

Vote machine tampering in Maryland

Freeman challenges Mitchell with evidence of 'recount' at the warehouse

"We thought the 1978 election was over," began the six o'clock news in Baltimore last Tuesday night, "but Debra Hanania Freeman is going to the State Board of Canvassers on Thursday to show the election results were wrong."

"Wrong" was something of an understatement. The election results in Maryland's 7th Congressional District pitted incumbent Democrat Parren Mitchell against Independent Hanania Freeman in one of the most fraud-ridden elections in recent history. Hanania Freeman claimed victory ("she even called our office and asked when she could move in," said one Mitchell aide) and went to court.

Windows, ladders and keys

But bigger even than the fraud was the coverup of the fraud, in the Mitchell machine's race to certify the election. Representatives of the Hanania Freeman campaign committee went to the warehouse where the voting machines were stored to make sure there was adequate protection against post-election tampering while a writ made its way through the courts. They were staggered at what they found.

"There were no Baltimore City Police inside or outside the warehouse; there were no uniformed security guards in or about the warehouse; the so-called 'ADT Protection Service' to protect the integrity of the machines was nothing more than an alarm system on certain of the warehouse doors and windows," one campaign worker declared in a sworn affidavit. Not only that, many of the windows were broken anyway, with a ladder leaning up against one, a full set of keys to all of Baltimore's voting machines was left unguarded and lying out on a counter, and many of the machines were improperly sealed or hadn't been sealed at all.

Photographs were taken of the broken windows, keys, ladder, and unsealed machines and affidavits submitted to the courts. The Board of Canvassers responded with an extraordinary remark that showed how much electoral honesty had decayed since the Nixon-Lodge ballots were found floating in the Chicago River in 1960. "We're going to certify this election no matter what," Maryland Board of Canvassers Secretary Willard Morris declared to Hanania Freeman officials. "Even if you get an injunction, we'd still certify the election."

Hanania Freeman's court fight demonstrates that the Baltimore City Board of Supervisors of Elections flagrantly violated the law in their purported certification of the election on Nov. 20. But both city and state officials are rushing to certify the election before even more evidence is gathered. They are being aided by Chief Judge Anselm Sodaro, who is sitting on the evidence presented to his court, allowing the clock to run out while the state election board puts its imprimatur on the vote heist.

Sodaro, stung by a leaflet distributed in Courthouse Square last week that denounced him personally, did a complete about-face and agreed to rehear Hanania Freeman's motion for an injunction. On Nov. 21 Sodaro refused to hear any evidence and then dismissed the Hanania Freeman complaint. He based himself on the representation by the assistant state's attorney that the city board had certified the election, so the motion for an injunction and voting machine inspection was moot.

But within hours the state's attorney's office called Hanania Freeman's lawyers to confess that they had made a "mistake" and that the election was only "verified," not "certified." Hanania Freeman's attorneys resubmitted the motion for an injunction against the certification of the election, and the hearing was set for Nov. 27. There, Hanania Freeman and her representatives presented testimony on the ridiculous security conditions at the voting machine warehouse, all of which were completely confirmed by the president of the Board of Elections.

Election code violation

At the Nov. 27 hearing, David Preller, president of the Board of Elections, also described how he had gone ahead and certified the election, even though Hanania Freeman's representatives had not yet had the opportunity to exercise their legal right to verify the vote on the machine. "We would have certified the election no matter who was standing there," boasted Preller, proving Hanania Freeman's attorneys' contentions that the certification was in blatant violation of the Maryland Election Code. Preller failed to mention that he had threatened to have Hanania Freeman's representatives arrested when they appeared at the warehouse to verify the vote totals — at the written invitation of the Board of Elections.

“In all fairness”

Whatever action the state board takes, Hanania Freeman will escalate her battle against the corrupt judicial and electoral machinery in the state of Maryland, with actions planned for both federal court and in front of the U.S. House of Representatives. Meanwhile, a Baltimore television station is running an editorial calling on Hanania Freeman “in all fairness” to abandon her campaign and, most important, “take down those damn posters,” which are all over Baltimore saying she won the election. The posters have elicited dozens of calls to the office from Hanania Freeman’s constituents who have been enduring the Mitchell machine for eight years, ranging from complaints about broken traffic lights to best wishes in her new office.

