

State of Minnesota

HOUSE OF REPRESENTATIVES



Seth R. Phillips v. George E. Ericson (1956)

Neither one was seated on the first day of 1957 Session.

Court records referred to Elections Committee on January 24, 1957.

Committee held hearings on matter and reported its findings to House on February 1, 1957.

The Committee recommended that the seat be vacated and a Special Election be called. The recommendation passed 72 to 51.

Robert Renner was subsequently elected and sworn in on February 28, 1957.

On April 16, 1957, the House agreed to pay part of both Phillips' and Ericson's election contest expenses.

wages by public service corporations; amending Minnesota Statutes 1953, Section 181.08.

The bill was read for the first time and referred to the Committee on Labor.

There being no objection the order of business reverted to Petitions and Communications.

PETITIONS AND COMMUNICATIONS

The following communication was received:

CLERK OF DISTRICT COURT
CASS COUNTY
Walker, Minnesota

January 22, 1957

Speaker A. I. Johnson
Presiding Officer, House of Representatives
State Capitol
Saint Paul, Minnesota
Dear Mr. Johnson:

Re: Seth R. Phillips, Contestant
vs: George E. Ericson, Contestee

In accordance with the Findings, in the above entitled matter, I am enclosing my entire file consisting of the following:

Petition
Order, dated 11-19-1956
Motion for Dismissal
Order, dated 12-5-1956
Notice of Appeal
Undertaking on Appeal
Order, dated 12-8-1956
Order, dated 1-11-1957
Receipt
Transcript of Testimony
Answer
Transcript of Judgment
Order, dated 1-16-1957
Order, dated 1-21-1957
Findings of Fact
Exhibits 1 to 74 inclusive
Transcript of Trial, Volume 1, 2, 3
Will you kindly acknowledge receipt of the above.

Yours very truly,
/s/ ANONA RIVIERE
Anona Riviere
Clerk of District Court
Cass County, Minn.

The above communication and accompanying court records were referred to the Committee on Elections.

Mr. Cina moved that the House adjourn. The motion prevailed, and the Speaker declared the House adjourned until 2 p. m. January 25.

G. H. LEAHY, Chief Clerk, House of Representatives.

Mr. Herzog from the Committee on Towns and Counties to which was referred—

H. F. No. 329, A Bill for an act relating to the incidental fund of counties; amending Minnesota Statutes 1953, Section 375.16.

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

The report was adopted.

Mr. Tiemann from the Committee on Veterans' and Military Affairs to which was referred—

H. F. No. 331, A concurrent resolution memorializing the President of the United States, the Secretary of Defense and the Secretary of the Army to reconsider a recently announced policy requiring six months of active duty training of members of the National Guard, to the end that more realistic and workable requirements, agreeable to the State, be prescribed.

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

The report was adopted.

Mr. Campton from the Committee on Health to which was referred—

H. F. No. 163, A Bill for an act relating to civil defense, authorizing the State Board of Health to provide for the collection of blood for treatment of casualties in disaster, and appropriating money therefor.

Reported the same back with the recommendation that the bill do pass and that it be re-referred to the Committee on Appropriations.

The report was adopted.

Mr. LaBrosse from the Committee on Aircraft and Airways to which was referred—

H. F. No. 472, A joint resolution memorializing the President of the United States and the Congress of the United States to take such steps as may be necessary to secure a removal of all military facilities and activities from Minneapolis-Saint Paul International Airport - Wold-Chamberlain Field, located in Hennepin County, Minnesota.

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

The report was adopted.

Mr. Grittner from the Committee on Elections to which was referred—

H. F. No. 40, A Bill for an act relating to elections; amending Minnesota Statutes 1953, Section 206.12.

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

The report was adopted.

Mr. Grittner from the Committee on Elections to which was referred—

H. F. No. 341, A Bill for an act relating to elections and the registration of voters; amending Minnesota Statutes 1953, Section 201.10.

