

Committee on Elections never issued a final report on the case.

Payments Conditioned on Good Faith in Filing the Contest

§ 45.7 A contestant's petition for expenses may be denied by an elections committee on the ground that contestant did not display good faith in filing the contest and made no showing of probable cause for relief.

In *McEvoy v Peterson* (§52.2, *infra*), a 1944 Georgia contest, an elections committee concluded that contestant had not filed the contest in good faith, and denied his petition for reimbursement of expenses, it appearing that he had not been a member of any registered political party in the state, his name had not been on any ballots' and he had not received any votes.

M. SUMMARIES OF ELECTION CONTESTS, 1931-72

§ 46. Seventy-Second Congress, 1931-32

§ 46.1 Kent Coyle

In the general election held on Nov. 4, 1930, Everett Kent was a candidate on the Democratic ticket and William R. Coyle was a candidate on the Republican ticket for election as Representative in Congress from the 30th Congressional District of Pennsylvania. The election officials certified in the regular manner that in the election William R. Coyle received 28,503 votes and Everett Kent 27,621 votes. Thereupon the Governor of Pennsylvania, on Dec. 2, 1930, declared William R. Coyle elected, and on the same day issued his certificate of such election.

Citizens and residents of several election districts filed petitions with a state court alleging, upon information, that fraud was committed in the computation of the votes cast in said districts, and asking that a recount of the ballots therein be ordered and held pursuant to an act of the legislature which stated it to be the duty of the court, upon proper petition, to appoint a recount board and to sit with the same and supervise a recount of the ballots.

On Dec. 11, 1930, Mr. Kent caused notice of an election contest to be served upon Mr. Coyle, and answer thereto was served upon Mr. Kent on Jan. 9, 1931.

On Mar. 28, 1931, that being next to the last of the 40 days al-

lowed contestee to offer proof, and after notice, contestee came in and offered as proof in the contest the entire court proceedings had in the recount in the election districts mentioned above, including stenographers' notes of testimony, petitions, and orders. To this offer of proof contestant objected, and the objection was renewed and insisted upon in his brief and the argument before the elections committee.

On Apr. 4 and again on Apr. 8, 1931, which was within the 10 days allowed contestant for offering proof in rebuttal only, contestant, after notice, offered evidence as in rebuttal of that offered by contestee on Mar. 28, 1931, based upon the contention (1) that the court in broadening and prosecuting the inquiry as it did, exceeded its statutory authority, and (2) that the testimony was not taken before a person and in the manner prescribed by Congress.

The report (No. 1264) of the elections committee, submitted May 7, 1932, stated in part:

The petitions asking for a recount of the vote in the districts in question contained a general allegation of fraud in the computation of the vote, and did not specify the congressional vote. As the names of all candidates for office in the State were printed on one ballot, the recount necessarily involved the vote for State and local officers as well

as representative in Congress. How far a judge of the State court did or did not have a right to go in an investigation of the election of State and local officers is a matter with which this committee is not concerned. The committee does not approve the manner in which the congressional vote was investigated. . . . But neither the committee nor Congress is bound in a matter of this kind by any act of a judge of a State court, whether within or beyond statutory authority.

The committee does not concede any right of a party to an election contest to take proof in any manner other than that fixed by Congress, but feels that contestant is not in a position to raise that point in this contest, for the following reasons:

In the first place the petitions were undoubtedly filed with contestant's consent and approval, by his supporters and in the interest of his cause. Having filed notice of contest and taken testimony, he elected to go into the State court for a recount of ballots at a time when Congress was in session and this committee functioning.

In the second place contestant seeks to benefit by the result of the recount. The testimony taken by him on the 4th and the 8th of April relates mostly to the result of the recount, upon which is based his chief contention. . . .

As to the remarkable difference between the count and the recount of the ballots in the six districts in question, contestant contends that he was deprived in the count and return of many votes either by gross error or fraud of someone or more of the election officials in each of the districts. Contestee contends that the count and return

was bona fide and correct from each of said districts, but after the election and prior to the recount someone secured access to the ballots and changed the pencil markings on many of them.

