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HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

SELECT COMMITTEE ON STATE CONTRACT PRACTICES

REPORT  
ON THE  
RESOLUTION OF SELECT COMMITTEE ON STATE  
CONTRACT PRACTICES OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES TO  
SEEK CONTEMPT CITATION AGAINST  
DENNIS E. THIEMANN

AUGUST 2, 1974

SELECT COMMITTEE ON STATE CONTRACT PRACTICES

Hon. Patrick A. Gleason, Chairman

Hon. Rudolph Dininni  
Hon. James Ustynoski  
Hon. Benjamin Wilson

Hon. Harry Comer, Vice Chairman  
Hon. Harry Englehart, Jr.  
Hon. James Manderino

The Select Committee on State Contract Practices was established pursuant to House Resolution No. 98, Printer's No. 1381, adopted July 25, 1973,\* which authorized and directed an inquiry into all matters pertaining to the acquisition and disposal of properties, services, and supplies by agencies of the Commonwealth. A principal concern of the Select Committee has been the degree to which the process of awarding State contracts is influenced and subverted by financial contributions to candidates for office and political organizations. In order to determine if such a link exists between political contributions and the reward of State contracts, and, if so, the nature, extent and consequences of the connection, the Select Committee has exercised the subpoena power conferred upon it by the House Resolution No. 98 by demanding the production of records of campaign contributions from numerous Democratic and Republican organizations on both the county and State level. The Committee's efforts to secure the records needed for its investigation have met with but a single refusal to comply with a subpoena of the Committee --- that by Dennis E. Thiemann, Chairman of the Democratic State Committee. Mr. Thiemann's wilfull disobedience of subpoenas of the Select Committee led the Committee to adopt a resolution on July 24, 1974, calling upon the House of Representatives to cite Mr. Thiemann for contempt of

\*Here, and throughout, the asterisk denotes that the document is attached to this report as an appendix.

the House. This report recounts the events leading to the adoption of that resolution.

#### ISSUANCE OF SUBPOENAS DUCES TECUM

On June 10, 1974, the Select Committee agreed to the issuance of four subpoenas\* directing the Democratic State Committee, the Democratic State Finance Committee, the Republican State Committee, and the Republican State Finance Committee to furnish the Select Committee with all records of campaign contributions received by the particular organization during the period January 1, 1966 through June 10, 1974. The four subpoenas duces tecum, which were made returnable on June 19, 1974, were served on the afternoon of June 10th upon Dennis E. Thiemann, Chairman of the Democratic State Committee, and Senator Richard Frame, Republican State Chairman.

#### RESPONSE TO SUBPOENAS DUCES TECUM

At the request of Thomas R. Balaban, General Counsel of the Democratic State Committee, Select Committee Chairman Patrick A. Gleason agreed to postpone the return date for the subpoenas in question to July 1, 1974, an understanding which was confirmed by letter\* from Balaban to Chairman Gleason dated June 13, 1974.

On June 19, 1974, the Republican State Committee and Republican State Finance Committee complied with the subpoenas duces

directed to them by delivering to the Select Committee the requested records enumerated in an inventory.\*

On July 1, 1974, the Select Committee received a letter\* from Mr. Thiemann accompanied by a forty-one page typed list\* which, according to the letter, represented:

A complete listing of all contributors to the Pennsylvania Democratic State Committee, which contributors, to the best of my information, knowledge and belief, are related to involved in or affecting the purchasing, leasing, construction and disposal of Commonwealth property, supplies and services for the years 1966 through and including June 1974.

Thiemann's letter did not disclose the source or foundation for his "information, knowledge and belief" that the listing was what it purported to be. Nor did Mr. Thiemann ask to appear before the Select Committee for the purpose of explaining and justifying his response to the Committee's subpoenas. His letter did allude to certain unspecified legal proceedings pending before the Commonwealth Court involving a challenge to a subpoena duces tecum issued by the Select Committee (presumably the case of Camiel v. Select Committee on State Contract Practices---Pa. Commonwealth Court--- (No. 702 C.D. 1974) which the Court dismissed on June 30, 1974), suggested that compliance with the subpoenas would entail great expense, and stated that "much of the information and documentation desired" was on file in the Department of State.



## ISSUANCE OF SUBPOENAS AD TESTIFICANDUM

On July 3, 1974, Chairman Gleason wrote to Thiemann to inform him of the Select Committee's dissatisfaction with his response to its subpoenas and to advise him that the Committee would be considering action that could lead to contempt sanctions for the inadequate compliance.\* In a subsequent letter\* dated July 10, 1974, Chairman Gleason invited Thiemann to appear before the Select Committee on July 16, 1974, in order to "make further comment or offer any explanation as to why you have apparently chosen to edit your Committee's financial contribution records, which the Committee has subpoenaed." In a letter\* of reply dated July 15, 1974, Mr. Thiemann declined the opportunity afforded him to appear voluntarily before the Select Committee.