Reported the same back with the following amendments:

In Section 1 of the bill after item (3) in the third line after the word "district" delete the semi-colon and insert in lieu thereof the word "or".

With the recommendation that when so amended the bill do pass.

The report was adopted.

Mr. Grittner from the Committee on Elections to which was referred—

The matter of the contest of the election of George E. Ericson to the office of State Representative from the 52nd Legislative District, Cass County, Minnesota, for alleged violation of the Minnesota Corrupt Practice Act, made the following report:

The matter of the contest was heard by the committee on January 28 and 29, 1957, after due notice to all interested parties. The Contestant, Seth R. Phillips was represented by his counsel, J. C. Cottingham of the firm of Robins, Davis and Lyons of Minneapolis, Minnesota, and the contestee, George E. Ericson, was represented by his counsel, Carl E. Erickson, Attorney at Law, Brainerd, Minnesota. The Court files including the transcript of testimony, the exhibits, findings of fact, conclusions of law and order for judgment filed by the Honorable Arnold C. Forbes, Judge, 15th Judicial District, County of Cass, State of Minnesota were received by the committee and accepted by the committee as the findings of fact of the committee, with the provision that either party may call witnesses to appear before the committee with respect to any new testimony not contained in the said transcript of evidence.

The Contestant, Seth R. Phillips, and the contestee, George E. Ericson, proceeded on this basis before the committee. The counsel for both argued at length before the committee as to the facts. The Committee heard and considered the matter concerning the office in question and a full record of the proceedings of the com-

mittee was made and all the evidence and exhibits offered and received are preserved.

The court made findings in two instances that contestee George E. Ericson violated the Minnesota Corrupt Practice Act in a deliberate, serious and material manner.

After full consideration, the committee finds these facts:

I

Nominees for the office of Representative from the 52nd Legislative District Cass County, Minnesota were George E. Ericson and Seth R. Phillips and they were candidates at the general election on November 6, 1956.

II

That at the 1956 general election, George E. Ericson received 3,919 votes and Seth R. Phillips received 3,170 for said legislative office.

III

That prior to the campaign of 1956, Candidate George E. Ericson showed and exhibited the following exhibit to diverse persons which was Contestant's Exhibit 1 in the trial and during the 1956 campaign showed and exhibited a copy of said exhibit, also known as Contestee's Exhibit 29 to various and diverse persons. That said exhibit reads as follows:

"3900 Washburn Avenue South
Minneapolis, Minnesota
December 5, 1954

"Mr. George Ericson
Rte. 2
Pequot Lakes, Minn.

"Dear Mr. Ericson:

"I am taking the liberty of writing you in reference to the recent election campaign in Cass County. Although I do not know you, I felt sincere regret that you were defeated, inasmuch as I know Seth Phillips all too well. I laughed when I heard that he had filed for election. Knowing him, I felt that anyone who would vote for him would have to be a little on the crazy side. I'm not laughing now, as a matter of fact I am very much concerned about the whole matter, for I believe that Phillips is the worst sort of person to hold public office.

"Before I tell you any more about Phillips I had better tell you a little more about myself. I spent the better part of the last twelve years in the Army. I recently resigned my commission as a captain in order that I could establish a more stable home life for my family. I know a great deal (none of it very good) about Phillips in that his wife and mine are sisters. I am thirty two years old and have voted consistently Republican in the elections since the war. At present, I operate a service station in Minne-

apolis. If you feel that I can be of help to you, I would like to meet you. I think that I can furnish enough information to be permanently damaging to Phillips. I am enclosing a report prepared for me by the Busch Agency in Minneapolis. I don't have the details, but I feel that I can furnish the necessary leads to very possibly prove one or more of the following:

- (1) That Phillips is guilty of criminal fraud.
- (2) That Phillips (although he may not be a member of the Communist Party i. e. carry a card) is a communist by association. Looks like one, associates exclusively with people of that ilk.
- (3) That Phillips is a person of bad character. He is unable to hold jobs. I know of three that he has been discharged from for character defects. He was in business for himself once (100% borrowed capital) and filed a petition of bankruptcy in about two months. His credit rating is the lowest. He will avoid payment of retail debts as long as possible. I believe that he can be embarrassed with affidavits from merchants that he cheated years ago.