The legal argument from both sides

The fraud in Maryland left Debra Hanania Freeman with 11 percent of the vote against Parren Mitchell’s 89 percent. Hanania Freeman had expected to win, and found sufficient evidence of vote fraud to go to court to get an injunction.

Not surprisingly, the whole affair soon began to reek of collusion between the court, the Board of Elections, and the backers of Parren Mitchell. The Baltimore Board of Elections moved to dismiss the petition for a writ of mandamus and preliminary injunction on the grounds that it would “serve no just or useful purpose,” apparently on the line that the election results were so lopsided that they should be immune from legal scrutiny. That left the Mitchell machine to answer what objection such honest and confident souls should have to an inspection of the machines by the opposition.

Following are excerpts from court arguments and affidavits of the defendants, the Baltimore Board of Elections and its president David J. Preller, and from Edward Spannaus, ballot specialist engaged by plaintiff Hanania Freeman.

Protection ‘adequate’: Board

From the Board of Elections court argument against Hanania Freeman request to impound voting machines, allow full examination of voting machines, and enjoy certification of the election until that has taken place:

Plaintiff is an unsuccessful candidate. . . defeated by Congressman Parren Mitchell—51,996 votes for Mitchell, 6,628 votes for Plaintiff Freeman. She

alleges that Defendants did not take “adequate measures to protect the voting machines” after the election. . . . She asks this Court to impound voting machines, to issue a Writ of Mandamus and Order compelling Defendants to allow her to “fully examine voting machines”. . . (and) to enjoin the Defendants from verifying and certifying the election. . . .

It should be stated at the outset that mandamus will never be granted if it would be nugatory or serve no just purpose.

The reply on charges of inadequate protection of the machines after the election:

(. . .) it seems clear from its context (of electoral statute Article 33, Section 16-10—ed.) and from the fact that election judges and polling place custodians are referred to that this section deals with protection of voting machines prior to and during, not after an election. But even if it is assumed that this provision does deal with post-election security of voting machines, it is clearly a discretionary proviso—i.e., the Board is to call on the police to furnish such assistance “as may be necessary.” The Board did not and do not regard such measures necessary here.

Board of Elections chief Preller admitted some election machines were never sealed, but asserted that “in my view,” adequate protection was provided:

7. The election judges are employed for two days a year, at most, and sometimes two or three years pass between elections. (The last election prior to 1978 was held in 1976.) Some of the election judges have never served as election judges before. While they are carefully instructed as to their election duties pursuant to Article 33, Section 2-7(g), they are human beings and, in my experience, it is clear that a small number of the 2,249 election judges are confused and do not affix the seal on the voting machines correctly. However, in my view and that of the other members of the Board, the other safeguards set forth in Article 33, Sections 16-15 and 16-16, including locking the machines, noting the number of voters as shown on the public counter, and the number registered on the protective counter, along with the other measures outlined in Paragraph 8, provide adequate protection for the machines.

8. In addition to the measures taken by the election judges pursuant to Sections 16-15 and 16-16 in protecting the voting machines, two full-time employees at the warehouse prevent any unauthorized persons from entering it. All of these measures seem to me, and the other Board members, to provide ample protection against tampering with and damage to the voting machines and accordingly, we did not and do not feel any police protection of the machines necessary.

'Gross irregularities': ballot specialist

Excerpts from affidavit of Edward Spannaus, ballot security specialist for U.S. Labor Party legal staff, New York City.

3. In the course of conducting these investigations (on ballot security measures—ed.), I have been told by numerous voting machine experts and election officials that voting machines can be tampered with and rigged in numerous ways, so that the machines will not accurately register votes cast. This includes rigging a machine so that the counter stops at a pre-determined level, so that it repeats the 0-9 cycle without ever transferring to the 10's column, and even transferring votes from one candidate to another.