[Election officials in the districts in question] were sworn and examined, as well as the custodians of the ballot boxes, handwriting experts, and all other persons who seemed likely to be able to throw any light upon the subject. The ballot boxes, the ballots themselves, and all other documentary evidence was examined. A recital of much of this evidence in this report, or a reference in detail to it, would accomplish no good purpose. The committee has carefully considered the record, as well as the briefs filed and the arguments made, and while it is unable to point out therefrom exactly what did take place, it is of opinion and holds that contestant has failed to sustain any of the allegations of his notice of contest.

The committee therefore recommends to the House the adoption of the following resolution:

Resolved, That Everett Kent was not elected a Representative to the Seventy-second Congress from the thirtieth congressional district of the State of Pennsylvania, and is not entitled to a seat therein.

Resolved, That William R. Coyle was a duly elected Representative to the Seventy-second Congress from the thirtieth district of the State of Pennsylvania, and is entitled to retain his seat therein.

The above privileged resolution (H. Res. 234) was agreed to by voice vote and without debate.⁽⁴⁾

4. 75 CONG. REC. 11055, 72d Cong. 1st Sess., May 24, 1932.

On July 16, 1932, Speaker John N. Garner, of Texas, laid before the House the following request:

Mr. Coyle asks leave to withdraw from the files of the House the original records of the court of Carbon County, Pa., which are adduced in evidence and made a part of the printed testimony in the contested election case of Kent v. Coyle, Seventy-second Congress, said case having been decided by the House of Representatives, the return of said official court records having been requested by said court of Carbon County, Pa.

There was no objection to the request, upon assurances from the Speaker that "this will not in any way affect the ordinary rules concerning the withdrawal of papers."

Note: A syllabus for Kent v Coyle may be found herein at §34.4 (evidence). See also §7 (jurisdiction and powers of courts) and §39 (inspection and recount of ballots).

§ 46.2 Kunz v Granata⁽⁵⁾

On Mar. 11, 1932, Mr. John H. Kerr, of North Carolina, submitted the report⁽⁶⁾ of the majority from the Committee on Elections No. 3 in the election contest brought by Democrat Stanley H.

5. Also reported in 6 Cannon's Precedents §186.

6. H. Rept. No. 778, 75 CONG. REC. 5848, 5849, 72d Cong. 1st Sess.; H. Jour. 537, 538.

Kunz against Republican Peter C. Granata from the Eighth Congressional District of Illinois. The majority report was also signed by Mr. Butler B. Hare, of South Carolina, Mr. John McDuffie, of Alabama, Mr. Guinn Williams, of Texas, Mr. John E. Miller, of Arkansas, and Mr. Howard W. Smith, of Virginia. Thereupon, Mr. Carl R. Chindblom, of Illinois, obtained unanimous-consent permission⁽⁷⁾ that the minority of that committee have until midnight, Mar. 14, 1932, to file their views. On Mar. 12, 1932, Mr. Charles L. Gifford, of Massachusetts, was granted unanimous-consent permission⁽⁸⁾ to file the minority views, signed by himself and by Mr. Harry A. Estep, of Pennsylvania, with the majority report.

On Dec. 16, 1931, the Speaker⁽⁹⁾ had laid before the House a communication⁽¹⁰⁾ from the Clerk transmitting the contest. The communication and accompanying papers were referred to the Committee on Elections No. 3 and ordered printed (though not as House documents).

The certified returns of the election held Nov. 4, 1930, had given

7. 75 CONG. REC. 5848, 72d Cong. 1st Sess.; H. Jour. 537.
8. 75 CONG. REC. 5885, 72d Cong. 1st Sess.; H. Jour. 541.
9. John N. Garner (Tex.).
10. 75 CONG. REC. 652, 72d Cong. 1st Sess.; H. Jour. 157.

contestee 16,565 votes to 15,394 votes for contestant, a majority of 1,171 votes for contestee.

Contestant Kunz, having filed timely notice of contest, applied for appointment of a notary public within the Eighth Congressional District, pursuant to 2 USC §206 (now 2 USC §§386–388), to obtain testimony in his behalf. The notary public “commissioner” thereupon served a subpoena duces tecum upon election officials, requiring them to produce ballots and other materials pertinent to the election. This action necessitated the subsequent modification of two court orders by the court which had impounded the ballots for recount in certain municipal elections. A complete recount of all congressional ballots was then conducted by the board of election commissioners under supervision of contestant’s notary public and in the presence of a notary appointed by contestee. Their return, submitted by contestant’s notary public, gave contestant 16,345 votes to 15,057 votes for contestee, a majority of 1,288 votes for contestant.

