

PETITIONS AND COMMUNICATIONS.

Petitions from Christian Endeavor Society of Granite Falls, regarding Bible reading in the public schools was referred to the Committee on Education, and petition from Board of Education from Clay County was referred to the Committee on Education. Petition from H. E. Zimmerman, et al., from Breckenridge, Minn., concerning H. F. No. 93 was referred to the Committee on Game and Fish. Memorial from the Grand Army of the Republic of Minnesota was referred to the Committee on Education, and memorial from Grand Army of the Republic of Minnesota was referred to the Committee on Appropriation. Petition from First Methodist Episcopal Church of Redwood Falls relative to Bible reading in the public schools was referred to the Committee on Education.

MOTIONS AND RESOLUTIONS.

Mr. Pendergast moved that H. F. No. 464 be recalled from the Committee on Crimes and Punishments and returned to its author. Which motion prevailed.

REPORTS OF STANDING COMMITTEES.

Mr. Teigen, L. O., from the Committee on Election Contests, made the following report:

State of Minnesota.

In the House of Representatives.

Charles S. Wilkin, contestant, vs. Erwin E. Orr, contestee.

The Committee on Election Contests of the House of Representatives, State of Minnesota, to which was referred the contest proceedings above entitled, and which are herewith returned to the House, submits the following:

At and prior to the last general election, contestant, Charles S. Wilkin, and contestee, Erwin E. Orr, were non-partisan candidates for the office of Representative in Wadena County in the Fifty-first Legislative District in the State of Minnesota.

Upon the count and canvass of the votes by the proper officers, the contestee, Erwin E. Orr, was declared duly elected to the said office, and on January 2, 1917, he took his seat in this body.

Within the time provided by law, the contestant instituted a contest for the said seat in this House for the reasons specified in his notice of contest, which reasons are substantially as follows:

1st. That there had not been a correct count of the ballots.

2nd. That a number of illiterate voters had voted in said Wadena County at the last general election, without having been sworn as to their inability to properly mark their ballot.

3rd. That contestant had violated the so-called Corrupt Practice Act by giving cigars and liquor to voters on various occasions during the campaign.

Presentation of the case to the committee was made by contestant's attorney, G. F. Cashman, and C. J. Gunderson of Alexandria argued for the contestee.

Upon the examination of the evidence in the case, your committee found that no bond had been furnished by the contestant as provided by Chapter 369, General Laws of 1915. The question was then submitted to the Attorney General as to whether the case was properly before the House for consideration in view of contestant's failure to furnish such bond. Your committee received the Attorney General's opinion to the effect that contest proceedings instituted against a person holding an office, on the grounds of alleged violation of the law known as the Corrupt Practices Act, are not strictly contests, because the person contesting cannot acquire the contested seat through the unseating of an incumbent, and that it would be proper for the House to consider the case on the grounds only of violation of the Corrupt Practices Act in which case a bond is not required, Chapter 369, General Laws of 1915, not being applicable thereto.

Your committee then proceeded to carefully review that part of the evidence in the case as bearing upon the contestee's violation of the law known as the Corrupt Practices Act. After a review and consideration of the evidence, your committee finds that the contestee, Erwin E. Orr, did on various occasions between June 19, 1916, and Nov. 7, 1916, give and furnish cigars and soft drinks to voters in his legislative district for the purpose of influencing their votes for said office at the general election. Your committee condemns such violation of the law by the contestee, but is of the opinion that the evidence presented in this proceeding is not sufficient to prove such a material and serious violation of the Corrupt Practice Act as to warrant your committee to recommend that said contestee be unseated.

Therefore, the undersigned members of your committee, recommend that the said contestee, Erwin E. Orr, be declared entitled to his seat in this House of Representatives from Wadena County in the Fifty-first Legislative District in the State of Minnesota. and

that all other contentions upon which the contest is based, be dismissed.

Signed,

L. O. TEIGEN,
GEORGE NORDLIN,
J. B. PATTISON,
G. W. GRANT,
WM. L. BERNARD,
LUDWIG O. SOLEM,
JAMES CUMMING,
A. OLIEN,
C. W. HALE.

REPORT TO THE HOUSE OF REPRESENTATIVES.

The undersigned members of the committee on election contests make the following report in the case of Charles S. Wilkins, contestant, vs. Erwin E. Orr, contestee.

FACTS.

At both the primary and general elections held during the past year in the Fifty-first Senatorial-Representative District composed of Wadena County, Minnesota, Charles S. Wilkins and Erwin E. Orr were candidates for the office of Representative to the State Legislature. At the general election held in said district on November 7th, 1916, as per the return of the canvassing board of said county Erwin E. Orr received seven (7) more votes than did said Charles S. Wilkins. This contest was originally begun by Wilkins on both the grounds of illegal voting and breaches of the Corrupt Practices Act of the state. Owing to the fact that Wilkins failed to file the bond required by law all causes of action were dismissed except the one dealing with the alleged breach of said corrupt practices act. A holding that said Erwin E. Orr is not entitled to a seat in this body, as the matter now stands, will not invest Charles S. Wilkins with the right to take or hold it. In other words the present action is maintained primarily and only for the purpose of allowing this legislative body to protect its own integrity.

The evidence in this case as shown by the record and as will be admitted by those of the committee who have examined it discloses: That at an auction sale held on September 28th, 1916, in Wadena County, and in the Fifty-first Senatorial-Representative District of Minnesota, Erwin E. Orr, then a candidate for Representative from said district personally passed among the crowd gathered at said sale and gave to and offered to give to the persons assembled

there a cigar from a box of cigars he carried with him and at the same time solicited their votes at the coming election.

