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### Consideration Postponed

Consideration was resumed on Senate bill entitled:

S. 48. An act to amend regulations under 8 V.S.A. §1218 relating to subdivisions.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Energy and Natural Resources? on motion of Senator Bloomer, action on the bill was postponed until Wednesday next.

### Message from the House

A message was received from the House of Representatives by Mr. Seager, their First Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate the House has considered Joint Resolutions originating in the Senate of the following titles:

J.R.S. 8. Joint resolution honoring Senator Donald L. Smith.

J.R.S. 9. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

### Appointment of Senate Members to Joint Rules Committee

The President *pro tempore*, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Joint Rules Committee for terms of two (2) years pursuant to the provisions of Joint Rule No. 5:

Senator Bloomer, *ex officio*

Gannett

Crowley

Gibson

### Challenge to Election Rejected

Senator Doyle, on behalf of the Committee on Government Operations, submitted a report relating to the challenge of the election and seating of R. Henry Manchester, as the Senator from Lamoille District, by Henry C. Hastings, a candidate for Lamoille District Senator, as follows:

#### "INTRODUCTION

"The Committee on Government Operations was charged by the Senate with investigating the challenge by a Mr. Henry Hastings of Stowe to the seating of the member from Lamoille County, R. Henry Manchester. The Committee met in open session on January 20. Mr. Hastings and his counsel, Gabor Rona, attended and testified. Senator Manchester also testified.

Neither the challenger, Mr. Hastings, nor Senator Manchester presented any other evidence. In addition to the testimony the Committee considered written submissions offered by Mr. Rona and the Attorney General's Office.

"Mr. Hastings challenged the seating of the member from Lamoille County on the grounds that Mr. Manchester did not make a timely filling of the form indicating his consent to the printing of his name on the ballot in the primary election pursuant to 17 V.S.A. § 2361.

"For relief Mr. Hastings requested that the Committee take the following actions:

1. Unseat Mr. Manchester and remove him from the Senate; and
2. Declare Henry Hastings the winner of the election and seat him as the new member from Lamoille County.

#### "BACKGROUND

"The facts were not disputed by the parties. Three candidates circulated petitions for the Republican nomination for the Senate seat from the Lamoille District - R. Henry Manchester, Kenneth W. Libby and Henry Hastings. Mr. Manchester personally circulated his petition and personally obtained many of the signatures. In the middle of July and before the 21st, the date for filing petitions, Mr. Manchester hand-carried his petitions to the County Clerk's office. The County Clerk was not there. Mr. Manchester requested a consent form from the assistant clerk but she did not know what or where they were. The assistant clerk told Mr. Manchester that he should leave the petitions and that she would have the clerk take care of the consent form when she returned. Mr. Manchester left his petitions and then left for Detroit where he attended the Republican National Convention.

"The Testimony established that Kenneth W. Libby had the identical problem. Like Mr. Manchester, he filed his nominating petitions by July 21st but the assistant clerk couldn't help him with the consent form. Mr. Libby filed his consent form after 5:00 p.m. on July 21st and his name was placed on the primary ballot with Mr. Hastings and Mr. Manchester.

"When Mr. Manchester returned from Detroit, he received a call from the County Clerk advising him she had the consent form for his signature. Mr. Manchester went to the clerk's office and signed the consent form on July 25th, the day he received the call from the clerk.

"Mr. Hastings filed his nominating petitions and consent form by July 21st. However, several signatures on Mr. Hastings' petitions were invalid and he lacked the required 100 names to have his name placed in nomination. The clerk returned Mr. Hastings' petitions to him and he solicited additional names which he filed after Mr. Manchester's consent form had been signed and recorded with the clerk.

"Three men had their names printed on the ballot as Republican candidates for the Senate nomination. The Primary results were:

Manchester	1,287
Libby	1,010
Hastings	186

"In the Genral Election Mr. Manchester ran as the Republican nominee. Mr. Hastings ran as an independent write-in candidate of the Supreme Justice Party. The results were:

Manchester	5,671
Hastings	150

"In considering the Hastings' challenge, the Senate's jurisdiction is based upon constitutional authority vested in it pursuant to Chapter II, Section 19, of the Vermont Constitution. The Senate has the ultimate authority and constitutional duty to decide on the election and qualifications of its members. The Senate may also be guided by the Vermont Election Law and, in particular, Title 17 § 2361 regarding the 'consent of candidate'.

"The stated proposed of the Vermont Election Law is to guarantee free, open and honest elections. That Mr. Manchester's consent form wasn't filed until shortly after July 21st did not, all parties acknowledged, in any way affect the fairness of the election campaign. The Hastings' challenge asserts, however, that failure to file the consent form by 5:00 p.m. on July 21st should have prohibited the Secretary of State from printing Mr. Manchester's name on the ballot.

"The clear purpose of 17 V.S.A. § 2361, which requires filing by a candidate of a consent form, is to establish the willingness of the candidate to run for office and if elected to serve. It also allows the candidate to set forth exactly how she or he wishes his name to appear, his town of residence and mailing address. All parties agreed that Mr. Manchester's actions evidenced a clear intent to run for office and to serve if elected. Mr. Manchester circulated his petitions and personally delivered them to the clerk's office. He also personally requested a consent form but the assistant clerk did not know what or where they were. Immediately upon returning from Detroit and before Mr. Hastings had filed his completed nominating petition, Mr. Manchester executed and filed his consent form.

"In both the Primary and General Elections the voters of Lamoille County made a clear choice, selecting R. Henry Manchester as their chosen representative in this body.

"In exercising its constitutional authority to decide this challenge, the Committee believes that the Senate should be ever mindful that its constitutional power is derived directly from the people of Vermont. It is their will which must be respected. No where is more deference owed than to honoring the vote our citizens cast in a free and open election. The Committee believes

that the vote of the freemen and freewomen of Lamoille County must be respected. The Committee also notes that not a single voter of Lamoille County (other than the challenger) has raised an objection to the seating of Mr. Manchester.

#### “COMMITTEE RECOMMENDATION

“For the foregoing reasons the Committee on Government Operations unanimously recommends that the challenge of Henry Hastings be rejected and that R. Henry Manchester continue to serve as the duly elected member from Lamoille County.

Respectfully submitted,  
Committee on Government  
Operations  
*/s/ William Doyle*  
William, Doyle, Chairman”

Thereupon, Senator Doyle moved that the Senate adopt the report of the Committee on Government Operations and thereby reject the unseating challenge of contender Henry C. Hastings and affirm the seating and election of R. Henry Manchester as the Senator from Lamoille District for the 1981 biennial session of the General Assembly,

Which was agreed to on a roll call, Yeas 27, Nays 0.

\*Pending the calling of the roll by the Secretary, Senator Manchester requested and was granted leave to be excused from voting on this motion and any other matters relating to the report of the Committee on Government Operations pursuant to Senate Rules 69 and 71.

Senator Crowley, having demanded the yeas, and nays, they were taken and are as follows:

#### Roll Call

**Those Senators who voted in the affirmative were:** Bloomer, Crowley, Daniels, Doyle, Gannett, Gibb, Gibson, Godnick, Haley, Harwood, Howland, Howrigan, Illuzzi, McGregor, McSweeney, Morse, Parker, Reynolds, Scott, Skinner, K. Smith, P. Smith, S. Smith, Sorrell, R. Soule, S. Soule, Welch.

**Those Senators who voted in the negative were:** None.

**Those Senators absent or not voting were:** Avery, Kaplan, \*Manchester (excused).

#### Adjournment

On motion of Senator Bloomer, the Senate adjourned, to reconvene again