The revised returns as reported by the contestant’s appointed notary public were analyzed by the committee report as follows:

The contestant was entitled to every “straight ticket” cast . . . [provided] his

name was thereon unmolested along with the other Democratic candidates. The fact that the contestant did not receive the straight-ticket vote in many of the precincts is conclusive evidence of fraud or gross irregularity and mistakes. [T]his could only be corrected by resort to the ballot boxes and a recount of the vote; when this was done and the straight-ticket vote given contestant which he had received, he overcame the contestee's apparent majority of 1,171 votes, and defeated the contestee by a majority of 1,288 votes.

The minority views took exception to this conclusion, and questioned the correctness of the "pretended recount," noting that "a number of these so-called straight Democratic ballots were also marked for Granata, which, under the Illinois law, should have been counted for Mr. Granata." Decisions by the notary public with respect to spoiled and defective ballots were challenged by the minority, as was the absence of conclusive evidence regarding 6,458 votes counted for contestant and claimed to be fraudulent by contestee. The minority claimed that "the record will show that some disputed ballots were put in envelopes with the thought that they would be brought for the decision of the committee or the House. They were not brought to the committee or the House."

The committee majority found that "the ballots in this contest

were preserved as provided by law and were kept under the supervision and control of . . . the clerk of the board of election commissioners, and that the ballot boxes were all opened under his supervision or the supervision of his deputies, and that after the same were counted they were placed back in the boxes as the law required and again put in the proper depository." The minority claimed that "the integrity of the ballots had not been preserved," as, rather than being forwarded to the House committee, ballot boxes were opened several at a time, improperly commingled and counted simultaneously at separate tables in such unruly manner as to prevent thorough supervision by the notary public.

The committee majority further found that contestee's counsel, who had also been retained as counsel for contestants in certain municipal elections, had procured the ballot impounding order [referred to above] and writ which prohibited contestant from proceeding with taking testimony during the statutory period (see 2 USC §386). The committee concluded that the time during which the ballots were "in custodia legis" should not be considered within the statutory period in which the contestant was allowed to take

testimony. The majority also cited an agreement between counsel for both parties to this effect.

The minority, while admitting the existence of informal agreements between the parties regarding extension of time, cited *Parillo v Kunz* (6 Cannon's Precedents §116) and *Gartenstein v Sabath* (6 Cannon's Precedents §115) to support their contention that "evidence not having been taken in the time as required by statute, could not be considered, even though there were stipulations of the parties to the contrary."

The committee majority concluded that the notary public commissioner, designated by contestant to take testimony in his behalf, "was an officer and the representative of the Congress to take evidence in this contest" (citing *In re Lorley* (1890), 134 U.S. 372), and that in such capacity, and pursuant to statute, he could require the production of ballots as "papers" pertaining to an election ("the best evidence of the intention of the electors") and could recount such ballots in the presence of contestee's appointed notary public commissioner.

The minority contended that "there was no authority for the alleged recount," and that, under an opinion of the Illinois attorney general in *Rinaker v Downing* (2

Hinds' Precedents §1070), the production of ballots could not be compelled under the statute. The minority noted that, in *Rinaker*, the House had rejected the majority committee report which had asserted the right of a notary public to conduct a recount of ballots. The minority also contended that no contested election case existed which held that "a notary public can conduct a recount where objection has been urged to such proceeding."

The minority conceded that a federal court, while considering contestee's motion for writ of prohibition, had held that ballots were "papers" within the meaning of the statute. They claimed, however, that the court did not hold that the notary public, having obtained the ballots, could conduct his own recount. Rather, the court had left that issue for the House to decide. To establish the invalidity of such recount by a notary public, the minority quoted the Committee on Elections report in *Gartenstein v Sabath* (6 Cannon's Precedents §115):

Your committee is of the opinion that the primary evidence of the votes cast for the candidates for Representative in the Congress of the United States in this district was the poll books and ballots themselves, and that the official count by the election officers should not be set aside by the tes-

timony of a witness who merely looked at the ballots and testified to the results.

