

A petition in the matter of the contest of the election held November 5, 1946, for the office of State Senator from the Seventeenth District of the State of Minnesota was received by the Senate and referred to the Committee on Elections.

A petition and notice of election contest for State Senator from the 32nd Legislative District was received by the Senate and referred to the Committee on Elections.

A statement of objections of Frank M. Wrabek to the seating of William L. Dietz was received by the Senate and referred to the Committee on Elections.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

January 8th, 1947.

Secretary of the Senate:

Pursuant to Senate Resolution adopted January 7th, 1947, I hereby appoint Joseph T. Marchel as my Secretary and Viola C. Schmit as my Stenographer effective as of January 7th, 1947.

Respectfully yours,

C. ELMER ANDERSON,
President of the Senate.

INTRODUCTION OF BILLS

Mr. Bridgeman introduced—

S. F. No. 1: A bill for an act relating to exclusive liquor stores, municipally owned liquor stores, and amending Minnesota Statutes 1945, Section 340.07, Subdivision 5.

Which was read the first time and referred to the Committee on Liquor Control.

Mr. Mayhood introduced—

S. F. No. 2: A bill for an act amending Laws 1943, Chapter 456, Section 1, Subdivision (b) and Minnesota Statutes 1941, Section 256.16, raising old age assistance to \$60 monthly at 60 years of age.

Which was read the first time and referred to the Committee on Public Welfare.

Messrs. Welch and Swenson introduced—

S. F. No. 3: A bill for an act relating to unemployment compensation, amending Minnesota Statutes 1945, Section 268.06, Subdivisions 3, 10, 11, 14, 15, 16, 17, and 22, and Section 268.07, Subdivision 6.

Which was read the first time and referred to the Committee on Labor.

certain villages; amending Laws 1943, Chapter 196, Sections 6 and 7.

Which was read the first time and referred to the Committee on Towns and Counties.

Mr. Sinclair introduced—

S. F. 116: A bill for an act appropriating money to Oscar A. Sonsteng for damages to car as a result of collision with a deer on State Highway No. 53.

Which was read the first time and referred to the Committee on Finance.

Mr. Hagen introduced—

S. F. No. 117: A bill for an act appropriating money to Andrew Hanson for damages to car as a result of collision with a deer on State Highway No. 212.

Which was read the first time and referred to the Committee on Finance.

Mr. Burdick introduced—

S. F. No. 118: A bill for an act to compensate Ethel Frances Decko and Doniven Decko for damages arising out of an assault by a patient, William W. Wheelock, of the Rochester State Hospital, upon the body and person of Doniven Decko, a minor.

Which was read the first time and referred to the Committee on Finance.

Mr. Feidt introduced—

S. F. No. 119: A bill for an act appropriating money to Marie Duerr Newman as compensation for x-ray burns sustained while a patient at University Hospital.

Which was read the first time and referred to the Committee on Finance.

REPORTS OF COMMITTEES

Mr. Simonson, from the Committee on Elections, to which was referred the matter of the contest of 47 voters of the election of Frank M. Wrabek to the office of Senator from the Seventeenth District and the matter of the petition of William L. Dietz to the Senate of Minnesota to be seated as Senator from that District, and the matter of the objections of Frank M. Wrabek to the seating of William L. Dietz, having considered those related matters, reports the same back with the recommendation that (a) with respect to the contest of 47 voters the Senate determine that Frank M. Wrabek was not elected to said

office and (b) with respect to the petition of Mr. Dietz that William L. Dietz be declared elected to said office and seated.

The matter of the contest was heard by the Committee on January 21, 1947, after due notice to interested parties. The contestants were represented by their counsel, John H. Lebens of Montgomery, Minnesota, Joseph F. Pany of LeCentre, Minnesota, and Harold LeVander of South St. Paul, Minnesota. The contestee, Frank M. Wrabek of LeSueur, who appeared in person, was represented by his counsel, Frank E. McAllister of St. Paul, Minnesota. Witnesses were sworn and testified by both sides and each offered documentary evidence which was received by the Committee. The court files were offered and received by agreement of the parties. Counsel from both sides argued their cases.

