

Elections - Contested

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in Session. It was announced earlier.

CLERK:

The House is now in Session. The House is now in Session.

SPEAKER VAN NORSTRAND:

If the members would stand at ease a moment, apparently the announcement was not reaching some members down on the first floor and perhaps on the third floor.

Is there business on the Clerk's desk.

CLERK:

There is, Mr. Speaker.

There is on the Clerk's desk a report of the Committee on Contested Elections.

SPEAKER VAN NORSTRAND:

Rep. Mae Schmidle.

REP. SCHMIDLE: (106th)

Mr. Speaker, I would like to make the report of the Committee on Contested Elections.

We report that on January 9, 1985, the House of Representatives of the Connecticut General Assembly passed House Resolution 4 to create a committee on contested elections pursuant --

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SPEAKER VAN NORSTRAND:

Rep. Schmidle, excuse me, if it is the intention to read the entire report, it would, it has to be reposed in the Clerk and I would suspect --

REP. SCHMIDLE: (106th)

It was my intention to read it, but I would refer it to the Clerk if you would prefer it that way.

SPEAKER VAN NORSTRAND:

Would the Clerk please read the report filed by the Committee on Contested Elections.

CLERK:

Yes, Mr. Speaker.

Report of the Committee on Contested Elections.

On January 9, 1985, the House of Representatives of the Connecticut General Assembly passed House Resolution No. 4 to create a Committee on Contested Elections pursuant to 1985 Session House Rule No. 19. Representatives Mae S. Schmidle, Robert Farr and Moira Lyons were appointed to serve.

The Committee met on January 10, 11, 16, 18, 22, 23 and 24, with all members present. The Committee met at all times in the temporary Capitol buildings and all meetings were warned by public notice and open to the

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public. Elections Attorney Albert Lenge and Attorney Morgan O'Brien assisted the Committee. The Committee operated pursuant to the Joint Rules of the General Assembly insofar as they applied.

The first order of business was to take evidence of notices of any contest in the House of Representatives. After review of the evidence presented, the Committee decided to seek additional evidence as to an election in the 73rd Assembly District only. The Committee received an initial letter from a candidate in the 44th Assembly District, but a subsequent letter from the same person indicated that there was no contest in the 44th Assembly District.

The Committee then heard evidence as to the reason for a contest in the 73rd Assembly District and voted 2 to 1 to recount the votes in that district.

The Committee approved and adopted a procedure for recounting the ballots, and they also agreed on presumption for counting 17 variations of split ballots based on statute.

The Committee recounted and examined the following:

Absentee ballots

Absentee ballot envelopes, both inner and outer;

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and checked ballots against the registry list
Machine votes.

As a result of the examination of the absentee ballots, the Committee's tally of total votes were different from the moderators' returns in two precincts of the 73rd Assembly District, but the total votes cast in the 73rd Assembly District for each candidate remained unaltered. Because the moderators did not indicate any notations, the Committee was unable to judge how the ballots were originally counted.

The Committee's examination of the absentee ballot envelopes, both inner and outer, indicated a ballot still remained in the package with the discarded envelopes bearing no indication as to why it was not counted: the Committee, therefore, did not count it. The Committee also noted three differences in envelope counts as opposed to those listed on the packaging.

The final tallies indicated the following:

Machines -- no vote change

Absentee ballots -- no vote change

Envelope count -- three differences.

On or before February 8, 1985, the Committee on
Contested Elections will file with the Clerk of the House

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all transcripts and other pertinent documents related to the work of the Committee.

Therefore, it is the conclusion of the Committee, after exhaustive examination, that the Secretary of the State's Statement of Vote is accurate; that all of the members of the House of Representatives indicated as having been elected are deemed to be duly elected; and that a complete copy of this report shall be printed in the Journal of the House of Representatives.

Respectfully submitted, Rep. Mae Schmidle, Chairman
Rep. Robert Farr, Rep. Moira Lyons.

SPEAKER VAN NORSTRAND:

The report is in your possession, madam. What is your pleasure?

REP. SCHMIDLE: (106th)

I move the acceptance of the report, please, the adoption.

SPEAKER VAN NORSTRAND:

The question is on adoption of the report. Will you remark?

REP. SCHMIDLE: (106th)

Yes. You have before you the factual report of what this Committee did and exactly what our outcomes were.

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I thought perhaps you ought to know a little bit about our deliberations and how we arrived at our conclusions.