Mr. Kerr called up as privileged House Resolution 186⁽¹¹⁾ on Apr. 5, 1932. By unanimous consent,⁽¹²⁾ pursuant to the request of Mr. Kerr, debate on the resolution was extended to four hours, to be equally divided and controlled by himself and Mr. Gifford. In stating the question, the Speaker included as part of the request the ordering of the previous question at the conclusion of debate. Then, Mr. Kerr asked unanimous consent that Mr. Edward H. Campbell, of Iowa, be permitted to offer a substitute resolution at the conclusion of debate. Mr. Campbell explained that his "substitute" would embody a motion to recommit to the Committee on Elections for the purpose of conducting a recount of ballots. Reserving his right to object, Mr. Gifford stated that the minority would offer as a substitute their recommendation that contestee be declared entitled to his seat. He thought that Mr. Campbell's motion might preclude such motion. Then, in response to a parliamentary inquiry, the Speaker stated that the House,

11. 75 CONG. REC. 7491, 72d Cong. 1st Sess.; H. Jour. 641, 642.

12. 75 CONG. REC. 7491, 72d Cong. 1st Sess.

having agreed to order the previous question at the conclusion of debate, had precluded the offering of either proposed motion. Therefore, the Chair restated the unanimous-consent request to include the ordering of the previous question on the motion to recommit and on the majority and minority resolutions.⁽¹³⁾

In debate, Mr. Kerr emphasized that the recount of ballots had been made in the presence of contestee and a notary public appointed by him. While denying that in every contest a recount would be justified by an allegation that a contestant "ran behind his ticket," Mr. Kerr contended that a recount was justifiable where, as here, contestant received "1,284 votes less than the other Democratic candidates in 11 precincts."

Mr. Gifford centered his contentions in debate upon the question of the integrity of the ballots, claiming that ballots are not the "best evidence . . . when any opportunity has been given to let them be tampered with." Mr. John C. Schafer, of Wisconsin, upon being informed that the notary public for contestant had not transmitted the ballots to the Committee on Elections, questioned the efficacy of the majority finding that ballots were "papers"

13. *Id.* at p. 7492.

which in an election contest are required by the statute to be transmitted to the House.

Mr. Kerr, in response to Mr. Frederick W. Dallinger, of Massachusetts, distinguished Gartenstein as, in that case, the House had decided that a similar recount conducted by contestant's notary public was irregular because "only half of the votes had been recounted and therefore they could not tell who was elected." Mr. Dallinger replied that, in the present contest as well, contestee's counsel had repeatedly objected to the recount because "from 100 to 600 ballots were found to be missing out of various ballot boxes." Mr. Gifford yielded for debate to the contestee (Mr. Granata), the sitting Member, who contended that under state law, the many ballots which had been marked "straight Democratic" and had also been marked for him should have been considered votes for him.

The Speaker pro tempore ruled that the side supporting seating of the contestant, rather than the Member intending to offer a motion to recommit, was entitled to close debate.

After all time had expired, Mr. Campbell, of Iowa, offered the following resolution:⁽¹⁴⁾

14. 75 CONG. REC. 7514, 72d Cong. 1st Sess.; H. Jour. 641.

Resolved, That the contested-election case of Stanley H. Kunz v. Peter C. Granata be recommitted to the Committee on Elections No. 3 with instructions either to recount such part of the vote for Representative in the Seventy-second Congress from the eighth congressional district of Illinois as they shall deem fairly in dispute, or to permit the parties to this contest, under such rules as the committee may prescribe, to recount such vote, and to take any action in the premises, by way of resolution or resolutions, to be reported to the House or otherwise, as they may deem necessary and proper.

On demand of Mr. Campbell, the yeas and nays were ordered, and the motion was rejected by 178 yeas to 186 nays, with 4 "present." Thereupon, Mr. Gifford offered the following substitute⁽¹⁵⁾ for the resolution:

Resolved, That Peter C. Granata was elected a Representative to the Seventy-second Congress of the eighth congressional district of the State of Illinois.

On demand of Mr. Gifford, the yeas and nays were ordered and the substitute was rejected by 170 yeas to 189 nays, with 5 "present."

Mr. Estep demanded a division of the question for a vote on the resolution (H. Res. 186), the first part of which stated:

Resolved, That Peter C. Granata was not elected as Representative in the

15. 75 CONG. REC. 7515, 72d Cong. 1st Sess.; H. Jour. 642.

Seventy-second Congress from the eighth congressional district in the State of Illinois and is not entitled to the seat as such Representative.

