

**STATE OF NEW HAMPSHIRE
BALLOT LAW COMMISSION**

Complaint of Susan Olsen to Candidacy of Jon Morgan

BLC 2018-5

BACKGROUND: On November 2, 2018, Susan Olsen, of Warner, New Hampshire, filed an objection to the placement of Jon Morgan on the ballot as the candidate of the Democratic Party for state senate in District 23, questioning whether he met the constitutional requirement of having been a resident of New Hampshire for seven years immediately preceding the election. The general election was scheduled for and held on November 6, and candidate Morgan was elected, after a recount confirmed his election. The incumbent, Senator Bill Gannon, filed an additional objection on the same basis, on November 8, which he subsequently withdrew by letter dated November 25th, received by fax in the Secretary of State's office November 26.

The Ballot Law Commission held a hearing on the matter in Concord on November 26, 2018. At the hearing, the first issue was whether the Ballot Law Commission has jurisdiction over the complaint, since the election had been held and Mr. Morgan had been declared the winner, in light of the provisions of the New Hampshire Constitution, Part II, Article 35, which states that the Senate is the final judge of the election and qualifications of its members. Also, the statutory requirement for filing objections to candidates being on the ballot within three days after publication of the results of the primary election by the Secretary of State, RSA 665:6, was cited as a basis for dismissing the complaint.

Before hearing any evidence or argument on the matter, the Ballot Law Commission conferred with counsel to obtain advice on the jurisdictional question.

DECISION

After conferring with counsel and considering the facts of the matter, the Ballot Law Commission believes that it lacks jurisdiction in this matter, due to the constitutional provision vesting final authority in the Senate over the election and qualifications of its members. Had this matter been brought to the Commission in a timely way after the primary election, the Commission would have jurisdiction, but as a creature of statute, the Commission is given only those powers conferred upon it by the legislature, which has not granted it authority to consider this matter at this point in the process. The legislature could, but has not, granted the Commission authority to consider such a matter and render an advisory opinion to the Senate. On the basis of this reasoning, the Commission unanimously voted for the following action.

ORDER

The Ballot Law Commission hereby refers this complaint and all of the pleadings to the New Hampshire Senate to take such action as it deems appropriate.

SO ORDERED.

November 26, 2018

A handwritten signature in blue ink that reads "Bradford E. Cook". The signature is written in a cursive style with a horizontal line underneath it.

Bradford E. Cook, Chairman

Michael Eaton

David Campbell

Bobby Stephen

Robert Letourneau