

memorial of contestant, and that as the issues made in the case does not embrace this relief, the contestee had no notice of the same. Good pleading would have unquestionably required the contestant in his petition or memorial to have given the contestee full notice of his entire claim or demand by averring the same, so that the contestee might have met by proof if he desired the issue so made.

But your committee is not inclined to recommend to the Senate to follow so technical a rule and refuse to consider the application of contestant to order a new election, especially as the power of the Senate to order a new election if it should decide the ends of justice required it, although not asked by the contestant, is under the Constitution quite ample. (*Hopkins vs. Hardy*, 59 Md., 137.)

It is but proper that the committee should submit its opinion to the Senate upon the question of ordering a new election, so that the Senate in deciding upon the question should have the benefit of the Committee's conclusions.

The question that presents itself at the threshold of this inquiry is, if a legal election had been held in St. Leonard's Precinct would the contestant have been elected and the contestee defeated? or in other words would the contestee's majority of 171 votes with which he came to this precinct, have been overcome if such an election had been held? There are 669 registered voters in that precinct, there were cast of this registered vote on the unofficial ballots only 378 votes, of which 28 were for contestee and 350 for contestant. It must be remembered that this vote was cast after the Democrats, because of the public announcement made that no election could be held with the ballots offered, had left the polls and the activity of the partisans of the different Democratic candidates, including the friends of contestee had ceased. The work of proper persuasion and solicitation at the polls often effects the voters decision as to how he will vote. It must also be remembered that the election on 3rd November, 1891, throughout the State, showed a marked increase in the Democratic vote or a falling off in the Republican vote. With these facts before your committee, it is quite probable if a legal