Mr. Thomas L. Blanton, of Texas, made a point of order against the request for a division, claiming that the House had just voted on the "reverse of this proposition." The Speaker overruled the point of order under the precedents of the House. On a division vote, the first part of the resolution was agreed to, 190 ayes to 168 noes.

The second part of the resolution stated:

Resolved, That Stanley H. Kunz was elected a Representative in the Seventy-second Congress from the eighth congressional district in the State of Illinois and is entitled to his seat as such Representative.

Such portion of the resolution was agreed to by voice vote.

Thereupon, Mr. Kunz appeared at the bar of the House and took the oath of office.

Note: Syllabi for *Kunz v Granata* may be found herein at §27.8 (extension of time for taking testimony); §29.2 (ballots as "papers" required to be produced); §37.7 (interpretations of "straight ticket" votes); §37.19 (integrity of ballots); §42.1 (disposal of contest by House resolution); §§42.7, 42.8 (participation by parties and debate on resolution disposing of

contests); §42.13 (demand for division on resolution disposing of contest); §43.8 (minority reports).

§ 46.3 O'Connor v Disney

In the contested election case of *O'Connor v Disney*, the contestant, Charles O'Connor, was the Republican candidate and the contestee, Wesley E. Disney, was the Democratic candidate for Representative in Congress from the First Congressional District of Oklahoma at an election held Nov. 4, 1930. In accordance with the official count and canvass of the election returns by the county election boards certified to the state election board in accordance with law, and in turn canvassed by such board, the state election board found and certified that the contestant O'Connor received 41,642 votes and the contestee Disney received 41,902 votes, and certified that the contestee was elected Representative by a majority of 260 votes. Accordingly, a certificate of election was duly issued by the said board to the contestee on Nov. 15, 1930.

The contestant alleged that in two of the ten counties in the district there had been fraudulent or irregular miscounts of ballots which had deprived him of 862 votes. The contestee in his answer denied such allegations and con-

tended that ballot boxes in those counties had been left unprotected and had afforded such opportunity for tampering that any change indicated by a recount would be the result of such tampering.

The report in favor of contestee was submitted by Mr. Joseph A. Gavagan of New York, for the Committee on Elections No. 2 on May 11, 1932 (Rept. No. 1288). The report stated that the committee, in considering the evidence in the case, had been guided by the following principles:

I. The official returns are prima facie evidence of the regularity and correctness of official action.

II. The burden of coming forward with evidence to meet or resist the presumption of regularity rests with the contestant.

III. That to entitle a contestant in an election case to an examination of the ballots, he must establish (a) that some fraud, mistake, or error has been practiced or committed whereby the result of the election was incorrect, and a recount would produce a result contrary to the official returns; (b) that the ballots since the election have been so rigorously preserved that there has been no reasonable opportunity for tampering with them.

In the view of the committee, the testimony conclusively established that the precinct boards were properly instructed as to the election law of Oklahoma with respect to the manner and method

of counting ballots and, in particular, split ballots; and that in instances wherein questions arose as to split ballots, a judge of the board would consult the law and properly instruct the counters and watchers as to the principles governing the counting of the ballots. The committee was thereby convinced that all ballots were duly and properly counted, and concluded that the contestant had failed to sustain the burden of proof of any mistake in the method of counting the ballots.

With respect to the care and preservation of the ballots, the committee noted the following circumstances:

The evidence established that each election precinct board at the close of the election placed the paper ballots in folders together with a tally sheet of the votes cast, which, in turn, were placed in wooden boxes, and sent the boxes to the office of the county election board located in a combination hotel and office building; part of the offices were used as a real estate and insurance office by the witness Lloyd La Motte, then secretary of the county election board. Each ballot box was placed upon a shelf, and in some instances the keys opening the locks thereon were left dangling from the boxes, and in other instances the keys were kept in an unlocked drawer. The testimony of the witness La Motte and the witness Corkins . . . is to the effect that several persons had keys to the outside office of the place where

the ballot boxes were kept, and the witness La Motte testified to the fact that rumors of tampering with the ballot boxes were prevalent on the streets for a period of days after the election. This condition of easy access to the ballots continued for a period of nine days after the election, before they were removed to a place of safety and preservation.