On July 16, 1974, the Select Committee voted to issue a subpoena ad testificandum\* directing Thiemann to appear before the Committee on July 24, 1974. The subpoena was duly served on July 19, 1974, and was followed by a letter\* from Chairman Gleason informing Thiemann that his appearance before the Committee would be open to the public.

## RESPONSE TO SUBPOENA AD TESTIFICANDUM

The public session of the Select Committee on July 24, 1974, commenced at approximately 11:25 A.M. Following a statement by Chairman Gleason setting forth the Committee's authority, purpose and scope of inquiry, Mr. Thiemann, who was present and represented by Mr. Balaban, was called upon to take his oath as a witness. At

this point Mr. Balaban interrupted saying that his client wished to read a statement. The Chair advised counsel that the witness would have to be sworn prior to delivering any statement whereupon Mr. Balaban informed the Committee that he would not permit his client to be placed under oath. Instead, Mr. Balaban himself rose and read aloud a prepared statement ignoring the Chair's ruling that he and the statement were out of order. At the conclusion of his statement, Mr. Balaban announced that he and his client were leaving, and the two did in fact depart without asking or receiving leave of the Committee.

Following the witness' departure, Rep. Dininni moved that a resolution be prepared calling upon the House of Representatives to find Dennis E. Thiemann in contempt of the House. After being seconded by Rep. Ustynoski and discussed by the full Committee, the motion carried by a vote of four to three, as follows:

Rep. Dininnii	Aye
Rep. Ustynoski	Aye
Rep. Wilson	Aye
Rep. Comer	No
Rep. Englehart	No
Rep. Manderino	No
Chairman Gleason	Aye

A copy of the pertinent portion of the transcript of the Committee's proceedings on July 24, 1974, is attached hereto as part of the appendix.

#### LEGAL NOTE AND CONCLUSION

It is the judgment of a majority of the Select Committee that by failing to produce the documents specified in two subpoenas

duces tecum and by refusing to take the oath of a witness and submit to questioning as required by a subpoena ad testificandum, Dennis E. Thiemann wilfully and deliberately disobeyed lawful process of the Pennsylvania House of Representatives. Just as a court of law requires obedience to its process as a means of discharging the judicial function, likewise the proper functioning of the legislature and, more particularly, its investigative committees, depends upon the ability to compel testimony and the production of physical evidence subject to constitutional limitations. In seeking to enforce its subpoenas by requesting the imposition of sanctions for contempt, the Select Committee chooses to uphold two principles which both apply to and transcend the case of this particular witness: that the business of legislative inquiry is serious and of substantial importance to the proper exercise of the law-making power; and that the legislature and its committees are entitled to the respect due their position as the people's elected representatives charged with grave public responsibilities.

Although a majority of the Select Committee firmly believes that its demands of the witness Thiemann were lawful and reasonable, it recognizes the possibility that Thiemann may have had valid grounds for refusing to honor the subpoenas in question. The Committee absolutely rejects, however, any notion that a witness who possesses what he believes to be legitimate grounds for non-compliance is relieved of his obligation to come before the legislative body in response to its process if only for the purpose of

stating his objections and explaining his reasons for non-compliance. In holding to this conviction, the Committee is supported by the decisions of the United States Supreme Court in the cases of United States v. Bryan, 339 U.S. 323 (1950) and McPhaul v. United States, 364 U.S. 372 (1960). In the former, the Supreme Court employed language that is especially apt for present purposes in affirming a conviction for contempt of Congress on the part of a witness who claimed a procedural defect in the Congressional Committee's operation (339 U.S. at 332-33):

...if respondent had legitimate reasons for failing to produce the records of the association, a decent respect for the House of Representatives, by whose authority the subpoenas issued, would have required that she state her reasons for non-compliance upon the return of the writ...(S)uch a patent evasion of the duty of one summoned to produce papers before a Congressional committee cannot be condoned...To deny the Committee the opportunity to consider the objection or remedy it is in itself a contempt of its authority and an obstruction of its process.

Because his refusal to comply with subpoenas of the Select Committee has impeded the conduct of the inquiry mandated by the House of Representatives, and because the manner of his refusal has been so singularly disrespectful of the House of Representatives, the effectiveness and dignity of the House of Representatives require that Dennis E. Thiemann be adjudged in contempt.