In the matter of the Dietz petition, the petitioner, William L. Dietz, appeared in person and was represented by the same counsel as the contestants; he relied on the evidence submitted in connection with the contest.

The committee heard and considered the two matters together as interrelated and indivisible concerning the office in question. A full record of the proceedings of the committee was made and it with all evidence offered and received is preserved.

The contest of the election of Frank M. Wrabek was instituted pursuant to statute by 47 voters in the District Court of Minnesota for LeSueur County, which county comprises the Seventeenth Legislative District. The petition of William L. Dietz to be seated as Senator from said District was filed in the Senate on 8 January 1947. Both matters were referred to the Committee on Elections.

The contest was on the ground of certain alleged deliberate, serious, and material violations of the elections laws of this state. It was heard by Honorable Martin A. Nelson, Judge of the District Court of Minnesota, acting by direction of the Governor, on December 17th and 18th, 1946, and resulted in findings to the effect that Frank M. Wrabek committed such violations in two ways, viz: in the preparation and personal circulation of a paper called at the hearing the "REA Letter" (Exhibit A in this Report) and of a paper called the "Oleomargarine Circular" (Exhibit B herein), and by reason thereof the apparent election of Mr. Wrabek was void and the office of Senator from said District was vacant. There was no recount or recanvass. Mr. Dietz was not a party to the contest. The files and records of the court proceedings with all the evidence were transmitted to the presiding officer of the Senate.

After full consideration the Committee finds these facts:

1. Nominees for the office of Senator from the Seventeenth Legislative District were William L. Dietz and Frank M. Wrabek and these were candidates at the general election on November 5th, 1946.

2. The vote at the 1947 general election for said office as declared by the canvassing board was 3668 for Frank M. Wrabek, 3569 for William L. Dietz, and the former was declared as the person receiving the highest number of votes and elected.

3. Frank M. Wrabek in the conduct of his campaign for said office violated deliberately, seriously and materially the provisions of the election laws of this state in these respects:

- a. He knowingly made false statements in relation to his opponent, William L. Dietz, intending the same to, and which in fact did, affect the voting at the general election, in the circulation of the paper known as the "REA Letter" (Exhibit A). This paper falsely accused Mr. Dietz of a serious breach of his trust as an officer of the Minnesota Valley Electric Co-operative in delivering control of the Company out of the hands of its members to a certain large bank against the interests of the co-operative and its members. Not only were the accusations false but Mr. Wrabek did not point out that the trust instrument to which he referred was executed with full approval of the REA authorities in Washington, was not secret as alleged but a matter of public record in the county, and was made pursuant and only supplementary to an instrument which he had himself previously signed for the same co-operative and purpose when he was an officer thereof. The REA letter was distributed by Mr. Wrabek to members of the co-operative as part of his campaign and was calculated to and did excite suspicion and distrust, unfounded in fact, of Mr. Dietz among the members who had not only substantial property interests in the company but a pride of ownership therein and zealous regard for its independence and success. Mr. Wrabek admitted he made no reasonable attempt to ascertain the truth of his statements, which did not constitute criticism of any public acts of Mr. Dietz as a State Senator but were an attack on him as a citizen and local REA official.
- b. He knowingly made false statements in relation to his opponent, William L. Dietz, intending the same to and which in fact did, affect the voting at the election, in the circulating of the paper known as the "Oleomargarine Circular" (Exhibit B). This letter falsely asserted Mr. Dietz opposed the interests of the dairy farmer in his conduct of his office as Senator from the same district in the 54th session of the Legislature, and, distributed in LeSueur County, it was calculated to and did excite unfounded suspicion and distrust of Mr. Dietz in an area largely concerned with agricultural and dairying pursuits. Exhibit B, coupled with Exhibit A, was cumulative in adverse effect on the candidacy of Mr. Dietz.
- c. Exhibits A and B were also defamatory. They were materially false in assertion and clearly-intended im-

plication and were designed to injure and defeat Mr. Dietz in his candidacy for the office he sought by reflecting on his personal and political character and acts.