And I do want to thank the House of Representatives if I may, for affording us this opportunity to receive an enormous education in recounting elections that we never bargained for. And you're giving us this opportunity to pass on our newly gained information to the legislatures Government Administration and Elections Committee for their consideration and possible inclusion in our statutes.

Just a little bit about the way our committee functioned and operated. We used the Joint Rules so far as they applied to us. We conducted our entire process totally and completely open to all public scrutiny and observation. We encouraged and invited people to attend our meeting and in complete compliance with the intent of the Freedom of Information Act.

While times of the meeting were difficult for most of the members most of the time, each and every one of us attended each and every meeting, indicating their dedication and serious concern for the project.

Our first order of business for the Committee was to ascertain if there was any notice or notices given anywhere, floating around or on record. To that end, we

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contacted the House Clerk's office, the Speaker's office, the Minority Leader's office, the Secretary of State's office and our search indicated there were several documents indicating that a question of a contest was being considered in the 73rd District.

And Rep. Irving Stolberg informed the Committee that he had some verbal communication relative to possible contest. Subsequently, we received a communication from the 44th District indicating some reflection about a contest, but another letter confirmed that there would be no contest in the 44th District.

The Committee agreed that there was indeed, indication of a contest in the 73rd District and the contestant agreed with the outcome of the statutory recanvass and tried to make their disagreement with the election officials to bring it to court. The court informed the contestant it had no jurisdiction in this instance, and only the General Assembly could settle disputes involving its own members.

For this reason, and inasmuch as the contestant in this case made a number of valid efforts to interpret the statutes on how to serve notice of contest and did, in fact, to the best of their ability, serve notice of contest,

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SPEAKER VAN NORSTRAND:

Excuse me, Rep. Schmidle. Would the members please pay their attention to Rep. Schmidle, and for that matter, in the ensuing two years, any member who has the Floor is entitled to your courtesy and I hope you would extend it. Please proceed, Rep. Schmidle.

REP. SCHMIDLE: (106th)

Thank you very much. I got to the point where the Committee decided that in fact, there was a contest in the 73rd and we sought additional information and proposed to subpoena as much information and as much documentation and as many people as were relevant to this particular cause.

The Committee also saw evidence and so we talked to a great many people. We also saw evidence of an instance where the original and duplicate copy of an absentee ballot tally showed two different numbers, a difference of two, in fact. The Committee heard evidence from the State Elections Attorney that were in direct contradiction to a number of instances of the procedures used in the counting and recounting in the 73rd.

In my mind particularly, the election attorney convinced me that because we still had so many unanswered questions, so many doubts raised, and so many questions

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involving electoral procedures, that the fairness to everyone involved in the 73rd District, and because the Committee had an obligation to the House of Representatives to give the members clear and definitive answers about the contested election, I favored a recount.

My favor of the recount was also based on the mandate that the Committee would adopt strict, clear and concise procedures for scrupulously conducting this recount, including 17 possible variations of voting on absentee ballots and the statutory presumptions for these ballots.

The Committee directed Attorney Albert Lenge and Attorney Morgan O'Brien to draw up a procedure for examination and approve the document unanimously. Nowhere in the process was this an easy task. Our philosophical concerns and our statutory concerns weighed heavily on us and this was not made easier by the rude, crude and intimidating people in the audience from time to time.

We subpoenaed many people, including moderators, absentee ballot counters, registrars, the town clerk and election attorney. We were concerned about the time they were taking away from their business. Frequently, Rep. Stolberg stopped by to encourage the committee to move in some of the directions that he was recommending. All

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in all, to this point, it was an extremely difficult process, but nothing compared to what was yet to come.

On January 22, the Committee set about to actually count the absentee ballots themselves and with the aid and assistance of Atty. Morgan O'Brien and Atty. Albert Lenge. And very able assistants, I might add.

Our process of recounting and re-examining the ballots using our formal and strict procedure, the Committee received each and every ballot, discovered a difference in the way they would have counted the ballots in two precincts, changing one for the Democratic candidate, changing one for the Republican candidate, in the two precincts.

But the bottom line, the end result, was the tallies of the recanvassers on the absentee ballots, the count remained unchanged. Our review of the applications envelopes, inner and outer voter registry list, indicated some differences in the count and the location of another rejected ballot for some reason unknown to us.

The Committee decided very early on that we would review the entire process. We would not just look at the absentee ballots, which was what people were urging us to do, particularly the attorneys for both people that were

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involved in this.

The Committee made the decision we would look at everything, the inner, the outer envelopes, the machines and so on. Some members of the Committee and some of our staff, made the supreme effort to trudge down to Waterbury to actually physically examine the machines themselves, and we found these to be exactly as was indicated on both the original and the recount.