The committee quoted the following language from the opinion in *People v Livingston*:⁽¹⁶⁾

Everything depends upon keeping the ballot boxes secure. . . . Every consideration of public policy, as well as the ordinary rules of evidence, require that the party offering this evidence should establish the fact that the ballots are genuine. It is not sufficient that a mere possibility of security is proved, but the fact must be shown with reasonable certainty. If the boxes have been rigorously preserved the ballots are the best and highest evidence; but if not, they are not only the weakest, but the most dangerous evidence.

The majority of the committee concluded as follows:

In the opinion of the majority of your committee the record in this case is barren of any competent proof tending to show or establish fraud, mistake, or error, in either the counting of the ballots cast or the official returns of the vote in the general election held in November, 1930, in Ottawa County of the first congressional district of Oklahoma; that said record is sterile of proof of the safeguarding of the ballots

after the said election, but contrarywise, is pregnant with positive evidence that said ballots were, for a 9-day period subsequent to said election, available, accessible, and perhaps subjected to public interference or private tampering; that the proof of such accessibility is so compelling as to give rise to a reasonable presumption that the sanctity of said ballots was indeed violated, the true result of the election falsified, and the will of the electorate defeated, thwarted, or destroyed. Consequently, the majority of your committee believes that a recount of ballots cast in the said election would destroy the will of the electorate, defeat the true result of said election, and visit grave injustice on the duly elected Representative from said district.

We therefore submit the following resolution. [H. Res. 233]:

Resolved, That Wesley E. Disney was elected a Representative in the Seventy-second Congress from the first congressional district in the State of Oklahoma, and is entitled to a seat as such Representative.

In additional views, Mr. John C. Schafer, of Wisconsin, supported the seating of contestee but contended that if the House were to be guided by *Kunz v Granata* (see §46.2, *supra*), the then most recent precedent regarding the validity of a recount, the recount should be granted.

The privileged resolution (H. Res. 233) was agreed to by voice vote after extended debate.⁽¹⁷⁾

17. 75 CONG. REC. 11050, 72d Cong. 1st Sess., May 24, 1932.

16. 79 N.Y. 279.

Note: Syllabi for O'Connor v Disney may be found herein at §35.10 (evidence necessary to compel examination of ballots); §37.20 (preservation of ballots); and §40.8 (burden of proving fraud sufficient to change election result).

§47. Seventy-third Congress, 1933-34

§47.1 Bowles v Dingell

On Feb. 9, 1934, Mr. John H. Kerr, of North Carolina, submitted the report⁽¹⁸⁾ of the Committee on Elections No. 3, in the election contest of Charles Bowles against John D. Dingell, from the 15th Congressional District of Michigan, in the 73d Congress. On May 12, 1933, the Speaker⁽¹⁹⁾ had laid before the House a letter⁽²⁰⁾ from the Clerk transmitting a "petition and accompanying letter" relating to the election of Nov. 8, 1932. The communication and accompanying papers were referred to the Committee on Elections No. 3 but not ordered printed.

The summary report related that "there was no notice of con-

18. H. Rept. No. 695, 78 CONG. REC. 2282, 2292, 73d Cong. 2d Sess.; H. Jour. 153.

19. Henry T. Rainey (Ill.).

20. 77 CONG. REC. 3344, 73d Cong. 1st Sess.; H. Jour. 255.

test ever filed in said matter, as provided by law," and dismissed the case. The report accompanied House Resolution 260,⁽²¹⁾ which Mr. Kerr offered from the floor as privileged on Feb. 24, 1934. The resolution was agreed to by the House by voice vote and without debate. It provided:

Resolved, That Charles Bowles is not entitled to a seat in the House of Representatives of the Seventy-third Congress from the Fifteenth Congressional District of the State of Michigan; and be it further

Resolved, That John D. Dingell is entitled to a seat in the House of Representatives of the Seventy-third Congress from the Fifteenth Congressional District of the State of Michigan.

Note: Syllabi for Bowles v Dingell may be found herein at §20.1 (necessity for filing notice of contest).

§47.2 Brewster v Utterback

During the organization of the House of Representatives of the 73d Congress on Mar. 9, 1933, Mr. Bertrand H. Snell, of New York, objected to the oath being administered to the Member-elect, John G. Utterback, from the Third Congressional District of Maine. Mr. Utterback (contestee) was then asked by the Speaker,⁽²²⁾ under

21. 78 CONG. REC. 3165 73d Cong. 2d Sess.; H. Jour. 202.

22. Henry T. Rainey (Ill.).