4. The findings of the court in the contest were sustained by the evidence presented to it.

5. The effect of Mr. Wrabek's violations of the election laws of this state was the defeat of Mr. Dietz, and such defeat was the result of those violations. In this finding the Committee takes into consideration the very narrow margin of votes between the candidates, so a change of only 50 votes by Mr. Wrabek's misconduct gave him the plurality, and that the persuasive nature of the false statements was such that without their influence more than 50 voters who voted for Mr. Wrabek would have cast their ballots for Mr. Dietz.

6. A special election would result in considerable expense to LeSueur County, and because of the time required for it would deprive the Seventeenth Legislative District of senatorial representation during a major part of the 55th session of the Legislature.

From these facts the Committee concludes:

1. That Frank M. Wrabek was not elected to the office of Senator from the Seventeenth Legislative District.

2. That William L. Dietz is entitled to be seated as Senator from said District.

J. A. SIMONSON,
Chairman, Election Committee.

EXHIBIT "A"

"WHAT THE STOCKHOLDERS OF THE MINNESOTA VALLEY ELECTRIC CO-OP OF JORDAN, MINNESOTA, SHOULD KNOW.

On March 26, 1945, your Co-op. entered into an agreement with the Marquette National Bank, of Minneapolis, Minnesota, amending the former agreement made with the R.E.A.

The following is a part of the agreement amending Sec. 18 of Article II.

'Sec. 18. The Corporation will not at any time employ, or enter into any contract for the employment of any manager or superintendent of any electric generating plant embraced in the Trust Estate, or any chief operator, engineer or other employee in active charge of any electric generating plant or electric transmission line embraced in the Trust Estate, unless such employment or such contract shall first have been approved by the holder or holders of not less than a majority in principal amount of the notes at the time outstanding.'

Besides the above, there are other amendments to the effect,

that the manager should be paid a fair salary. It also fixes certain payments to be made to the attorney, etc.

The above agreement was signed by W. L. Dietz and Otto Mueller for the Co-op.

The R.E.A. has sold their notes and mortgages to the Marquette National Bank of Minneapolis, Minn.

It is generally known that many of the wealthy stockholders in the large banks are also large stockholders of Utility concerns.

Now why didn't the management inform the Stockholders that this was not an R.E.A. concern any more?

Why was this kept a secret until I told about it?

Why such an interest in the manager and the Attorney?

Why did the directors assign their right of management to the Bank?

Don't you think that some of the bank stockholders, that are also interested in Utility concerns, would like to see this Co-op sold out to their Utility?

Is it not possible that the bank would just as soon see this Co-op mismanaged, so that it could be bought at a discount?

This is a good Co-op and will pay out if properly managed.

In the past I have criticized the management for its squandering and not conducting the Co-op according to the by-laws and articles of incorporation, etc.

I have done my criticisms in writing and in print. Any answers should also be in print or writing. This will give you a good chance to investigate who is correct in the matter.

FRANK M. WRABEK."

EXHIBIT "B"

"H. F. 78. A bill for an act imposing a license tax on the manufacture, sale and use of oleomargarine, butterine and products of a similar character, and a tax on such products, etc. This bill was passed in the house and was brought to the Senate for action. It got its readings and favorable report from the Committee. After several days the bill came up again (On March 9th) for discussion, followed by a motion for indefinite postponement, which had Dietz's support, and the bill was killed.

SENATOR NELSON, DIETZ AND JOHNSON, C. E. INTRODUCE AN OLEOMARGARINE BILL AT THE 1937 SESSION.

Did Dietz want it to become a law? Judge for yourself. S. F. 319. An act to amend a law relating to the regulation of the

sale of oleomargarine of certain kinds, by providing an inspection fee and excise tax thereon. The bill was introduced on January 26, 1937, and was not heard from until April 1st. No record of any attempt to get it out earlier. It was reported for passage by the committee with certain amendments. Thereafter whenever the bill was reached for action, usually one of the sponsors had it postponed. On April 21, the last day of the session, the bill was reached again at 10:00 A. M. On motion by Dietz it was postponed until 4:00 P. M. When reached at 4:00 P. M., again on motion by Johnson, C. E., it was postponed until 10:00 P. M. At 10:00 P. M. the bill was not reached and it died with the adjournment of the session."

FRANK M. WRABEK."

Mr. Simonson moved that the foregoing report of the Committee on Elections be printed in the Journal of the Senate and lie over.

Which motion prevailed.

MOTIONS AND RESOLUTIONS.

Mr. Dernek moved that the name of Mr. Sullivan be added as a co-author on S. F. No. 111.

Which motion prevailed.

Mr. Orr moved that the Senate do now adjourn until 10:00 o'clock A. M. tomorrow.

Which motion prevailed.

H. Y. TORREY,
Secretary of the Senate.

Mr. Wright, from the Committee on Public Welfare, to which was referred—

S. F. No. 48: A bill for an act relating to change of county residence within the state by an old age assistance recipient, amending Minnesota Statutes 1945, Section 256.36.

Reports the same back with the recommendation that the bill do pass.

Report adopted.

SECOND READING OF SENATE BILLS.

S. F. Nos. 72, 52, 82, 84, 112, 83 and 48 were read the second time.

MOTIONS AND RESOLUTIONS.

Mr. Orr, from the Committee on Rules and Legislative Expense, offered the following resolution:

Be It Resolved, By the Senate that Frank N. Whitney be and he is hereby appointed as drafting attorney for the session, effective January 28th, 1947.

Be It Further Resolved, By the Senate that Beth L. Murphy and Pattee Kilday be appointed as stenographers for the session, effective January 29th, 1947.

Mr. Orr moved that the foregoing resolution be adopted.

The question being taken on the adoption of the resolution,

And the roll being called, there were yeas 60, and nays none, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------------|-----------|---------------|-----------------|----------|
| Almen | Dennison | Julkowski | Novak | Sullivan |
| Anderson, E. P. | Dernek | Larson, H. A. | O'Brien | Swenson |
| Anderson, M. H. | Dougherty | Larson, N. J. | Orr | Vukelich |
| Baughman | Duemke | Lauerman | Pedersen | Wagener |
| Burdick | Feidt | Ledin | Peterson, E. | Wefald |
| Bushnell | George | Lightner | Peterson, E. L. | Welch |
| Carey | Goodhue | Masek | Rogers | Welle |
| Carley | Grottum | Miller | Rosenmeier | Wuertz |
| Carr | Hagen | Mitchell | Simonson | Zwach |
| Cole | Harrison | Mullin | Sinclair | |
| Dahle | Imm | Myre | Sletvold | |
| Dahlquist | Johanson | Nelsen | Spokely | |
| Davis | Johnson | Neumeier | | |

So the resolution was adopted.

Mr. Simonson moved that the report of the Committee on Elections, relating to the matter of the contest of 47 voters of the election of Frank M. Wrabek to the office of Senator from the Seventeenth District and the matter of the petition of Wil-

liam L. Dietz to the Senate of Minnesota to be seated as Senator from that District, and the matter of the objections of Frank M. Wrabek to the seating of William L. Dietz, as found recorded on pages 92 to 97, inclusive, in the Senate Journal for the twelfth day, be now adopted, and that Mr. Dietz be seated as Senator from the Seventeenth District.

CALL OF THE SENATE.

Mr. Simonson moved a call of the Senate.

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

| | | | | |
|-----------------|-----------|---------------|-----------------|------------|
| Almen | Davis | Johnson | Neumeier | Spokely |
| Anderson, E. P. | Dennison | Julkowski | Novak | Sullivan |
| Anderson, M. H. | Dernek | Larson, H. A. | O'Brien | Swenson |
| Baughman | Dougherty | Larson, N. J. | Orr | Vukelich |
| Burdick | Duemke | Lauerman | Pedersen | Wagener |
| Bushnell | Feidt | Ledin | Peterson, E. | Wahlstrand |
| Butler | George | Lightner | Peterson, E. L. | Wefald |
| Carey | Goodhue | Masek | Rogers | Welch |
| Carley | Grottum | Miller | Rosenmeier | Welle |
| Carr | Hagen | Mitchell | Siegel | Wright |
| Cole | Harrison | Mullin | Simonson | Wuertz |
| Dahle | Imm | Myre | Sinclair | Zwach |
| Dahlquist | Johanson | Nelsen | Sletvold | |

CALL LIFTED.