Our conclusion, as you know from our official report. As I indicated earlier, Rep. Stolberg was a frequent visitor of the committee proceedings. He strongly urged us to come to the General Assembly and indicate that we should be a bipartisan committee and not continue with our appointed task.

He recommended we follow the direction of the Kinsella Committee. The Kinsella Committee, as you know, was involved in actual impeachment proceedings. We were not, and in no way did we even ever consider that word and from the Committee it was never heard it, never even came up.

The Kinsella Committee operated almost exclusively behind closed doors and just emerged at the very end to give a short report. Our process was open and available

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to everyone's scrutiny from the very beginning. We felt that this was the business of the public and I personally feel that all business of the General Assembly is the business of the public.

Mr. Stolberg recommended that we be a nonpartisan group, and indicated Program Review as an example of a nonpartisan committee. And of course the Kinsella Committee as I mentioned before.

Partisan committees do work, and they do work well and they always have. Partisan committees are the mainstay and the form of our form of government, and I think you'll hear from some other people how well this partisan committee worked. We appreciate Rep. Stolberg's attendance and tried to encourage other leaders, minority and majority leaders to come and attend our meetings.

This Committee is adamant, absolutely adamant in its recommendation that the General Assembly must absolutely and positively adopt a statute that would spell out an orderly process for the procedure of serving notice of a contested election. Congress has such a procedure which provides some useful insight and I've been looking at how other states handle contest.

It must be a procedure that is clear and careful

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about protecting due process and the rights of all candidates and the rights of those who voted as well. This Committee is also adamant, absolutely adamant about including in the statute, a procedure for counting and recounting elections. This could be turned over to GAE or if the General Assembly chooses, this Committee could do that. We discovered that the gap in the election laws was large enough to drive through a fleet of Mack trucks when it came to telling people and informing them how to count absentee ballots.

This procedure should include the various possible configurations and of usual and unusual absentee ballot voting with statutory interpretations, so that the process if possible, can move in the direction of becoming more of a science than the seat of the pants operation.

This would be a most invaluable residual result of the time and effort that this committee has put into working and it could turn out to be the best thing that has ever happened to the election laws in our state.

I personally believe that both of these are long overdue as is the codification of our election laws and particularly, absentee ballots.

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It was indeed an honor to serve the General Assembly, although a tiring honor in this capacity, even though it wasn't easy. Operating under duress and intimidation, this Committee kept its cool, their sense of humor and my highest praise and thanks to Moira Lyons and Bob Farr for the exemplary contributions to this General Assembly.

I guess I can only say as the Latins would have said, Veni, Vidi, Vici. We came, we saw, and I want to say counted but I don't know how, so I'll say we conquered. I guess they expressed it better than I did. We came and we saw and we counted everything we could find to count.

My heartiest congratulations to Rep. Hartley. She will undoubtedly forever have the distinction of being the most impeccably counted representative in the entire history of the State of Connecticut. My apologies to her and to her family for the uncomfortable moments of this procedure, but the sole effort intent of our Committee was to count and numbers.

And Mr. Speaker, I would like to yield to Moira Lyons, please.

SPEAKER VAN NORSTRAND:

Rep. Lyons, do you accept the yield?

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REP. LYONS: (146th)

Yes, thank you, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Please proceed.

REP. LYONS: (146th)

Yes, thank you. Mr. Speaker, the Committee on Contested Elections dealt with a very serious, very sensitive matter. The question seating of one of its members. The Committee acted responsibly and without prejudice in an attempt to discharge its duties. However, I believe the Committee was hampered in its deliberations by a void of statutory guidance and of definition and specification within the Resolution that created the Committee.

Additionally, there exists a complete void of knowledge as to what procedures would have governed had our report been different.

I would like to highlight one particular --

SPEAKER VAN NORSTRAND:

Rep. Lyons, excuse me one moment. I hear a number of private conversations. If you want to conduct them, conduct them in the Hall. We are discussing something that affects the well being indeed of one of our colleagues.

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I can't think of much that could be more important for the members to pay attention to. And I would appreciate it if you would direct your attention to Rep. Lyons. She's entitled to the floor and to your respect. Please proceed, Rep. Lyons.

REP. LYONS: (146th)

Thank you, Mr. Speaker. I would like to highlight one particular part of the proceedings, since it was the only time that the Committee was in final disagreement and I think the General Assembly should have some insight into this.

The Committee reached a juncture when it was asked the question, should we now proceed with the actual recounting of the votes? The vote recorded was 2 to 1 with mine the dissenting vote. I would like to clarify for this General Assembly that the vote was not partisan and should it never be partisan.

My deliberations consisted of making a determination as to a sufficient threshold of preponderance of evidence that had been received to merit a recount. The Committee had no legislative history or statutory guidance as to what constituted the threshold that would trigger a recanvass. The only time that recounts have occurred in the past were

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in the twenties and the thirties, before we had a statutory mandate for an automatic recount.

I would like to cite some court cases. One, as a matter of general rule, there is the presumption of regularity and validity attached to the election itself. Arthur v. The City of Stillwater in 1980.

Two, an election contest in an election contest, the proceedings must make clear and positive assertion that a recount would have subsequently changed the result of the election. Lombardi v. The Board of Education, 1974.

Finally, the burden lies with the party attempting to impeach the results of an election to show that irregularities are sufficiently large in number to establish the probability that the results would be changed by a shift in, or invalidation of the questioned votes. Martini v. Powers, 1970.

Prior court decisions state that presumption is on the regularity of an election, and that the evidence presented, the facts, not the allegations, must show the questioned irregularities with substantially change the election results. That is the threshold I believed must be met and which in my judgment was not achieved. A desire to disburse a supposed cloud hanging over the election,

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though done with all good intent, a desire to erase doubt concerning the election, these for myself, did not constitute sufficient reason to merit a recount.

Various challenges were raised by the plaintiff. I would briefly explain to, not in order, to elicit debate, I believe that form for debate has already been closed, but rather to focus on the attention to determine what constitutes a threshold in a decision to recount and to highlight some of the problems that the Committee dealt with and that our statutes now give us.

The first challenge was the alleged inability of counters to interpret identical markings on a ballot the same way. Within our body of law, we find statutory presumptions which determine a decision on certain types of voting in absentee ballots. There is no deviation in judgment on these.

However, the decision on ballots falling outside these examples is governed by a presumption of intent. Statutes provide for judgment calls on these. Within guidelines, but judgment calls nevertheless.

The second challenge that the tally sheets showed a discrepancy of one vote from the original count to the recount. It is generally assumed that a discrepancy is

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due to a miscalculation in math for the purpose of a recount is just that. To make sure that the original count is accurate.

However, if indeed the vote were a mistake, it would not have changed the outcome. If the vote were for the plaintiff, it would still have left a margin of one. If the vote were for the defendant, excuse me, if the vote were for the defendant, it would have increased the margin to three. Therefore, a change would not have substantially changed the outcome of the election.

I feel it is very important that a threshold or guideline be adopted by the General Assembly to govern such situations. The final decision is always a judgment. But judgments are more exacting if they stem from solid reason. Everyone has the right to due process. A right which we here jealously guard. But the end results can best be achieved by at least establishing at the least, a broad standard of guidance.

I would like to make just one final point. I believe for the future, the General Assembly should allocate equal party representation on such a committee. This statement is in no way a reflection on the work or on the individuals comprising the current Committee.

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As I stated earlier, all attempts were made to remain nonpartisan and everyone acted responsibly. However, I believe the importance and the sensitivity of the issue demand that a form be used that prevents even the appearance of partiality.

Finally, and I think I can speak for all Committee members when I stress the need to have a well defined process laid out in statute governing all aspects and ramifications of a contested election. Experience is always our best teacher. We learn from the past in order to produce a better process for the future. Thank you.

SPEAKER VAN NORSTRAND:

Thank you, Rep. Lyons. Will you remark further on the adoption of the Report of the Committee on Contested Elections. Rep. Robert Farr.

REP. FARR: (19th)

Yes, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Please proceed, sir.

REP. FARR: (19th)

As a member of the Committee, I'd like to make a couple of comments. First, I'd like to respond to Rep. Lyons' concern about the threshold. And I'd like the

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House to be aware of why I made a decision to go ahead and do a recount.

First of all, in the State of Connecticut, in any election except an election for the General Assembly, an individual participating in that election, has a result to petition the court for a review of that election. And in fact, has a right to seek a court order to have a recount. The courts on a number of cases, have in fact created recounts when that has been done.

Unfortunately, our statutes don't permit that same remedy for someone who is a candidate for the General Assembly. I felt it was important as a member of this Committee to grant to the petitioner in this case, the person seeking the recount, the same remedies that they would be granted by the court.

The statute provides specifically in the recounting of absentee ballots, excuse me, in the counting of absentee ballots, that if the count is unclear, the question is to be referred to the moderator, and the moderator is to endorse his decision upon that ballot. If that had happened in this case during the counting or during the recanvassing of the ballots, then the only question would have been if there had been a specific incorrect decision

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concerning one of those absentee ballots.

Unfortunately, the election law was not followed. The testimony in this case by all of the parties was that the counters believe that they were to make the decision. The counters in fact testified that they, when they asked the absentee ballot moderator during the general election to make a decision, the ballot was handed back and they were instructed to decide themselves and they made that decision and no notation was made on the ballot. That's contrary to the law, and what happened was, there was then no record available to anyone as to how a ballot had been counted, because a questionable ballot was not endorsed.

During the recanvassing process, both sides were represented by attorneys. Both attorneys presented to the moderator a pile of ballots that they questioned. The moderator checked the election law and determined that they had no standing, and that he wasn't going to make a decision and he refused to review those ballots and he refused to make any endorsements as to his decisions.

So all of the decisions were made, and I think the testimony was one by the moderator, by the counters, and in this particular case, there were three sets of counters counting different piles of ballots. And the testimony

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of those counters was that under certain circumstance, they might count certain ballots in different fashion. That raised to me the sufficient threshold to go and do a recount. Because I point out to this body, all we had to do was change one vote from one candidate to the other in order to change the outcome of this election and force a re-election in fact.

At that point, we proceeded and had the recount. And I point out again, that the result of the recount indicates there were two differences between what we determine the outcome should have been and the moderator. Because there were no endorsements on the ballots, we can't tell whether we differed on decisions on certain close ballots or whether we simply counted ballots differently.

But we do know in two precincts there were two differences. Had those two differences gone in the same direction, it would have been a tie vote. They didn't. They went in opposite directions and it didn't change the outcome.

But I think it clearly indicates in this particular election, we were justified in recounting. The one thing I would disagree with the other two members of the committee

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on is I feel strongly that we ought to have an election law that allows an individual in this case to go to court to seek relief through the courts.

The reason I feel strongly about that is had that been done, this decision would have been made prior to the General Assembly convening. I think it's a horrible process that we have to wait until the first day to raise these questions and to begin to do a recount if this were to ever occur again.

Thank you very much.

SPEAKER VAN NORSTRAND:

Thank you, Rep. Farr. Will you remark further on the adoption of the Report of the Committee on Contested Elections.

REP. SCULLY: (75th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. William Scully.

REP. SCULLY: (75th)

Mr. Speaker, Mr. Farr. Just a couple of questions.

First of all, I seem to get the inference that the only people that should be doing recounts are attorneys. I hope that this wasn't what he really meant because the

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people who did the recount in Waterbury weren't all attorneys. Most of them were laymen and laywomen who work very hard to represent both political parties and always do a very honest and upright job. I just want to make sure that we're not saying that they should be attorneys.

SPEAKER VAN NORSTRAND:

Is that a question?

REP. SCULLY: (75th)

Yes, it is, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Through the Chair, Rep. Scully.

REP. SCULLY: (75th)

Mr. Speaker, through the Chair.

SPEAKER VAN NORSTRAND:

Rep. Farr, do you care to respond?

REP. FARR: (19th)

Yes. Let me correct my comments and amplify them a little. I would agree with Rep. Scully. The testimony we had from the counters in Waterbury convinced me that none of these counters of either party were in any way counting ballots in a partisan manner. They were lay people attempting to do the best job they could.

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Unfortunately, there was no procedure to train the counters as to how to treat certain questionable, certain split absentee ballots. So they weren't trained, and there's nothing under our law that requires them to be trained as to how to count those particular ballots.

The reference to the attorneys was in this particular case, that moderator had allowed the two sides to be represented by a party who would then review the ballots and question any ballots that the representative thought had been miscounted. That was during the recount process. It turned out, it is my understanding, they both were attorneys. They didn't do the count. They simply reviewed the counts as they were done by the counters and then took ballots that they thought might have been miscounted and asked the moderator to rule as to whether or not they were counted properly.

And the moderator did not rule, and unfortunately our statutes don't give them any specific standing to raise those questions and the moderator was probably within his right not to rule. Unfortunately, in this particular case, had he decided, it probably would have ended the case there and it probably never would have gotten to us.

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SPEAKER VAN NORSTRAND:

Rep. Scully, you have the floor, sir.

REP. SCULLY: (75th)

Thank you, Mr. Speaker. Thank you, Mr. Farr. I think Rep. Farr, what the law calls for, we are to presume or to assume that our native intelligence is what leads us to say that one ballot is good and one ballot is not good. In other words, common sense prevails in any vote.

I sat and listened to you the other afternoon and I think that some of your remarks about common sense were very appropo and I think that's what happened in Waterbury, that we used common sense and common sense showed that it was a victory for the person that was elected.

I would like to reiterate what Moira Lyons said that in the future I would like to see it, I think it's a very difficult thing whether you're a Democrat or a Republican or even nonpartisan as it could be, to sit there and try to make decisions over a vote or two votes that elect a person to this very august Chamber. I think in the future it should be divided evenly between the parties, or maybe have no parties involved and have independent people if we can find three of them in the

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state to handle this particular issue. But I think in the future, it might bode us well to appoint two of each party like we do on our Program Review or Regulations Review Committee.

SPEAKER VAN NORSTRAND:

The question is on acceptance on the adoption of the Committee's Report. Rep. Irving Stolberg.

REP. STOLBERG: (93rd)

Mr. Speaker. At the outset I would like to express on behalf of all of the members of the Assembly, our thanks to Rep. Schmidle, Farr and Lyons for the many, many hours they put in in the last two weeks on this question both the specific question of the recount in this case, and some of the generic questions which arose during the wrestling with this problem.

I agree with virtually all of the points made by Ms. Schmidle on the adamant position she took on closing the gap. Basically it's the same thing we found two years ago when we addressed the question of impeachment. There was very little precedent. There had been sharp changes, constitutional in some cases, that left us without precedent and thus new ground was being plowed.

I believe the points she raised are right. I think

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the statutes should provide for a clear cut procedure. I think with the establishment of a canvass committee in the 1960s that anyone who after an election or a recount, automatic or requested, who has serious reservations in regard to the accuracy of the ballots cast in that election, should have a set of steps that are clearly laid out and understood that should be followed.

I think the first point should be made to the Board of Canvass. It can then consider the reservations made through affidavit or other process. It can act on those or choose not to, but I would suggest that whatever it does, that any communications received on any contested election by the Board of Canvass be conveyed to the opening day of the legislative session.

I would then suggest that a process be set up where if there is no weight of evidence, that any election is in contest, the traditional ceremonial committee on canvass be established, achieve its goals and be dismissed with gratitude.

If, however, it is the opinion of the presiding officer, and through the presiding officer of this Chamber that a weight of evidence exists in regard to a contest, then a first step should be taken whether an individual is

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to be seated and sworn in or not, which again should be laid out clearly in regard to weight of evidence, and secondly, if a substantive, as opposed to a ceremonial committee is to be established, I feel very strongly, Mr. Speaker, that the precedent of the impeachment committee is valid and is appropriate. And, indeed, is also parallel to the recount procedure provided in law already done outside of this Chamber where a balance of Democrat and Republican review the ballots. If they agree fine, if there's a contest then it goes to the moderator and the moderator decides.

I would strongly urge for the benefit of this Chamber, that a substantive committee, one that is going into the ballot box, in the future, and this implies nothing about the three individuals this year. I think they did their work in an exemplary fashion and it was done in absence of precedent or rules, or standards or virtually any guidance whatsoever outside of our, I would suggest, House Rules, not Joint Rules as is indicated in the report, and the Resolution establishing the Committee.

But if a committee is to go into the ballot box and count ballots, I think the same provision for balance that we have now, should exist in such a committee and in the future, in legislation that I hope will come from the GAE

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Committee. That should be a balanced committee as the impeachment committee was as Program Review is, should be appointed by the Speaker and should bring its report, hopefully unanimous, back to this Assembly which is the court of final resort.

The worst thing that could have happened to this Institution and I am very grateful it did not happen, would have been for a two to one partisan report in terms of a substantive report, or in terms of the consideration of any ballot. That would have been destructive of the processes of this Chamber and we are all fortunate that that did not occur.

In order to insure it does not occur in the future, I would hope the Government Administration Elections Committee would basically define two different types of canvass committees. A ceremonial one in the case of no contest, and one that reflects the delicacy and balance necessary in the case of a contest where members of this Chamber go in and reconsider ballots. That should be done in absolutely a nonpartisan fashion.

Again, Mr. Speaker, I would like to congratulate Rep. Hartley and also very sincerely offer condolences to Ms. Bogen. I think both of these women went through

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a great deal of agitation in the last several weeks extended from election day. In the end, one did win, a very close election and the other did lose. I think both of them, through their suffering, have contributed to our knowledge and our understanding of the election law and I hope the GAE Committee in this Chamber can close some of the gaps we found did exist and can do that in a truly nonpartisan fashion because I think it will serve all future candidates and most importantly, serve the public of the state.

SPEAKER VAN NORSTRAND:

Rep. Maurise Mosley.

REP. MOSLEY: (72nd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

You have the floor, sir.

REP. MOSLEY: (72nd)

I had the opportunity to watch the Committee for a few hours and I, too, would like to congratulate them on their exemplary work and congratulate the winner and condolences to the loser.

Another major point I'd like to make, Mr. Speaker.

In the press, and at the hearings, there was quite a bit

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of accusation about the process in Waterbury and the election officials in Waterbury. I think throughout their committee recount, it showed that the election process works extremely well in the City of Waterbury and the people that are in charge of running elections are of excellent character and do an honest job in administering election and election procedures, Mr. Speaker. Thank you.

SPEAKER VAN NORSTRAND:

Thank you, Rep. Mosley. Will you remark further on the adoption of the Report of the Committee on Contested Elections?

If not, all those in favor --

REP. JAEKLE: (122nd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Robert Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. Mr. Speaker, I'd like to rise to thank the effort and hard work of the members on the Committee on Contested Election. I would like to address some of the comments made by the distinguished Minority Leader concerning the process that was followed and how it could be improved. I'd like to indicate to the

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body that the Committee on Contested Elections was created in accordance with our House Rule 19, not a new rule. It's a rule not just for this year. It existed last year, the year before, the year before that. It has long been in our House Rules and that House Rule says that at the opening of each Session, a Committee on Contested Elections consisting of three members shall be appointed. Is there room for improvement? Probably.

We have all heard that the Government Administration and Elections Committee will look into this, try to establish procedures, try to establish guidelines. This is, at least since I've been here, the first time that a Committee on Contested Elections has been appointed, even though every year that I've been here our rules have required the Committee to be appointed. There was never a distinction between ceremonial and working.

Having said that, it's obvious at least in modern history, that this was rather unprecedented. We've dealt with other unprecedented activities in this Chamber before and the first time you walk on new waters, you often get your feet a little wet, but you learn from it, and I think one thing that was said and I have to repeat it, nobody has criticized the actions of this Committee that I have

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heard, haven't heard it on the floor. And I think that's important to be said. If the procedure can be improved so that the procedure could guarantee a better result, fine.

But I think I have one other disagreement with what the Minority Leader said and that was that the worst result would have been a partisan vote. And I'll go back to nearly two weeks ago, I guess just two weeks ago, when we were debating this very same issue. I think the worst thing for the General Assembly to have done in connection with this was to do nothing. I think while exercising responsibility sometimes proves unpleasant, responsibilities must be exercised and if they are exercised fairly, then the General Assembly and all of us have been served well and I think that is the case with this particular Committee on Contested Elections.

I also am very pleased with the report of the Committee, and I think the conclusion is that all of us that were indeed stated to be elected, and I mean all of us, 151 of us are indeed duly elected after a rather thorough search, opportunities for complaints, that truly was an opportunity for anybody to be given a fair hearing, due process is a phrase that I think is bandied about

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lightly but I think it is very important in our country, certainly for the State of Connecticut that people be given an opportunity to have their disputes and complaints heard, and that's why I think this General Assembly had a responsibility to do what we did and to learn from what we've done and to set out procedures for future contested elections to be handled.

I think it is reflected very well upon this General Assembly that we have all done our duty, particularly the members of the Committee on Contested Elections and while I realize there was one member whose election was very closely scrutinized, I'd like to congratulate Rep. Hartley for undergoing that examination and frankly, I feel being vindicated through that process as the distinguished Rep. Schmidle indicated, having your votes counted and recounted and more thoroughly examined than anyone else in this Chamber, since I have been up here, I think you should be very proud of that. And I think while all of us are being reported as duly elected, I think there should be no doubt left that that is true in your case, Rep. Hartley.

~~Chair~~ I think this has been an exercise that we have learned from that has been handled well and I believe reflects very positively upon the General Assembly, and I, too, urge

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adoption of the Committee's report.

SPEAKER VAN NORSTRAND:

Will you remark further?

REP. STOLBERG: (93rd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Irving Stolberg.

REP. STOLBERG: (93rd)

Mr. Speaker, the areas of agreement between the Majority Leader and myself certainly overwhelm any technical points of disagreement. One, I think there were some processes because of the newness where our feet did get a little wet.

I think the first meeting of the Committee particularly involved some very questionable precedence in regard to due process where extensive dialogue occurred between counsel of a contestant without the other counsel having been notified. I don't think any irreparable damage was done and it is understandable that such could occur in the absence of any rules governing the conduct of the Committee. And indeed, it felt its way along and I think the thing that brings us to where we are today is the good faith of all three members of the Committee going

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through uncharted territory.

Also, I agree with Rep. Jaekle that under our rules the three person committee is laid out and goes back a long time and has not been appointed in the past and has not been appointed for the very reason that no contested election seemed to exist, thus obviating the need for the appointment for such a committee.

The roots of such a mint committee probably precede some considerable changes in the election process in the State of Connecticut. The automatic recount is a very new phenomenon and the board of canvass is a new phenomenon.

Both of those should be brought into consideration in anything the GAE brings to this Chamber because prior statutes largely developed in the absence of consideration of automatic recount and in the absence of the board of canvass. Thus, if there is to be a contest, it should be recognized that many of those contests come where there has not only been an election, but there has also already been a recount and where a board of canvass has the obligation to report to this General Assembly the results of the election.

I think those are important steps in the process, but again, I join with Rep. Jaekle in our commendation

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to the Committee for its work and again, congratulations to Rep. Hartley.

SPEAKER VAN NORSTRAND:

Will you remark further? The question is adoption of the Report of the Committee on Contested Elections.

All those in favor indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER VAN NORSTRAND:

All those opposed indicate by saying nay. _

The report is adopted.

The Chair would at this time share some observations.

REP. HARTLEY: (73rd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Hartley, the Chair is indulging itself in sharing some observations with the Chamber and will recognize you shortly.

REP. HARTLEY: (73rd)

Thank you.

SPEAKER VAN NORSTRAND:

With pleasure.

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We've heard a good deal of rhetoric about this and I have sat in this Chamber for eight years and I want to assure the members on both sides of the aisle that from this day as I do not intend to debate bills, I have seen it happen and I don't intend to see it repeated.

On the other hand, when debate is over on a rather historic event such as this, it was indeed unusual, and I think not all members can be immersed in it. I think you should understand as was discussed, this same provision for a three member committee has been in the rules for a long time and indeed as Rep. Stolberg pointed out, there have been changes in the election laws. There have been some new phenomena. The Constitution is not one of them and it provides for us to be the judge of our members and what was followed here dates back to precedence established 82 years ago, although not used in the last 46.

I think less from what we fear that a decision of two to one the other way would have been the worst thing. I take pleasure in sharing with the members that the best thing that happened to us was the decision that was made and notwithstanding that it was a two to one composition of majority members, justice was done because people of integrity were elected to serve in this body.

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I am proud of Rep. Schmidle, Rep. Farr and Rep. Lyons. Now, if you are ready, Rep. Hartley, I want to say to you that I hope you will, with a full heart, inhale deeply the stale exhalations of your colleagues in the next two years. You have the floor madam, for a point of personal privilege.

REP. HARTLEY: (73rd)

Thank you, Mr. Speaker. I didn't quite envision starting off my legislative career in this manner. And actually if someone had said to me back in July when the formal process began that it wasn't going to be over until January 24, I perhaps would have said to them, maybe you had better look for another candidate.

I'm not sure, but maybe this is one of the longest contests in the House record. This ordeal certainly admittedly has been very unsettling and distracting to say the least. But what I think it clearly indicates is the need to lay down definitive and unequivocal standards to determine when and why a recount, a legislative recount should actually occur, so that the party being challenged as well as the individual challenging will know precisely what is to be proven in a contested election.

As difficult as this ordeal has been over the past

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several months, actually since November 8, after the time of the first recount, it's been made somewhat easier by the encouragement and the reassurance from the constituents, my constituents, the voters of the 73rd District and I thank them for all of that support.

I also would like to acknowledge the support and the encouragement that I received from the members of this Chamber on both sides of the aisle. And particularly, my Democratic colleagues, House Minority Leader, Irving Stolberg, Rep. Bob Frankel and House Counsel, Susan Wessenberg, and of course, my friends and colleagues from Waterbury, Rep. Bill Scully and Rep. Maurice Mosley. Thank you.

SPEAKER VAN NORSTRAND:

I'm sorry the ordeal was so long, but I don't even think Joe Montana would meet up with you in January willingly.

Is there business on the Clerk's desk?

CLERK:

There is, Mr. Speaker. The Clerk has a list, being a list of bills for first reading and referral to committees, printed as List No. 10 dated January 24, 1985.

REP. JAEKLE: (122nd)

Mr. Speaker.