"Phillips boasted in his campaign literature that he was a bomber pilot in WW II. This is questionable since he held only the rank of Flight Officer. The pilots of heavy bombers were always the rank of 1st Lt. or higher. Phillips was discharged from the Navy early in the war because he was psychologically unsuited for flight training. Details about his discharge could be embarrassing if they can be secured. For that matter Phillips is very sensitive to persecution, I would say (I am not medically qualified) that he suffers a persecution complex. The psychiatrists refer to this affliction as paranoia, I believe.

"I am forwarding the enclosed report and furnishing the above information because I believe that Phillips is a Red in spirit if not in fact. I have heard him state as an example that the U. S. started the Korean conflict, that our newspapers do not publish the truth because their owners are capitalists, etc. Needless, to say I hear only the mildest of his convictions since I am in the opposite political camp. If Phillips can be embarrassed into resigning, I feel that this would be desirable. If not, I think that every possible step should be taken to prepare to defeat him in 1956. In writing, I have presumed that you would be interested, and that you would be in contact with people willing to pursue this line. I will appreciate hearing from you whether you feel that I can be of help or not. If you like in a week or so I will come up to your home or you can see me here in Minneapolis. Please write me at the above address or you may phone me at my home WA 2-1737 or at my place of business LI 9928.

Sincerely yours,

SIGNED Donald B. Erickson"

IV

That endorsed in handwriting on said exhibit was a postscript reading as follows:

"P.S. Please do not publish this letter or its contents without my permission. I do not wish to strain my wife's relationship with her family if this can be avoided. I believe I can be most useful in supplying information.

SIGNED DBE"

Which postscript was not exhibited by the Contestee Ericson on his copy (Contestee's Exhibit 29), but was deleted by the contestee when he exhibited his copy of the same.

V

THE COMMITTEE CONCURS IN THE FINDING OF JUDGE FORBES:

"That contestee Ericson showed and exhibited said Plaintiff's Exhibit 1 to diverse persons prior to the 1956 campaigns and exhibited the copy Defendant's Exhibit 29 to diverse persons during the 1956 campaigns.

"That contestee Ericson exhibited said letter without any adequate checking or confirmation of the truth or falsity of the facts therein recited and that said letter was false in that said Phillips was never convicted of any criminal fraud; did not associate exclusively with people of communistic ilk; never filed a voluntary petition in bankruptcy or was adjudicated bankrupt; and that he was a bomber pilot in World War II and instead of being embarrassed by his discharge, the discharge from the Navy was under satisfactory conditions, character good (a) and was caused by being unable to meet swimming requirements following which he enlisted and served in the U. S. Army Air Corps, as a qualified Flight Officer pilot of four-engine 1024 planes with 16 months experience and as a Flight Officer pilot of Twin Engine 1051 planes with two months experience; and as a Pilot of four-engine flying B-24 and F.7 type airplanes for 100 hours in combat zones in the Asiatic-Pacific Theatre, and from which he likewise received an honorable severance from service.

"That in exhibiting said Exhibit 29 as admitted in the evidence to friends and others, contestee Ericson violated the Minnesota Corrupt Practice Act in a deliberate, serious and material manner necessarily calculated to hold up said Phillips to shame and the scorn of people generally and to encourage voters to refrain from voting for him and on the contrary to support contestee's candidacy."

VI

That during the 1956 campaign, the contestee George E. Ericson had published in the various legal newspapers of Cass County and circulated as handbills and campaign literature the fol-

lowing which was Contestant's Exhibit 2 and which reads as follows: "?? ? ? ? ? ? ? ? ? ? ?

