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§ 14. Contestant's Credentials and Qualifications

Just as the contestee's credentials and qualifications may be grounds for bringing an election contest (see § 9, supra), so may the contestant's credentials and qualifications be raised as a basis for dismissing an election contest.

Contestant's Standing

§ 14.1 An elections contest may be dismissed where it appears that the contestant was not a candidate of a registered political party in the state.

In McEvoy v Peterson (§ 52.2, infra), a 1944 Georgia contest, the House dismissed an elections contest where it appeared, *inter alia*, that contestant had attempted to run for the First Congressional District of Georgia seat as an "independent Republican" though there was no such political party in Georgia.[13]

Invalid Elections

§ 14.2 Contestants selected through an "election" held without any authority of law in the state lack standing to bring an election contest.

In the 1965 Mississippi election contest of Wheadon et al. v Abernethy et al. (§ 61.2, infra), the House dismissed election contests brought by contestants that had been selected at an unofficial "election" held by persons in Mississippi from Oct. 30 through Nov. 2, 1964.

The contestants were all citizens, none of whom had been candidates in the official November 1964 election for Members of the U.S. House of Representatives. The "election" that had selected the contestants, by contrast, was held without any authority of law in the state.

The contestants had urged the unseating of the contestees and vacating of the official election on the basis of the alleged disenfranchisement of large numbers of Negro voters from the electoral process through intimidation and violence.

§ 15. Abatement

Under the Federal Contested Elections Act, a case abates in the event of the death of the contestant.[14] Moreover, there have been

13. The "standing" of a contestant to bring an election contest is discussed below, under "Parties," § 19, infra.

14. 2 USC § 395.

several election contests which were dismissed or otherwise dropped because of a failure by the contestant to carry forward with the case.

Failure to Take Testimony Within Prescribed Time

§ 15.1 Where parties to an election contest have not taken testimony within the time prescribed by law, the Clerk informs the Speaker that the contest has apparently abated.

See Casey v Turpin (§ 47.3, infra), a 1934 Pennsylvania election contest in which the contestant neither produced testimony nor appeared to show cause why the contest should not be dismissed, the House agreed to a resolution by voice vote and without debate that the contestant was not, and the contestee was, entitled to a seat.[15]

§ 15.2 Where parties to an election contest have not transmitted testimony to the Clerk within the time prescribed by law, the Clerk informs the Speaker that the contest has apparently abated.

In LaGuardia v Lanzetta, a 1934 New York contest (§ 47.10, infra), the Clerk advised the Speaker by letter that a copy of a notice of contest and reply thereto had been filed, but that, since no testimony had been transmitted within the time prescribed by law, the contest had apparently abated.[16]

§ 15.3 Where the parties to an election contest fail to forward testimony within the time required by law, and the Clerk informs the Speaker that the contest has apparently abated, the contest may be referred to committee.

In Shanahan v Beck (§ 47.15, infra), a 1934 Pennsylvania contest, the Speaker laid before the House a letter from the Clerk transmitting a copy of the notice of contest and reply thereto, with the statement that no testimony had been received within the time prescribed by law and that the contest appeared to have abated. The contest was referred to a committee, which confirmed that there was no evidence before the committee of the matters charged in the notice.

15. Time limitations generally, see § 27, infra.

16. See also Browner v Cunningham (§ 55.1, infra), a 1949 Iowa contest.