could do a better investigatory job than the FBI. We do not think we could.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to my friend, the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. I thank the gentleman for yielding.

I would ask the gentleman is it not true that Republicans on the committee vigorously supported dismissing the election contest brought by a Republican, Leo Thorsness? So our position is not simply a partisan decision.

Mr. JOHN L. BURTON. I will not talk about the Republicans on the committee. I commended them. It was the leadership on the gentleman's side that chose to put this in partisan perspective before we had our first committee hearing, assuming we were going to give them 5 minutes and not let them talk. The gentleman from California (Mr. BADHAM) was told—well, he was out of the country on official business—like his vote had already been counted at a certain place. I do not think that was proper.

We voted to dismiss counts. In fact, we are following precedents laid down in the matter of Pierce against Pursell where I, as a Democrat, chaired the subcommittee and ruled against the Democrat contestee.

So these matters have been nonpartisan, but it was the leadership of the other side that sought to put this here.

The people of the State of Louisiana, who have to be as outraged and shocked as anybody that there could be a tainted election in that State, need a resolution of this problem. They have never seen the likes of this in any election prior to this, and hope they never see any tainted elections again.

I just believe that the motion to dismiss is the right thing for the integrity of the House and the right thing for the integrity of Mr. LEACH. I think it is very important that this has been cast by some Members under a partisan pall.

Mr. THOMPSON. Mr. Speaker, I think enough has been said on the question, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. JOHN L. BURTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 153, answered “present” 3, not voting 36, as follows:

[Roll No. 114] . . .

Mr. BENNETT changed his vote from “yea” to “nay.”

Mr. OBEY changed his vote from “nay” to “yea.”

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

§ 17.5 Thorsness v Daschle

The general election for the office of Representative to Congress from the First District of South Dakota was conducted on November 7, 1978.⁽²¹⁾ The general election candidates were Thomas Daschle (the Democratic candidate) and Leo K. Thorsness (the Republican candidate). The official results indicated that Mr. Daschle received 64,661 votes, while Mr. Thorsness received 64,647 votes. Mr. Daschle’s margin of victory was therefore 14 votes. After a state recount, Mr. Daschle’s margin of victory grew to 105 votes. The South Dakota Secretary of State certified Mr. Daschle as the winner of the election on November 27, 1978. Mr. Daschle’s credentials were presented to the House of Representatives, and on January 15, 1979, he was duly administered the oath of office without objection or challenge.

Under South Dakota state law, candidates may appeal recount decisions to the state Supreme Court. Mr. Thorsness filed a writ of certiorari with the court, and on August 27 and August 28, 1979, the court conducted its own recount and review of disputed ballots. The court determined that Mr. Daschle had won the election.

On December 26, 1979, Mr. Thorsness (hereafter the “contestant”) filed a notice of contest with the Clerk of the House, which was forwarded to the

21. This summary is derived from the report filed by the Committee on House Administration relating to this election contest. See H. Rept. 96-785, 96th Cong. 2d Sess.

Committee on House Administration for its review. Contestant alleged that a fair review of disputed ballots would show that contestant received a plurality. Contestant further alleged that Mr. Daschle's representatives conducted illegal and fraudulent training sessions for the state's recount boards.

On January 25, 1979, Mr. Daschle (hereafter the "contestee") filed an answer and a motion to dismiss, arguing that contestant: (1) had failed to state grounds sufficient to change the results of the election; (2) had failed to show any fraud, irregularities, or misconduct on the part of election officials; (3) did not have standing to file a contest; and (4) had waived his right to contest the election by proceeding in state courts.

The Committee on House Administration formed an ad hoc election panel of three Members to review the case. The panel met on March 1, 1979, to hear oral arguments from the parties. The parties stipulated that the allegation regarding improper training sessions would be withdrawn. On December 13, 1979, the panel met again, noted the results of the South Dakota Supreme Court proceeding (which had concluded that contestee had won the election) and thereafter voted to recommend that contestee's motion to dismiss be granted.

In its committee report, the Committee on House Administration agreed with the ad hoc panel that the motion to dismiss should be granted. The committee found that the contestant had not supported his allegations with sufficient documentary evidence to show that the election result would have been different. The report relied heavily on the fact that the South Dakota Supreme Court had reviewed disputed ballots and had declared contestee the winner of the election. In the words of the ad hoc election panel, it would be "redundant and presumptuous for this panel to recount the ballots ourselves and substitute our judgement for the courts."⁽²²⁾ The committee agreed that any committee-conducted recount would not be advisable.

On March 4, 1980,⁽²³⁾ the committee called up House Resolution 576 (dismissing the contest) as a privileged matter. The House adopted the resolution by voice vote:

DISMISSING THE ELECTION CONTEST AGAINST THOMAS DASCHLE

Mr. [Frank] THOMPSON [of New Jersey]. Mr. Speaker, I call up a privileged resolution (H. Res. 576), dismissing the election contest against THOMAS DASCHLE, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 576

Resolved, That the election contest of Leo K. Thorsness, contestant, against Thomas Daschle, contestee, First Congressional District of the State of South Dakota, be dismissed.

