

NEGOTIATING SESSION No. 13, Dec. 21, 1978, 11:00 A.M., Room 15, State Capitol

PRESENT: I. Anderson R. Searle
 L. Carlson D. Carlson
 D. Kostohryz J. Knickerbocker
 C. Johnson B. Anderson
 J. Casserly B. Nelsen

Irv Anderson chaired the meeting.

ELECTION CONTESTS: Irv presented a DFL paper (Ex. A)

Irv: Reconsider our position on election contests. Worked on paper of Dec. 18. We have reconsidered the paper and can't find no compelling reason why that issue has to go to a committee, as we read the constitution and the statutes. We say that the House shall consider the matter. The paper back today is the same as December 18. This process will provide both sides to present their cases before the full House. We would request your consideration of the matter.

Bob: Number 1. The term "presiding officer" -- who is that? Is that the newly elected Speaker or the Secretary of State?

Irv: I do not envision the Sec. of State being that person.

Bob: The speaker?

Irv: Yes.

Bob: 5 legislative days from the receipt of the materials.

Irv: Sometimes the court has been forced to delay the materials.

Discussion over time from judicial decision.

Irv: Would have to be brought in after the swearing in of the new members.

Bob: Everyone will be sworn prior to putting the question?

Irv: Yes.

Searle: The House has to be organized before the question can be put. Not taking the route you are insisting on and anticipating what might happen if there is a ruling that is going to need debate in the House and you want it on the House floor. What we have there technically is you've got little old me against any one of your experienced attorneys as presentors. We have no one of that legal maturity or experience. It does put us at a distinct disadvantage if you're going to hold a sort of court proceeding. I'm not about to take a crash course in law. That is one of the reasons we feel it should go to a committee that could be balanced with legal people or non-legal people. We have just one hearing on the House floor. Someone has to be prepared to go cold. If you have someone in a committee. We would be working with the attorneys in a committee. That you can't do on the House floor. From the way this document is worded no one who is not a member could present the material on the House floor. You're placing our caucus at a disadvantage coming directly to the floor. Five new people coming in who are attorneys. I would want them to have some background. They know nothing about legislative protocol.

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L. Carlson: Opening up the process by having a committee hear that? You're placing all the other members of the House at a disadvantage if they are not members of that committee. Members felt uncomfortable because they had not heard the evidence in the committee.

Bob: The system operates on a committee basis around here. Never heard anyone around here asking to be excused because he hadn't heard the evidence in committee.

Kostohryz: The committee is hearing bills. Feel strongly about the committee system. When it comes to the House floor it's in a good position to be voted upon.

Searle: I think you can say we need such a document included in our negotiations. Want a chance to review it with our legal people. Let's see if we can't look at this and come back next week. A chance to study it. Perhaps with some ideas. If that's agreeable. This has changed drastically since the treaty of Casserly and Knickerbocker. I don't think we should be critical of those gentlemen who put time working on the document. I think we should defer this until later when we have had a chance to study this.

Irv: You have to go back and check the statute and constitution and study. Even though they have used the committee procedure previously that system may not have been proper. Decision to be made by the House. The House is not a court of law. Neither one of us are lawyers. Don't expect great moves of parliamentary procedure. You are as adept at making your points of view as we are. I believe both sides will have ample legal help. Paragraph d in the statute says viva voce. Fair and open manner in which the process can be used. Have to consider that neither side has a majority. This is different. It is mentioned in the constitution so it is more important. This is a fair method. We think, when you have all the facts before you, you will agree that this is the procedure that should be used.

Jerry: The legislature, in terms of drafting legislation, has got to use the constitution as a guide. You should have to agree that the constitution is correct if there is a conflict between statutes and the constitution. I have always figured that there was a pretty good reason for referring those matters to a standing committee or select committee. The legislature didn't want to take up the members' time on the House floor. I don't quite understand where we failed in what Jim and I tried to put together. We provided that after all the matters were heard, then a report would be made to the House floor. The committee system was always used because it was used to accomplish an orderly system. We provided a certain number of days for reporting from committee. Our concern is to make sure that we don't have a disorganized serious atmosphere on the House floor for legislation and political maneuvering.

Kostohryz: I wasn't here. It was always my understanding that those meetings were always closed.

Searle: No. Rules Committee was the only one.

Bob: Are there statutes that you're using that we don't have.

Irv: We're using the constitution and statutes.

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Bob: 209.10 and Article 4 of the Constitution? Since we don't have an attorney, would you agree that your presenter would not be an attorney?

Irv: Are we going to pre-empt the right of a legislator to present his case on the House floor?

Bob: Would you consider a lay person?

Irv: We might agree but we aren't going to preempt the right of a legislator to present.

Carl: When we get the findings I don't think we can snaffu the Republicans simple because we have an attorney on our side. I think you are over-emphasizing that issue (hopes the judge will write the findings so that everyone can understand them).

