in candidate. The defeated candidate did not file a contest, but offered to help the investigation. The committee report strongly recommended that in such cases proceedings be under the provisions of the contested elections statute.

Petition

§ 17.5 Contestant, not a candidate in the general election and therefore incompetent to institute a statutory contest, initiated an elections committee investigation by petition.

In Lowe v Thompson (§ 62.1, infra), a losing primary candidate was held to be without standing to institute a statutory contest against a candidate elected in the general election. A committee on elections, however, considered and then denied the petition brought by such primary candidate.

§ 18. Commencing the Contest

Under the Federal Contested Elections Act, the contest is initiated by a notice of contest which is filed with the Clerk and served on the contestee.[20] This was also the practice under the Contested Elections Act, 2 USC §§ 201 et seq.[1]

Compliance With Statutory Requisites

§ 18.1 Where the defeated candidate complains about his opponent's conduct in an election in a letter to the Clerk, but takes no other action or otherwise complies with the laws regulating contested election cases, the Committee on House Administration may decline to take action in the contest.

In the 1959 Illinois election contest of Myers v Springer (§ 58.3, infra), the defeated candidate sent a letter to the Clerk complaining that the contestee had violated the Corrupt Practices Act by appointing the editor of a local paper, which paper had denied coverage to the contestant, to a position as acting postmaster. The letter was transmitted by the Clerk to the Speaker, who laid it before the House and referred it to the Committee on House Administration, and ordered the con-

20. 2 USC § 382(a).

1. The "rules of the elections committees for hearing a contested election case" [6 Cannon's Precedents § 110] are no longer applicable.

testant's letter printed as a House document. There was no record, however, showing that the contestant complied with the requirements for bringing an election contest, and the committee took no action on the contest.

§ 18.2 Where an election contest has been initiated but not brought officially to the House, the House will not intervene simply for the purpose of procuring evidence for the use of the parties to the contest.

In Sullivan v Miller (§ 52.5, infra), a 1943 Missouri contest, the parties filed a joint application for a recount although no election contest had been formally presented to the House at that time; the House refused to grant such application, the committee having recommended that the House not intervene "simply for the purpose of procuring evidence for the use of the parties to the contest."

§ 18.3 On matters of procedure, an election contest is governed by the applicable federal statutes dealing with contested elections, and not the Federal Rules of Civil Procedure.

In the 1957 Iowa contested election case of Carter v LeCompte (§ 57.1, infra), the election committee determined that the contestant's motion to "amend the pleadings to make them conform to the proof" was premature, as the testimony had not yet been printed and referred to the committee. The committee reasoned that it was governed by the relevant federal statute, then 2 USC §§ 201 et seq., and not by Rule 15 of the Federal Rules of Civil Procedure, under which such motions and answers thereto are generally granted.

Limit on Number of Contests Initiated by an Individual

§ 18.4 There appears to be no limit on the number of contests that may be initiated by the same individual. However, the House tends to look with increasing disfavor and skepticism upon contests that are filed year after year by the same individual upon the same grounds, particularly where he fails to produce evidence of his claims.

See Prioleau v Legare (6 Cannon's Precedents § 130) wherein a person had unsuccessfully instituted five consecutive election contests, and in which the House ex-

pressed the hope that the fifth would be the last.[2]

§ 19. Parties

The Federal Contested Elections Act uses the term "candidate" with reference to those persons who may initiate a suit under the statute.[3] This term is defined as referring to an individual (1) whose name is printed on the official ballot for election to the House, or (2) who seeks election to the House by write-in votes, provided he is qualified and eligible to receive such votes, and provided write-in voting for such office is permitted.[4]

Under the prior contested elections statute,[5] the phrase "any person" was used with reference to those authorized to file notice of intention to contest an election.

However, even under this legislation, a person who had not been a candidate in the general election was deemed incompetent to institute a contest in the House, though he had been a candidate in the primary election.[6]

An election involving the Delegate to the House of Representatives from the District of Columbia is governed by the Federal Contested Elections Act, as is one involving the Resident Commissioner to the Congress [from Puerto Rico].[7]

Contestants as Candidates in General Election

§ 19.1 Where the contestant was not a candidate in the general election, but merely in the party primary, the election committee will recommend dismissal of the contest on the basis of the contestant's lack of standing.

In the 1969 Georgia election contest of Lowe v Thompson (§ 63.1, infra), the election committee considered the notice of contest, brief of the contestant, oral argument, and precedents of the House, and recommended dismissal of the fourth contested election case brought by the contestant in 20 years, for lack of standing. The contestant, who did not allege any fraud or wrongdoing on the part of the contestee, was not a candidate in the general election, having lost his own party's primary.

2. See also Lowe v Davis (§ 54.1, infra), Lowe v Davis (§ 56.3, infra), and Lowe v Thompson (§§ 62.1, 63.1, infra), contests brought by the same individual.
3. 2 USC § 382 (a).
4. 2 USC § 381 (b).
5. See former 2 USC § 201.
6. See § 19.1, infra.
7. 2 USC § 25 (note); 2 USC § 381(a).