22. H. Rept. 96-785, 96th Cong. 2d Sess. p. 3.

23. 126 CONG. REC. 4490-91, 96th Cong. 2d Sess.

The SPEAKER pro tempore.⁽²⁴⁾ The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, under the U.S. Constitution and the rules of the House, the Committee on House Administration is charged with the responsibility for investigating contested elections. In this Congress, five contested elections were filed. In each case I appointed as chairman an ad hoc panel to conduct the investigation.

In the contest before the House today, Thorsness against DASCHLE, the panel was chaired by our distinguished colleague, the gentleman from California (Mr. FAZIO). Also serving with the gentleman from California (Mr. FAZIO) were committee members, the gentleman from South Carolina (Mr. DAVIS) and the gentleman from Minnesota (Mr. FRENZEL).

Mr. Speaker, I now yield such time as he may consume to the gentleman from California, the chairman of the panel (Mr. FAZIO).

Mr. [Victor] FAZIO [of California]. Mr. Speaker, I thank the gentleman from New Jersey, the chairman of the Committee on House Administration.

This election contest was filed by Mr. Leo K. Thorsness against THOMAS A. DASCHLE for the seat in the First Congressional District of South Dakota. In the election held on November 7, 1978, THOMAS DASCHLE received 64,661 votes to Mr. Thorsness' 64,647 votes, a margin of 14 votes.

Acting under provisions of the laws of the State of South Dakota, Mr. Thorsness requested a recount for certain selected districts, at which time the margin of votes grew larger in Mr. DASCHLE'S favor. Thereupon, a complete district-wide recount was made and Mr. DASCHLE'S margin of victory grew to a total of 105 votes.

The election results were subsequently certified on November 27, 1978, by the secretary of state and the Governor, and credentials were issued to THOMAS DASCHLE. Mr. DASCHLE was sworn in and took office on January 15, 1979, after presenting his credentials to the House.

On December 26, 1978, Mr. Thorsness filed a "notice of contest" against Mr. DASCHLE with the Clerk of the House. The notice of contest alleged that a fair and impartial review of more than 2,000 ballots still in dispute would show that the contestant, Mr. Thorsness, did in fact receive a plurality.

At the same time, the contestant appealed the determination of the recount board to the supreme court of South Dakota.

On January 25, 1979, the contestee, Mr. DASCHLE, filed a motion to dismiss the contest alleging, among other things, a failure to make a showing of grounds sufficient to change the results of the election.

On March 1, 1979, the ad hoc election panel, consisting of myself as chairman, the Honorable MENDEL DAVIS and the Honorable BILL FRENZEL, held an open hearing for the purpose of receiving oral arguments on the motion to dismiss. Both contestee and contestant were represented by counsel. The contest centered on the issue of whether "a fair and impartial review" of the disputed ballots would result in a plurality for the contestant.

The ad hoc election panel again met, on December 13, 1979, with all members present, to consider the motion to dismiss. After a thorough review of the record and after due deliberation and notification from the South Dakota supreme court that it had determined DASCHLE to be the winner, the panel voted 3 to 0 to recommend to the full committee that the contestee's motion to dismiss be granted.

24. Carroll Hubbard, Jr. (KY).

On February 12, 1980, a quorum being present, by unanimous voice vote, the Committee on House Administration adopted the panel's resolution to recommend dismissal of the contest to the House.

In assessing the record of the contest the panel noted that contestant Thorsness' case hinged on the allegation that "a fair and impartial review" of the contested ballots would prove him the winner. The panel held that in light of the exhaustive de novo recount by South Dakota's highest court, it would seem both redundant and presumptuous for the panel to recount the ballots and substitute its judgment for that of the courts. While we certainly have that authority, we found no reason to use it.

The contestant was unable to produce any documentary or other evidence of sufficient weight to demonstrate to the satisfaction of the committee that the allegations, if true, would have changed the election result. It was the committee's unanimous opinion that the case should therefore be dismissed.

Mr. Speaker, I yield to the gentleman from Minnesota (Mr. FRENZEL) for any comments the gentleman wishes to make.

Mr. FRENZEL. Mr. Speaker, I thank the distinguished chairman of the elections panel for yielding.

Mr. Speaker, I rise in support of the privileged resolution. The contestant and the contestee have had their day in court. The supreme court of the State of South Dakota has ruled in favor of our colleague, the gentleman from South Dakota (Mr. DASCHLE).

The panel has made a good decision. The committee has made a good decision. The minority believes that the House should ratify that decision by passing the privileged resolution today.

Mr. Speaker, I thank the gentleman for yielding.

Mr. THOMPSON. Mr. Speaker. I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

§ 18. Ninety-seventh Congress, 1981–1982

There were no election contests considered by the House during the 97th Congress.

§ 19. Ninety-eighth Congress, 1983–1984

§ 19.1 Archer v Packard

The general election for the office of Representative to Congress from the 43rd District of California was conducted on November 2, 1982.⁽¹⁾ The general election candidates were Roy Archer (the Democratic candidate),

1. This summary is derived from the report filed by the Committee on House Administration relating to this election contest. See H. Rept. 98-452, 98th Cong. 1st Sess.