

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of
John Maynard Larkin, Killingly

File No. 2008-080

FINDINGS AND CONCLUSIONS

Complainant filed the instant complaint with the Commission pursuant to General Statutes §9-7b, alleging that he requested and was denied an absentee ballot set from the Killingly Town Hall in connection with a June 9, 2008 Killingly budget vote. Complainant alleges that as a result of these actions, his rights have been violated.

After an investigation of the matter, the Commission makes the following findings and conclusions:

1. On June 5, 2008 the Complainant went to the Killingly Town Hall and requested an absentee ballot set from both the Killingly Assistant Town Clerk and the Killingly Town Clerk for the June 9, 2008 Killingly budget vote.
2. The Assistant Town Clerk and the Town Clerk informed the complainant that he would not be able to obtain an absentee ballot set for a budget vote unless it was an all day referendum.
3. General Statutes § 9-1 provides in pertinent part:

(n) **“Referendum” means** (1) a question or proposal which is submitted to a vote of the electors or voters of a municipality at any regular or special state or municipal election, as defined in this section, (2) **a question or proposal which is submitted to a vote of the electors or voters, as the case may be, of a municipality at a meeting of such electors or voters, which meeting is not an election, as defined in subsection (d) of this section, and is not a town meeting,** or (3) a question or proposal which is submitted to a vote of the electors or voters, as the case may be, of a municipality at a meeting of such electors or voters pursuant to section 7-7 or pursuant to charter or special act; [Emphasis added.]

4. General Statutes § 9-135 provides in pertinent part:

(a) Any elector eligible to vote at a primary or an election and any person eligible to vote at a referendum may vote by absentee ballot if he is unable to appear at his polling place during the hours of voting for any of the following reasons: (1) His active service with the armed forces of

the United States; (2) his absence from the town of his voting residence during all of the hours of voting; (3) his illness; (4) his physical disability; (5) the tenets of his religion forbid secular activity on the day of the primary, election or referendum; or (6) the required performance of his duties as a primary, election or referendum official at a polling place other than his own during all of the hours of voting at such primary, election or referendum.

5. Chapter 10, § 1007 of the Killingly Town Charter provides in pertinent part that:

The annual budget shall become effective only after it has been approved by said council in accordance with the provisions of Section 1005 of this chapter, and adopted as an ordinance at a town meeting, called and conducted under the provisions of Chapter VII of this charter and of Chapter 90 of the General Statutes, as amended, by a majority vote of those persons present and qualified to vote at such meeting or by machine vote as herein set forth. The annual town meeting shall consider the budget submitted by the town council, and may increase or decrease it or any portion thereof. **Following the conclusion of the annual town meeting, said meeting shall be adjourned to a machine vote not less than seven (7) nor more than fourteen (14) days thereafter on a date set by the town council.** The machine vote shall take place at the normal polling places between 12:00 noon and 8:00 p.m. and be conducted in general in conformity with Chapter 90 of the Connecticut General Statutes, except as specifically modified herein. At said machine vote, there shall be an opportunity to vote "yes" for those in favor of the budget and "no" for those opposed to the budget, and each voter voting "no" shall be encouraged to vote on a non-binding advisory question asking them in general: Is the budget too high or too low? The general government budget and educational budget shall be voted on separately, but there shall be no town budget until both budgets are adopted. However, should one (1) of the budgets be approved and the other not, further action shall only be on the portion of the budget not adopted. **Should said machine vote fail to adopt either the general government budget, the educational budget or both, then the Annual Town Meeting shall be adjourned to the following Monday and thence to the next Monday thereafter until finally adopted.** In the event that any relevant Monday shall fall on a holiday, then the Annual Town Meeting shall be adjourned to the subsequent Monday. **At each subsequent meeting,** each budget shall be acted on separately and neither budget shall be increased or decrease but only adopted or rejected. **Said budget shall not be further subject to referendum vote except pursuant to Section 508 of the town charter. Any budget which has been rejected by the town meeting shall be considered in the interim by the council, which in conjunction with**

the manager, shall review the rejected budget and present it at a subsequent town meeting for adoption. . . . [Emphasis added.]

6. The Town of Killingly held the annual Town Meeting on May 12, 2008. The meeting was adjourned to a machine vote referendum on May 20, 2008. The budget was defeated on May 20, 2008 and in accordance with Chapter 10, § 1007 of the Killingly Town Charter, the Annual Town Meeting was adjourned to the following Monday (June 2, 2008) and thence to the next Monday (June 9, 2008) thereafter until finally adopted.
7. Although the June 9, 2008 Killingly budget vote was conducted as a machine vote, it was not a referendum as that term is defined in General Statutes § 9-1, instead, the June 9, 2008 Killingly budget vote was held at a Town Meeting.
8. In the instant case, the Complainant was not eligible to vote by absentee ballot set at the June 9, 2008 Killingly budget vote because it was held at a Town Meeting and not a referendum.
9. Accordingly, the Town Clerk did not violate any election law by failing to provide the Complainant with an absentee voting set for the June 9, 2008 budget vote.

ORDER

The following Order is recommended on the basis of the aforementioned findings:

That the matter be dismissed.

Adopted this 17th day of December 2008 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission