

state law making it mandatory for that official to conduct a recount upon request of either candidate. Ultimately the House voted to seat Mr. Roy.

§ 3. State or Local Election Boards

Article I, section 4, clause 1 of the United States Constitution provides that the State legislatures shall prescribe the time, place and manner of holding congressional elections, but authorizes the Congress at any time to make or alter such regulations (except as to the location for electing Senators). Although Congress has provided the time for the election of Representatives (see 2 USC §7), most of the procedures for holding elections to the House—including the printing, casting, and counting of ballots—have been left to the state and local election boards and commissions to prescribe. (See Ch. 8, *supra*, for a complete discussion of election procedures.) Ordinarily, the House will refuse to intervene to overturn voting procedures adopted by the local authorities.⁽⁶⁾ And it has been held that the House has no authority to order them to conduct a recount.⁽⁷⁾

6. § 3.2, *infra*.

7. § 3.1, *infra*.

Lack of Authority Over State or Local Election Boards

§ 3.1 The House has no authority to order a state or local board of elections to conduct a recount.

In *Sullivan v Miller* (§52.5, *infra*), a 1943 Missouri contest, the parties filed a joint application proposing that the House order the Missouri Board of Election Commissioners to conduct a recount. It was concluded that although the House itself, through an elections committee, could undertake a recount, there was no precedent wherein the House had ordered a state or local board of election commissioners to take a recount.

Intervention in State or Local Elections

§ 3.2 The House will refuse to intervene in an election contest at the state or local level, even at the request of both parties.

In *Sullivan v Miller* (§52.5, *infra*), a 1943 Missouri contest, the parties had filed a joint application proposing that the House order the Missouri Board of Election Commissioners to conduct a recount. This application alleged that a prior recount by the state in a local election for Recorder in-

licated a miscount of over 1,000 votes. The report of the Committee on Elections determined that the contest had not been for-

mally brought before the House, and that the House should not intervene in a local contest merely to gather evidence for the parties.

B. JURISDICTION AND POWERS

§ 4. The House

The House acquires jurisdiction of an election contest upon the filing of a notice of contest.⁽⁸⁾ Normally the papers relating to an election contest are transmitted by the Clerk to the Committee on House Administration, pursuant to 2 USC §393(b), without a formal referral or other action by the House. However, the House may initiate an election investigation if a Member-elect's right to take the oath is challenged by another Member, by referring the question to the committee. The House may also summarily dismiss a contest by the adoption of a resolution providing therefor.⁽⁹⁾ In some cases, the House has even advised a contestant that it will not consider any future petitions or matters relating to the case.⁽¹⁰⁾

One way that the House exercises its control over election contests is by refusing to administer

the oath to a party in an election contest until the contest is resolved.⁽¹¹⁾

Notice of Contest as Basis of Jurisdiction

§ 4.1 Jurisdiction of a contested election is acquired by the House upon the filing of a notice of contest as required by the contested elections law with the Clerk of the House. Jurisdiction cannot be conferred on the House, or on a committee thereof, by any joint agreement of the parties.

In the 1943 Missouri contested election case of *Sullivan v Miller* (§52.5, *infra*), the parties filed a joint application proposing that the House order the Missouri Board of Election Commissioners to conduct a recount. The Clerk's letter to the Speaker advised that the parties had submitted a joint letter and drafts of resolutions or-

8. § 4.1, *infra*.

9. §§ 4.4, 4.5, *infra*.

10. § 51.1, *infra*.

11. § 4.3, *infra*.