Why has Mr. Phillips been unable to deny that he was a member of the Marxist-Socialist Club at the University of Minnesota?

Why has Mr. Phillips postponed trial of his alleged libel case against his brother-in-law and George Ericson based upon a charge made by his brother-in-law that Mr. Phillips has been a communist sympathizer,

Why did Mr. Phillips say that he did not vote in the recent primary election because his party was not represented on the ballot? VOTE FOR GEORGE E. ERICSON, WHO CAN TRULY REPRESENT YOU AND WHOSE LOYALTIES ARE UNQUESTIONED.

Prepared and ordered inserted by George E. Ericson, Home Brook Township, in his own behalf."

THE COMMITTEE CONCURS IN THE FINDING OF THE COURT THAT:

"Contestee has plausibly explained innocent fair comment reasons for each of these three questions which cannot be accepted as fair comment because the capital letters indicate the questions were directed to the loyalty of Mr. Phillips and the questions are so allied and associated as to suggest Mr. Phillips was a member of the communist party of which there has been no proof.

"That said exhibit is a deliberate, serious, material and untrue charge and constitutes a violation of the Minnesota Corrupt Practice Act."

VII

That contestant's exhibit 3 reads as follows:

"NOTICE TO CASS COUNTY PEOPLE

I wish to inform the people of Cass County that Seth Phillips did not have anything to do, whatsoever, in getting the Popple Pulp Peeling Plant at Remer, which Phillips takes credit for.

The plant is being constructed by the Waldorf Paper Co. of St. Paul, and local business men of Remer.

WALTER ANDREWS

Business Manager
of the Pulp Plant
Remer, Minn.

Paid Adv. Prepared and ordered inserted by
Walter Andrews, Remer, Minn."

THE COMMITTEE CONCURS WITH THE JUDGE THAT:

"This exhibit, while untrue in that contestant has proven that his services as a member of the Interim Forestry Committee with those of others were instrumental in interesting the Waldorf Paper Company in leasing equipment in the Remer area, was nevertheless published in good faith as the expressed opinion of said Walter Andrews who while withholding express authority to use his name led contestee to believe he could make any use he desired of the statement in his campaign."

Its publication in the manner and form indicated above is an unethical campaign practice and is condemned by this committee as not befitting a candidate for the office of State Representative.

VIII

That the violations of the Minnesota Corrupt Practice Act on the part of the said George E. Ericson were of such a deliberate, serious and material character that the same are condemned by this committee as unethical campaign practices and such violations are not fitting campaign practices for any candidate who aspires to the high office of State Representative.

IX

The Committee does not condone violations of the Minnesota Corrupt Practice Act, however slight, but practices of a deliberate, serious and material nature such as the practices herein used by the contestee George E. Ericson must be recognized as going far beyond the bounds of decency and fair comment in campaigning for public office.

From these facts the committee concludes:

1.

That George E. Ericson violated the Minnesota Corrupt Practices Act in a deliberate, serious and material manner on two counts.

2.

That as a result of such violation, George E. Ericson was not legally elected and is not entitled to be seated as a Representative of the 52nd Legislative District, Cass County, Minnesota.

3.

That the seat of Representative for the 52nd Legislative District, Cass County, Minnesota, is vacant and that this vacancy be certified to His Excellency, Orville L. Freeman, Governor of the State of Minnesota, so that he may issue a writ of election as provided for by law to fill said seat.

4.

That the Chief Clerk of the House be and is hereby instructed to return by registered mail all of the files, records and transcript of evidence to the Clerk of the District Court of the 15th Judicial District for Cass County, Walker, Minnesota, as provided and requested in the Court's order.

With the recommendation that the report be adopted.

Mr. Cina moved that the report of the Committee on Elections be laid over temporarily. The motion prevailed.

SECOND READING OF HOUSE BILLS

H. F. Nos. 452, 453, 50 and 137, were read for the second time.

CALL OF THE HOUSE

Mr. Cina moved a call of the House.

