

of East Montpelier, as Journal Clerk, and

CLARA B. THOMAS

of Montpelier, as Calendar Clerk, and

FAITH A. PERRY

of Barre, as a third Secretary.

The President announced the appointment of

JOAN THOMAS

of Barre, as Secretary to the President.

#### PETITION OF ELECTION JOURNALIZED

The President laid before the Senate a Petition from Frederick J. Fayette of South Burlington relating to the general election held on November 7, 1972, and its results (and recount thereof) pertaining to senatorial seats in Chittenden County, which Petition was read by the Secretary and is as follows:

"STATE OF VERMONT

CHITTENDEN COUNTY

PETITION TO THE VERMONT  
SENATE UNDER CHAPTER 11,  
SECTION 19 OF THE VERMONT  
CONSTITUTION.

COMES Frederick J. Fayette of South Burlington, Vermont and respectfully represents:

1. That he was duly elected a member of the State Senate from Chittenden County at the General Election held on November 7, 1972.
2. That on November 17, 1972, Frederick P. Smith of Burlington, Vermont, a candidate for the office of Chittenden County Senate on the Republican ballot petitioned the Honorable Robert W. Larrow for a recount of all the votes cast for County Senators in Chittenden County, pursuant to V.S.A. 17, Section 1362, *alleging in said petition, among other things that he was informed and believed that a mistake or fraud had been committed in the counting or the return of the votes cast for the Chittenden County Senators.*
3. That on November 20, 1972, the Honorable Robert W. Larrow made and issued an order, based on the petition of Frederick P. Smith, directing a recount of the ballots cast for the office of County Senator within and for the County of Chittenden.
4. That a recount of said ballots, under the above order of November 20, 1972, began on November 27, 1972, and concluded on December 13, 1972. Said recount having been conducted by a committee appointed for that purpose.

5. That the recount as reported by said committee was as follows:

Frederick P. Smith	19,319
Russell F. Niquette	19,178
Frederick J. Fayette	18,957

6. That notwithstanding the result of said recount and the requirements of V.S.A. 17, Section 1362, Judge Larrow refused to certify the result of the recount indicating the election of Frederick P. Smith because of 'various irregularities' that were reported to him during the recount, and that had become apparent to him.

(See Larrow Order)

7. That none of the ballots cast for County Senator within and for the County of Chittenden at said General Election were 'securely sealed', as required by V.S.A. 17, Section 1223.

(See page 1 Larrow Order)

8. That the ballots delivered to the County Clerk by the respective Town Clerks within said County of Chittenden for the office of County Senator, were delivered in paper bags, cardboard boxes and other unsecured receptacles affording an opportunity to tamper with said boxes and the ballot contents of the same 'the possibilities of fraud are apparent'.

(See page 2 Judge Larrow Order)

9. The Deputy County Clerk certified that he did not receive a single ballot box from any town or city within the county that was in compliance with the law, i.e. V.S.A. 17, Section 1223.

(See Clerk's certificate—last page of Report of Recount Committee)

10. That the petitioner herein, Frederick J. Fayette, Esq., has reason to believe and does believe that the ballots cast for the candidates for County Senator, were not properly preserved by the town and city clerks between the dates of November 7, 1972, and November 24, 1972, when they were delivered to the County Clerk, so to reasonably preclude unauthorized persons from tampering with said ballots.

11. The petitioner herein Senator Fayette is informed and believes, and so states, that the ballots in question, those which Frederick P. Smith *claims* to have elected him as County Senator, were not carefully preserved by the various town clerks as required by law; they were exposed to tampering by persons who might have an interest in and to such action. Can it be said this gross irregularity should be disregarded? The integrity of an election, and the ballots cast thereof cannot be preserved by allowing the ballots to be placed within the reach of persons not authorized to have access to them.

12. That for the reasons set forth herein, and for those advanced by the Honorable Robert W. Larrow, in his refusal to certify a Senatorial candidate as a result of the recount, the petitioner requests the Honorable members of the Senate to:

from Frederick J. on held on November 7, 1972, to senatorial the Secretary and

1, Vermont and re- e Senate from Chit-ber 7, 1972.

mith of Burlington, unty Senate on the arrow for a recount County, pursuant to other things that he been committed in enden County Sena-

Robert W. Larrow Frederick P. Smith, ounty Senator within e order of November ed on December 13, mittee appointed for

A. By the adoption of appropriate resolution refuse to acknowledge Frederick P. Smith as a duly elected senator from Chittenden County and to deny him a senatorial seat therein.

B. By the adoption of an appropriate resolution affirm the original count of the ballots cast for senators in Chittenden County on November 7, 1972, and declare Frederick J. Fayette as duly elected Senator from Chittenden County.

C. By the adoption of an appropriate resolution declare the election of November 7, 1972, to the extent it pertains to the petitioner herein Frederick J. Fayette and Frederick P. Smith a nullity and direct that a 'run off' election be held between them in Chittenden County. This is the preferred resolution.

A statement of facts and a memorandum of law are attached hereto and made a part hereof. They are important and integral parts of the formal petition.

Respectfully submitted this 3rd day of January, 1973.

FREDERICK J. FAYETTE

By: /s/ Harold C. Sylvester  
Harold C. Sylvester  
His Attorney"

#### SENATE RESOLUTIONS ADOPTED

Senate resolutions of the following titles were severally offered, read and adopted, and are as follows:

By Senator Janeway,

S. R. 1. Senate resolution relating to the rules of the Senate.

*Resolved by the Senate:*

That the Senate be governed by the Rules of the Senate of 1972 as far as applicable until others are adopted.

By Senator O'Brien,

S. R. 2. Senate resolution relating to appointment of a committee to inform the Governor of the organization of the Senate.

*Resolved by the Senate:*

That a committee of two Senators be appointed by the President to wait upon His Excellency, the Governor, and inform him that the Senate has organized and is ready on its part to proceed with the business of the session.

By Senator Buckley,

S. R. 3. Senate resolution relating to informing the House of the organization of the Senate.

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