

**Petition for New Election in District Chittenden-Franklin-1**

The Speaker placed before the House a communication from William W. Pearson, Esq., containing a Petition for a new election in District Chittenden-Franklin-1. The Petition was referred to the Committee on Municipal Corporations and Elections. The communication and Petition are as follows:

“Law Office of  
DOWNS RACHLIN & MARTIN  
Professional Corporation  
100 Dorset Street  
Burlington, VT 05401-6293

December 28, 1984

Robert L. Picher  
Clerk of the House of Representatives  
State of Vermont  
Montpelier, Vermont 05602

RE: Petition of Bennett Greene  
concerning general election of 6 November 1984

Dear Mr. Picher:

Enclosed please find PETITIONER BENNETT GREENE'S REQUEST TO THE VERMONT HOUSE OF REPRESENTATIVES.

Thank you.

Sincerely yours,

*/s/ William W. Pearson*”

“STATE OF VERMONT  
CHITTENDEN COUNTY

VERMONT HOUSE OF  
REPRESENTATIVES

IN RE: PETITION OF BENNETT GREENE  
concerning the general election  
of November 6, 1984 and the  
recount of November 26, 1984 for  
State Representative from the  
Chittenden-Franklin-DistrictI-I

**Petitioner Bennett Greene's Request to the Vermont House of Representatives**

Pursuant to Chapter II, § 14 of the Vermont Constitution and 17 V.S.A. § 2605 of the Vermont Election Laws, Petitioner Bennett Greene requests the Vermont House of Representatives to exercise its constitutional authority to

jud  
rev  
rec  
tive

gen  
furt  
pro  
the

Law  
Cou  
con

purs  
Atto  
repo  
days  
must

Judg  
yet is  
filed.  
electi  
that :

1  
senta  
Nove

2  
State  
tion o

3  
ford i

4  
numb  
figure  
Clerk)

**Franklin-1**

from William W. Chittenden Municipal Corporation as follows:

judge of the elections and qualifications of its own members by undertaking a review of the general election held on 6 November 1984 and a subsequent recount held on 26 November 1984 concerning the office of State Representative from the Chittenden-Franklin District I-I.

The petitioner contends that counting errors were made in either the general election count or in the court ordered recount or in both. The petitioner further contends that no safeguards were built into the court ordered recount procedure to determine whether the recount was a more accurate count than the original count.

Also the petitioner contends that his rights under the Vermont Election Laws may be in jeopardy. As of this date the Chittenden County Superior Court has not issued a judgment order on petitioner's recount. The legislature convenes on 9 January 1985.

Under 17 V.S.A. § 2605 (b) when an election is reviewed by the legislature pursuant to petition the Vermont Secretary of State requests the Vermont Attorney General to prepare an investigation report on the election. This report must be submitted to the Vermont Secretary of State *at least ten (10)* days prior to the date the legislature convenes. Thus, the Attorney General must submit his report by 31 December 1984.

Under 17 V.S.A. § 2605 (a) (2) the petitioner has ten days *after* the recount Judgment Order to take his petition to the legislature. No judgment order has yet issued. December 31, 1984 is three days away from the date this petition is filed. Thus the court's delay may be prejudicing the petitioner's rights under the election laws. The petitioner requests the legislature to exercise its power so that a timely, orderly procedure of review will occur.

The petitioner submits the following in support of his request:

1. Petitioner is the Democratic candidate for the office of State Representative for Chittenden-Franklin District I-I in the General Election of 6 November 1984.
2. Mr. Almon Woodward is the Republican candidate for the office of State Representative for Chittenden-Franklin District I-I in the General Election of 6 November 1984.
3. The Chittenden-Franklin District I-I consists of the Town of Westford in Chittenden County and the Town of Fairfax in Franklin County.
4. In the General Election held on 6 November 1984 the following numbers of votes were reportedly cast for the respective candidates (these figures are based on figures released by the Chittenden-Franklin District I-I Clerk):

S REQUEST TO

NT HOUSE OF  
REPRESENTATIVES

f Representatives

n and 17 V.S.A. §  
ene requests the  
onal authority to

	<u>Westford</u>	<u>Fairfax</u>	<u>Total</u>
Bennett Greene	481	319	800
Almon Woodward	203	604	<u>807</u>
	Total Votes Cast		1607