That sometime during September of said year said Orr called at the farm home of one G. L. Bennette in said county, told him that he was running for office, gave him a cigar and said, "Do what you can for me." That at said time and place there was present one William Sharp and one Fred Bucholtz, both of whom he gave cigars and requested them to vote for him.

At Huntersville in Wadena County about the 18th of October last, said Orr called at the store of M. E. Lewis, purchased cigars and soft drinks for the crowd there assembled, talked politics and solicited the votes of those present. At said time in he put up in said store some of his campaign cards.

At Nimrod in said Wadena County during the month of June of the past year said Orr attended a picnic, bought cigars at a stand and passed them out to the crowd, also to one Frank L. Lee, whom he met on the road he gave a cigar and told him he was a candidate for office.

At the village of Verndale about October 1st of the past year and while campaigning said Orr passed out cigars to one Harry Calvert and several others and to the best recollection of witnesses said Orr had a box of cigars which he passed around.

A. L. Sheets, candidate for the office of Probate Judge of Todd County at the last election testifies that he met said Orr on the Jefferson Highway between Verndale and Staples in Wadena County and saw him give two men whom he met cigars and campaign cards. That said Sheets at said time asked him, "How can you get by with this stuff" and the only reply made by said Orr was, "The other fellow is doing it."

James Boyd, partner of Orr and one of the witnesses of said Orr, admitted on cross examination that he was out with Orr a considerable portion of the time during the campaign on political and business trips and that they usually carried a box of cigars in the auto, gave them to voters they met and talked politics and that the cigars were paid for by the firm of Orr & Boyd.

Under cross examination Mr. Orr himself, in answer to the question, "When you and Mr. Boyd went out you had a box of cigars in the automobile?" said in reply, "Once in a while." In answer to the question, "What did you pass at Verndale" he said "cigars out of my pocket." His answer to the question, "Did you know that it was against the law to pass out cigars for campaign purposes?" was "Yes, sir."

Other matters relating to the giving and distribution of whiskey are mentioned in the evidence but the things herein stated are clearly **proven and established by the evidence.**

THE LAW.

The law applicable to the matter in issue is as follows:

Section 1, Chapter 3 of the Special Session of 1912, provides: "No candidates for the nomination or election to any elective office in this state coming within the provisions of this act shall directly or indirectly pay, expend or contribute any money or other valuable **thing or promise to do so, except for the following purposes which are hereby declared to be legal expenses:**

"(1) For the candidate's necessary traveling expenses, for postage, telegraph, telephone or other messenger service.

"(2) For rent and necessary furnishing of hall or room during such candidacy, for the delivery of speeches, relative to principles or candidates.

"(3) For payment of speakers and musicians at public meetings and their necessary traveling expenses.

"(4) **Printing and distribution of list of candidates, sample ballots, pamphlets, newspapers, circulars, cards, hand bills, posters and announcements relative to candidates or public issues or principles.**

"(5) For copying and classifying poll lists for making canvasses of voters and for challenges at the polls.

"(6) For filing fees to the proper public officer and if nominated at any primary, for contributions to party committee.

"(7) For campaign advertising in newspapers, periodicals or magazines pursuant to the provisions of Section 2."

Section 10 of this act provides: "No person or candidate shall either by himself or any other person, while such person or candidate is seeking nomination or election, directly or indirectly, give or provide, or pay, wholly or in part the expenses of giving or providing any meat or drink or other entertainment or provisions, clothing, liquors, cigars or tobacco, to or for any person for the purpose of or with the intent or hope to influence that person or any other person to give or refrain from giving his vote at such primary or election to or for any candidate or political party ticket, or measure before the people or on account of such person or other person having voted or refrained from voting at such election. No elector shall accept or take any such meat, drink, entertainment, provision, clothing, liquor, cigars or tobacco and such acceptance shall be ground of challenge to his vote and of rejecting his vote on a contest."

It is the opinion of the undersigned members of your committee that in light of the above provisions of the corrupt practices act of the state and the evidence herewith given that the contestee knowingly and wilfully violated said act and recommend that his term of office in this body be terminated.

Members of Contest Committee of this House,
O. E. HAMMER,
A. C. WELCH.

Mr. Teigen, L. O., moved the adoption of the Majority Report. Mr. Hammer moved that the Minority Report be adopted.

Mr. Hammer moved a call of the House.

The roll being called, the following members answered to their names:

Anderson, Baldwin, Bendixen, Bernard,

Mr. McGrath moved that further proceedings under the call be dispensed with.

Which motion prevailed.

Mr. Hammer moved that the report of the committee and Minority Report be made a special order for Wednesday at 11 o'clock A. M.

Which motion prevailed and the previous motions for adoption of reports was then withdrawn.

Mr. Pratt, from the Committee on Judiciary, to which was referred—

H. F. No. 73, A bill for an act providing for the appointment of court reporters in the Fourteenth Judicial District of this state, defining the duties and fixing the compensation of such reporters.

Reports the same back with the following amendments:

By inserting after the word "January" in the seventeenth line of Section 1 the word "thereafter."

By inserting between the word "salaries" and the word "of" in the eighteenth line of Section 1, the following: "and the railway, traveling and hotel expenses."

By striking out after the figures "1905" in the twenty-first line of Section 1 all of the rest of that section and by substituting in lieu thereof the words "and the acts amendatory thereof."

By striking out the words "A Bill" where they occur on the first page above the rest of the title."

And when so amended, that the bill do pass.

Which was adopted.