

§ 16. Limitations and Laches

Where the contestant delays in collecting and forwarding evidence, laches may provide a basis for dismissal of the contest.

Laches

§ 16.1 An elections committee may dismiss a contest for laches on the part of contestant on the ground that he failed, within the time required by law, to take evidence, to file a brief, or to appear in person before the committee.

In *Neal v Kefauver* (§ 50.1, *infra*), a Tennessee contest, contestant on Oct. 19, 1939, served notice on the returned Member (Mr. Estes Kefauver) of his purpose to contest the election. On Feb. 23, 1940, contestee submitted a communication requesting a dismissal of the contest and setting forth reasons therefor. On June 18, 1940, the Committee on Elections submitted a report stating that the committee had dismissed the contest on the grounds that

contestant had failed to take evidence as required by law, that there was no evidence before the committee of the matters charged in the notice of contest, and no briefs filed as provided by law, and that contestant had failed to respond to a notification to appear in person before the committee.

Inexcusable Delay in Filing Briefs and Taking Testimony

§ 16.2 An elections committee will recommend dismissal of a contest where testimony and briefs have not been filed within the time prescribed by law and where circumstances do not excuse such failure.

In *Shanahan v Beck*, a 1934 Pennsylvania contest (§ 47.15, *infra*), the committee found that laches was not excusable under the circumstances, and permitted contestant to withdraw unprinted evidence which he had submitted while testifying before the committee.⁽¹⁷⁾

17. See also § 27, *infra*, for a discussion of time considerations in the taking of testimony.