5. The difference between the number of votes cast for each of the two candidates is less than 5% of the total votes cast for all the candidates for the contested office divided by the number of persons to be elected:

$$\begin{aligned} \text{Number of Persons to be Elected} &= 1 \\ 1607 \text{ (total votes cast)} \times .05 &= 80.35 \text{ votes} \\ 807 \text{ (Woodward votes)} - 800 \text{ (Greene votes)} &= 7 \\ 7 \text{ is less than } 80.35 \end{aligned}$$

6. On 9 November 1984 petitioner asserted his right under 17 V.S.A. § 2601 to have the votes in his general election recounted and requested the Chittenden County Superior Court to order a recount under the procedure as set forth in 17 V.S.A. § 2602.

7. The Chittenden County Superior Court issued an Order for a Recount on 11 November 1984. As part of its Order, the Chittenden County Superior Court selected a six person committee to conduct the recount.

8. On 26 November 1984 a recount was conducted under the direction of the Chittenden County Superior Court Clerk. During the recount process, the petitioner questioned the accuracy of the recount procedure being conducted.

9. The recount resulted in the following votes counted:

Bennett Greene	801
Almon Woodward	803
Blank	38
Write-in	2

10. On 27 November 1984, the petitioner filed a Petition challenging the recount procedure and requesting a second recount.

11. The Chittenden County Superior Court scheduled a hearing for 6 December 1984 pursuant to its responsibility under 17 V.S.A. § 2603(e). This hearing was cancelled due to a large snow storm and was rescheduled for 11 December 1984.

12. On 11 December 1984 a hearing was held before the Chittenden County Superior Court concerning the recount. In that hearing, petitioner objected to the procedures used by the Chittenden County Superior Court in conducting the petitioner's recount. The petitioner contended that the Chit-

tenden  
accurac  
general  
recount

13.  
Chittend  
order as

14.  
remedy  
recount

15.  
judgmen  
the Vern  
the peti  
Secretary  
for inves  
sending l  
days bef

16.  
(12) days

17.  
Order, th  
frustrate

THE  
tives to j  
Franklin  
subsequ

Burli

The  
Pearson,  
4. The Pe  
Elections

Total

800

807

1607

tenden County Superior Court's recount procedure could guarantee no more accuracy in its result than that achieved by the original count following the general election. Petitioner also alleged several technical violations of the recount statute.

13. As of the date of this petition, 17 days have passed without the Chittenden County Superior Court issuing its findings of fact and judgment order as required by 17 V.S.A. § 1601 *et seq.*

14. The recount statute, 17 V.S.A. § 2601 *et seq.*, makes no specific remedy available to the petitioner when the Superior Court overseeing the recount fails to make a prompt decision concerning the recount.

15. Under 17 V.S.A. §2605(a)(2) the petitioner has ten (10) days after the judgment order to file a petition to the legislature. If the petitioner is to request the Vermont House of Representatives to exercise its constitutional authority, the petitioner must file his petition with the Vermont Secretary of State. The Secretary of State notifies the Vermont Attorney General who is responsible for investigating the facts, preparing an opinion on the law and facts and sending his report and opinion to the Vermont Secretary of State at least *ten days* before the general assembly convenes. 17 V.S.A. § 2605(b).

16. As of the date of this petition, the legislature will convene in twelve (12) days.

17. Given the Chittenden County Superior Court's delay in issuing its Order, the two ten-day periods mandated by the statute have been effectively frustrated.

THEREFORE, petitioner requests the Vermont House of Representatives to judge the election for State Representative from the Chittenden-Franklin District I-I due to the irregularities in the general election count and subsequent recount.

Burlington, Vermont

28 December 1984

BENNETT GREENE

By: /s/ William W. Pearson  
Attorney for Bennett Greene"

**Petition for New Election in District Chittenden-4**

The Speaker placed before the House a communication from William W. Pearson, Esq., containing a Petition for a new election in District Chittenden-4. The Petition was referred to the Committee on Municipal Corporations and Elections. The communication and Petition are as follows:

each of the two candidates for the 1:

er 17 V.S.A. § requested the e procedure as

Order for a enden County recount.

he direction of nt process, the ng conducted.

challenging the

hearing for 6 2603(e). This eduled for 11

e Chittenden ng, petitioner rior Court in hat the Chit-