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31 December 1984

Robert L. Picher
Clerk of the House of Representatives
State of Vermont
Montpelier, VT 05602

We enclose the following:

Petitioner Ruth Painter's Request to the Vermont House of Representatives.

Downs Rachlin & Martin
By */s/ William W. Pearson"*

"STATE OF VERMONT
CHITTENDEN COUNTY, SS.

VERMONT HOUSE OF
REPRESENTATIVES

IN RE: PETITION OF RUTH PAINTER
concerning the general election
of November 6, 1984 and the
recount of November 26, 1984 for
State Representative from the
Chittenden District 4

Petitioner Ruth Painter's Request to the Vermont House of Representatives

Pursuant to Chapter II, §14 of the Vermont Constitution and 17 V.S.A. § 2605 of the Vermont Election Laws, Petitioner Ruth Painter requests the Vermont House of Representatives to exercise its constitutional authority to judge of the elections and qualifications of its own members by undertaking a review of the general election held on 6 November 1984 and a subsequent recount held on 26 November 1984 concerning the office of State Representative from the Chittenden District 4.

The petitioner contends the following: 1) counting errors were made in the general election count or in the court ordered recount or in both; 2) no safeguards were built into the court ordered recount procedure to determine whether the recount was a more accurate count than the original count; and 3) the recount committee did not examine the entire ballots to determine if any ballots were spoiled.

The petitioner submits the following in support of her request:

1. Petitioner was one of two Democratic candidates for the office of State Representative for Chittenden District 4 in the General Election of 6 November 1984. The other Democratic candidate was Thomas A. O'Neil.

2. Mr. Howard P. Lunderville and Ms. Ruth S. Stokes were the Republican candidates for the office of State Representative for Chittenden District 4 in the General Election of 6 November 1984.

3. The Chittenden District 4 consists of the Town of Williston and the Town of Richmond, Chittenden County.

4. In the General Election held on 6 November 1984 the following numbers of votes were reported as cast for the respective candidates (figures released by the Chittenden District 4 clerk):

	Williston	Richmond	Total
Howard Lunderville	1,033	460	1,493
Thomas O'Neil	602	1,219	1,821
Ruth Painter	1,069	582	1,651
Ruth Stokes	924	708	1,632
		Total Votes Cast	6,597

5. Thomas O'Neil received the greatest number of votes and was consequently the candidate elected to one of the two State Representative offices for the District. The difference between the number of votes cast for each of the two candidates (Ruth Painter and Ruth Stokes) having the next greater number of votes, was less than 5% of the total votes cast for all the candidates for the contested office divided by the number of persons to be elected.

6. Pursuant to petitioner's opponent, Ruth Stokes, filing a petition for a recount, the Chittenden County Superior Court issued an Order for a Recount on 11 November 1984. As part of its Order, the Chittenden County Superior Court selected a six-person committee to conduct the recount.

7. On 26 November 1984 a recount was conducted under the direction of the Chittenden County Superior Court Clerk. During the recount process, the petitioner questioned the accuracy of the recount procedure being conducted.

8. The recount resulted in the following votes counted:

Ruth Painter	1,638
Ruth Stokes	1,641

Write-in	4
Blank	440
Spoiled	3

9. On 27 November 1984, the petitioner filed a Petition challenging the recount procedure and requesting a second recount. The Chittenden County Superior Court changed part of its procedure for two other recounts not yet started but refused to conduct a second recount for petitioner.

10. The Chittenden County Superior Court scheduled a hearing for 6 December 1984 pursuant to its responsibility under 17 V.S.A. § 2603(e). This hearing was cancelled due to a large snow storm and was rescheduled for 11 December 1984.

11. On 11 December 1984 a hearing was held before the Chittenden County Superior Court concerning the recount. In that hearing, petitioner objected to the procedures used by the Chittenden County Superior Court in conducting the petitioner's recount. The petitioner contended that the Chittenden County Superior Court's recount procedure could guarantee no more accuracy in its result than that achieved by the original count following the general election. Petitioner also alleged several technical violations of the recount statute.

12. On 28 December 1984, the Chittenden County Superior Court ordered the recount committee to return to the Court, to review their tally sheets and to submit a committee report to the Court which contained their vote totals for each recount.

13. On 29 December 1984, the Chittenden County Superior Court issued its Judgment Order in this matter certifying the report of the recount committee. The Court recognized in its Order the limited role of the Court in elections and the ultimate authority in the Legislature "to decide on the election and qualifications of its members."

14. The petitioner contends that given the limited and "circumspect" review of the election results by the Chittenden County Superior Court that significant questions remain about the accuracy of petitioner's election results.

THEREFORE, petitioner requests the Vermont House of Representatives to judge the election for State Representative from the Chittenden District 4 due to the irregularities in the general election count and subsequent recount.

Burlington, Vermont. 31 December 1984

RUTH PAINTER
By: */s/ William W. Pearson*
Attorney for Ruth Painter"