Bob: Would you like to be the presenter? Who do you suppose is going to win?

D. Carlson: I'm surprised that you're saying you're rejecting this paper. Hasn't every case been referred to someone for study. Are you sitting and trying to be so above board when you say that the one person we know cannot be a voting person all of a sudden the votes shift. That has nothing to do whether it should go to a committee to be worked on.

Irv: There were a number of reasons I felt that there was something wrong with the document. You asked whether you would have the right to use Henry Savelkoul and we said there would be no objection. You have chosen not to use him. I can't understand why now why all you raise the issue of an attorney. This is even more important than an election contest. You have not seen fit to use the services of an attorney we had agreed to.

Bob: Doesn't an attorney have an advantage.

Irv: Only in the court of law.

Bob: Wouldn't the attorney be better able to understand it than a lay person.

Irv: You would have the right to have counsel and he would explain it.

Bob: I don't have the right to call witnesses.

Irv: No.

Bob: We could call a witness in and ask him to explain it.

Irv: Why can't we take the findings from the court where the witnesses had every chance.

Bob: Everyone is going to think of questions about the material.

Irv: You would have the right to seek counsel to answer your questions.

Bob: We don't have the right to call the witnesses themselves. Remember the long debates we had on the House floor. There were still questions that had to be answered.

Irv: I remember how articulate the IR members are on the House floor. Your argument that you will be in a disadvantage by not having an attorney is not valid.

Searle: I believe the statute says the House must make the final determination. Which means that technically if you're going to prevent all of the members of the House from hearing the testimony then they are being deprived. You're depriving House members from making a full determination. I think I have matured since 1957 when I was asked for my reason for not voting. If you're going to hang your case on that, that is wrong.

Lyn Carlson: There are many new legislators coming in in that position who could use that same argument as used in 1957.

Searle: We want a chance to look at the language and we will react.

Lyn: I think the point will not be inexperience in the law. The experience you need will be the people in your caucus. They can help the presenter.

Dick: Would more witnesses be called than used in a court.

Searle: It would give both caucuses an opportunity to hear all witnesses. I don't visualize they would call any more than in the court system.

Irv: I haven't been too pleased about the committee system in the past. We're better off if we let the whole House decide.

Bruce: Item c, 209.10 -- the evidence shall be presented first. How is that done. Who does it. What is considered evidence. I'm looking for an explanation. Only that forwarded by the court.

Irv: It would be presented by your caucus or whoever your presenter is.

Bruce: The 2 parties in the contest would take the floor?

Irv: No. The members of the House only. I don't question the right of anyone who has an election certificate to be seated.

Searle: Your interpretation is that neither one would be able to speak in his behalf.

Irv: He could answer the question but not the unelected person.

Searle: We want to think about this a little bit.

Dick: Wouldn't the same thing happen on the House floor as in the committee.

Searle: Only 2% telling the story on the House floor. You want to take the findings of the court and run with them. You're letting the court make that determination. What I am saying is that we're back to your original basics.

Irv: You're objecting to using the court's findings.

Searle: You're not too far from your original proposal.

Carl: We think: why does it go to the court at all. Why did they decide it should go to the court at all. I don't know why they monkey with it.

Bob: Jim, in a trial there are rules of evidence. Supposing a motion were placed on the House floor that they would follow the rules of evidence.

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Irv: Paper on Committee Structure (Ex. B)

AGREED ON 1, 2 & 6

Irv: If you have enough votes to organize, then go ahead.

Searle: Impossible task for any speaker if he has only 67 votes. Speaker can't do anything.

Irv: If people don't recognize this matter as being serious they don't understand how serious this matter is.

Searle: It touches the lives of all the people in the State of Minnesota.

Irv: The majority would have the responsibility of organizing the House.

Searle: If it would turn around later then it would switch. It takes 68 for the passage of a bill.

Irv: I don't have 68 and you don't have 68. If either one of us is speaker we can't assure passage of a bill.

Searle: We have 67 each. We feel very strongly that in order to upset the contract (if negotiated) it would take an organizational majority of 68. You have some interesting switches here. We want a chance to look at them. Little by little it's coming into place. Sitting by the fire over the weekend will help to mellow this. We're not going to react to this this morning. We want to chew it a little bit.

Doug: If I'm counting right we are still at 12-10.

Irv: You're still able to count.

Doug: What a Christmas goose.

Searle: At this point neither one of us has anything and we think we are entitled to half of everything. What we should do not is decide when we want to meet next week when we have had a chance to go over this.

Next meeting, Wednesday, Dec. 27, 7:00 P.M.

Agenda: 2 papers at 12th meeting. Will present a paper to IR. Will not present anything on election contests. If we were to throw out the election contests item would that be acceptable.

Searle: We have to study this.