4. On or about November 17, 1978, I was asked by Mrs. Debra Hanania Freeman to come to Baltimore to represent her at the canvass of voting machines to be conducted on November 20, and to examine the voting machines to determine if they were functioning properly or if they had been tampered with.

5. On the morning of November 20, I went to the warehouse accompanied by Mr. Robert Primack. At approximately 11:00 o'clock a.m., after a number of delays and threats of arrest from Board of Supervisors of Elections officials, I was allowed to observe the voting machines used in the November 8 elections in the 7th Congressional District. I and Mr. Primack continued to observe the machines until approximately 3:15 p.m., when the warehouse closed for the day. I examined perhaps 75 machines of the 600-700 used in the 7th Congressional District. I also observed conditions in the warehouse itself.

6. During the course of my observations I saw the following conditions:

- a. broken and improperly-placed seals on voting machines;
- b. discrepancies between the numbers registered on the protective counters on the machines and the numbers recorded on the poll judges' return sheets.
- c. discrepancies between the numbers registered in the public counter outside the machine and the public counter inside the machine;
- d. discrepancies between the numbers registered on the public counters and the numbers recorded for the public counters on the poll judges' return sheets;
- e. discrepancies between the votes recorded on the poll judges' return sheets and the votes registered on the machines;
- f. other types of damage to machines; and
- g. totally inadequate security conditions in the warehouse, with keys on all the machines while the front door was sometimes unlocked and broken windows existed in various locations of the warehouse.

Each of these conditions will be described in more detail immediately below.

7. I observed broken or misplaced seals on at least ten machines, including the following machines:

#63298, #84292, #89493, #89494, #84294, #89800, #89801, #89802, #89803. The seal is supposed to be placed on the machine by the poll judge at the close of the polls (see Article 33, section 16-15(b) of Maryland Election Code). . . .

8. I observed one instance where a seal was broken on a machine, and then was illegally replaced a few hours later. As Mr. Primack and I were leaving for lunch, accompanied by a custodian, we observed that the seal on machine #133177 was broken, which we pointed out to the custodian. Later, as we were leaving around 3:15 p.m., we saw to our surprise that a new seal had been placed on machine #133177. The serial number of the new seal was #48275.

9. I observed a number of discrepancies with respect to the protective counters. The protective counter is sometimes called the "perpetual counter;" this counter registers each time the machine is voted or each time the machine is opened. Any discrepancies on the protective counter are highly significant, as the counter is always portrayed as the basic protection against machine tampering. (See Exhibit 5, part of a document by the AVM Corporation called "Can Automatic Voting Machines Be Rigged?" in which the purported role of the protective counter is explained.)

10. The following are among the protective counter discrepancies observed:

- a. Machine #89864 (Ward 9, Pct. 24) recorded on returns statement as 01284, but reads 012846 on machine.
- b. Machine #84294 (Ward 5, Pct. 1, also sealed wrong) recorded as 14673, but reads 14674 on machine.
- c. Ward 6, Pct. 3, both machines recorded wrong; one recorded as 14004, but reads 14097; the other recorded as 11058, but reads 11154.
- d. Machine #112545 (Ward 19, Pct. 4) discrepancies between protective counter figure and public counter figure; protective counter should read 8739 not 8738 to equal the 84 votes on the public counter.
- e. Machine #112546 (same pct.) the key package recorded the protective counter as 6166, although it read 6243 at the opening according to the return sheet.

It should be emphasized that since this counter registers any opening of the machine, a discrepancy of even one number could represent tampering resulting in the loss of tens or hundreds of votes. . . .

16. While I was at the warehouse all the keys for each machine were hanging visibly from the machines. This included the #2 and #3 keys used by the poll officials, the #4 key used by the custodian to access the counters, and the "0" key used to open up the inside counter mechanism allowing the counters to be reset or changed. At the same time the warehouse appeared only to have the most minimal security precautions — the door was sometimes unlocked, windows were broken, and locks to doors accessible. No police or uniform security guards were present at any time. . . .