

11 - 0733

December 24, 1970

MEMORANDUM

To: Senator Stanley Holmquist
Chairman, Senate Rules Committee

From: Office of Senate Counsel - Robert J. Duckstad

Re: Election contests

I. This memorandum is in response to your questions:

- A. During the pendency of Senate election contests, has the contestee been seated?
- B. Have Senate election contests been decided on straight caucus-line votes?

There follows a brief discussion concerning several Senate election contests.

II. Where contestee was not seated pending decision in his case.

- 1. 1967 Eugene Welter, Contestee
 Richard Parish, Contestant
- A. A corrupt practices case
- B. Contestee stood aside voluntarily
- C. The vote on the question was decided on a straight caucus-line vote.

See Journal of the Senate, 1967, pp. 152, 178, 180-182, 187-188, 288-293, 335.

- 2. 1951 Louis Murray, Contestee
 Julius Spokely, Contestant
- A. Corrupt practices case
- B. Murray had certificate of election and approximately 600 more votes than Spokeley.
- C. Murray was ultimately seated by a vote of 62-0.

See Journal of the Senate, 1951, pp. 24, 66, 128-131, 158.

3. 1947 Frank M. Wrabek, Contestee
 Wm. L. Dietz, Contestant
- A. Corrupt practices case
- B. Apparently the contestee did not have a certificate of election
- C. Wrabek had 99 more votes than Dietz.
- D. Dietz was seated on a vote of 60-0.

See Journal of the Senate, 1947, pp. 27, 92-97, 119-121, 127, 316.

III. Where contestee was seated pending decision in his case.

1. 1947 M. H. Anderson, Contestee
 Henry G. Young, Contestant
- A. A corrupt practices case of unknown nature
- B. Anderson was seated at beginning of session and voted throughout.
- C. It is not known whether there was court action in the case.
- D. The report of the Committee on Elections, recommending dismissal of the matter, was adopted unanimously.

See Journal of the Senate, 1947, pp. 27, 331, 337, 378-379.

2. 1943 Homer M. Carr, Contestee
 Dwight A. Swanstrom, Contestant
- A. This was a recount.
- B. Carr was seated and voted throughout.
- C. Carr had a certificate of election.

See Journal of the Senate, 1943, pp. 1053-1054, 1100, 1580.

3. 1943 Fred Newton, Contestee
 Kenneth W. Angstman, Contestant
- A. This case involved both a recount and corrupt practice charge.
- B. Newton apparently had a certificate of election.

- C. Newton was the apparent winner; a recount showed Angstman ahead; Newton brought corrupt practices charges against Angstman.
- D. Newton was excused until the 4th day; the Journal does not show he took the oath of office; he was seated and voted thereafter pending decision in his case.
- E. It is not clear whether the final vote to seat Newton was on caucus lines; the vote differed somewhat on the question of adoption of a minority Election Committee report from that on the successful motion to seat Newton.

See Journal of the Senate, 1943, pp. 295-299, 356-358, 1281-1282.

4. 1935

Claude H. MacKenzie, Contestee
Oscar W. Olson, Contestant (Olson was a private citizen; MacKenzie's opponent did not join in the contest.)

- A. A corrupt practices case
- B. MacKenzie was seated and voted throughout the pendency of the contest.
- C. In District Court, contestant was unsuccessful because the court found that contestee had not been served in timely fashion.
- D. MacKenzie was ultimately seated by a vote of 45-16. Caucus affiliation of the voters is unknown.

See Journal of the Senate, 1935, pp. 19, 347-348, 365-368, 370-371.

5. 1931

Archie H. Miller, Contestee
Geo. A. Turnham, Contestant

- A. A corrupt practices case
- B. Miller had certificate of election and was seated throughout pendency of the contest.
- C. The matter was heard in District Court.
- D. Miller was ultimately seated by a vote of 57-0.

See Journal of the Senate, 1931, pp. 55, 390-391, 405.

6. 1931

A. J. Rockne, Contestee
C. L. Grover, Contestant

- A. A corrupt practices case (with other allegations of insufficient space on the ballot for contestant's write-in stickers).
- B. Rockne was seated throughout pendency of the contest.
- C. The matter was heard in District Court.
- D. Rockne was ultimately seated by a vote of 56-0.

See Journal of the Senate, 1931, pp. 122, 392-393, 405.

IV. Records prior to 1931 are fragmentary, due to lack of indexing in the Journal.

There were several contests in both 1927 and 1923. Apparently contestees were seated pending the resolution of the contests. It appears that the legal expenses of both the winners and the losers of these contests were paid from public funds.