Mr. Simonson moved to dispense with further proceedings under the Call of the Senate and that the Sergeant-at-Arms be instructed to bring in the absent members.

Which motion prevailed.

The question then recurred on the adoption of the motion as made by Mr. Simonson.

And the roll being called, there were yeas 60, and nays none, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------------|-----------|---------------|-----------------|------------|
| Almen | Dennison | Larson, H. A. | O'Brien | Swenson |
| Anderson, E. P. | Dernek | Larson, N. J. | Orr | Wagener |
| Anderson, M. H. | Dougherty | Lauerman | Pedersen | Wahlstrand |
| Baughman | Duemke | Ledin | Peterson, E. L. | Wefald |
| Burdick | Feidt | Lightner | Rogers | Welch |
| Bushnell | George | Masek | Rosenmeier | Welle |
| Butler | Goodhue | Miller | Siegel | Wright |
| Carey | Grottum | Mitchell | Simonson | Wuertz |
| Carley | Harrison | Mullin | Sinclair | Zwach |
| Cole | Imm | Myre | Sletvold | |
| Dahle | Johanson | Nelsen | Spokely | |
| Dahlquist | Johnson | Neumeier | Sullivan | |
| Davis | Julkowski | Novak | | |

So the committee report was adopted and Mr. Dietz was declared Senator from the Seventeenth District.

OATH OF OFFICE.

Mr. Dietz, escorted by Mr. Simonson, chairman of the Committee on Elections, advanced to the bar of the Senate where he subscribed to the oath of office as administered by the President of the Senate.

REMARKS BY MR. DIETZ.

“Mr. President and members of the Senate—

“I regret that incidents have occurred that have made necessary certain proceedings in filling this seat. Those proceedings were originally instituted by a large number of taxpayers in my district.

“Now that the Senate has rendered its judgment, I feel deeply grateful and am sincerely thankful for the expression of support and confidence.

“I shall make every effort to serve in such a manner that this body and the people of my district will not regret their action.”

MOTIONS AND RESOLUTIONS—CONTINUED.

Mr. Orr moved that—

Senate Resolution No. 3: A resolution authorizing the President of the Senate of the State of Minnesota to appoint two members of the Senate who with himself shall attend the Red River Valley Winter Shows and Northwest School Farmers' Week and dedication of new dormitory at Crookston, Minnesota.

Be now adopted.

The question being taken on the adoption of the resolution,

And the roll being called, there were yeas 57, and nays none, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------------|-----------|---------------|-----------------|------------|
| Almen | Dernek | Larson, N. J. | Orr | Vukelich |
| Anderson, E. P. | Dougherty | Lauerman | Peterson, E. L. | Wagener |
| Anderson, M. H. | Duemke | Ledin | Peterson, E. | Wahlstrand |
| Burdick | Feidt | Lightner | Rogers | Wefald |
| Bushnell | George | Masek | Rosenmeier | Welch |
| Carey | Goodhue | Miller | Siegel | Welle |
| Carley | Grottum | Mitchell | Simonson | Wright |
| Carr | Hagen | Mullin | Sinclair | Wuertz |
| Cole | Harrison | Myre | Sletvold | Zwach |
| Dahlquist | Imm | Neumeier | Spokely | |
| Davis | Johanson | Novak | Sullivan | |
| Dennison | Julkowski | O'Brien | Swenson | |

So the resolution was adopted.

Mr. Neumeier moved that the Senate do now adjourn until 11:00 o'clock A. M. tomorrow.

Which motion prevailed.

H. Y. TORREY,
Secretary of the Senate.

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