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

Adams	Enestvedt	Karth	Newhouse	Sorensen
Affeldt	Erdahl	Kelley	Nordin	Sundet
Alderink	Ernst	Kelly	Nordlie	Swenson, E.T.
Anderson, D.F.	Fitzgerald	King	Noreen	Swenson, G.W.
Anderson, H.J.	Fitzsimons	Kinzer	Oberg	Thompson, H.
Anderson, J.T.	Franke	Klaus	O'Dea	Thompson, T.
Anderson, M.	Franz	Knudsen	Ogle	Tiemann
Angstman	French	Kording	Olson, C.G.	Tomczyk
Aune	Fugina	LaBrosse	Olson, G.W.	Ukkelberg
Basford	Fuller	Langen	Ottinger	VanDeRiet
Battles	Furst	Langley	Otto	Volstad
Bergerud	Gerling	Larson	Parks	Voxland
Bergeson	Goodin	Lindquist	Paulson	Wanvick
Berglund	Grittner	Lorentz	Peterson	Warnke
Campton	Grussing	Lovik	Podgorski	Wee
Chilgren	Hagland	Luther (Mrs.)	Popovich	Wetzel
Christie	Haisted	McCarty	Prifrel	Wichterman
Cina	Hartle	McGill	Reed	Widstrand
Conn	Herzog	McGuire	Rutter	Wilder
Conroy	Huebner	McLeod	Schulz	Windmiller
Cunningham	Iverson	Mitchell	Schumann	Wozniak
Day	Jensen	Mosier	Searle	Yetka
Dirlam	Johnson, E.P.	Mueller	Shipka	Mr. Speaker
Dunn	Johnson, O.L.	Munger	Shovell	
Duxbury	Jude	Nelson	Skeate	

Mr. Cina moved that further proceedings under the call be dispensed with and that the Sergeant-at-Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

SECOND READING OF HOUSE BILLS, Continued

H. F. Nos. 178, 228, 282, 92, 146, 230, 329, 331, 40, 341 and 472 were read for the second time.

Pursuant to Article IV, Section 20 of the Constitution of Minnesota, Mr. Wichterman moved that the rule therein be suspended and an urgency be declared so that H. F. No. 472 be given its third

The question being taken on the passage of the bill, and the roll being called, there were yeas 117, and nays 6, as follows:

Those who voted in the affirmative were:

Adams	Ernst	Kelly	Nordin	Sorensen
Affeldt	Fitzgerald	King	Nordlie	Sundet
Alderink	Fitzsimons	Kinzer	Noreen	Swenson, E.T.
Anderson, D.F.	Franke	Klaus	Oberg	Swenson, G.W.
Anderson, H.J.	Franz	Knudsen	O'Dea	Thompson, H.
Anderson, J.T.	French	Kording	Ogle	Thompson, T.
Anderson, M.	Fuller	LaBrosse	Olson, C.G.	Tiemann
Angstman	Furst	Langen	Olson, G.W.	Tomczyk
Aune	Gerling	Langley	Ottinger	Ukkelberg
Basford	Goodin	Larson	Otto	VanDeRiet
Battles	Grittner	Lindquist	Parks	Voxland
Bergerud	Grussing	Lorentz	Paulson	Wanvick
Bergeson	Hagland	Lovik	Peterson	Warnke
Berglund	Halsted	McCarty	Podgorski	Wee
Campton	Hartle	McGill	Popovich	Wetzel
Cina	Herzog	McGuire	Prifrel	Wichterman
Conn	Huebner	McLeod	Reed	Wilder
Conroy	Iverson	Mitchell	Rutter	Windmiller
Cunningham	Jensen	Mosier	Schulz	Wozniak
Day	Johnson, E.P.	Mueller	Schumann	Yetka
Dirlam	Johnson, O.L.	Munger	Searle	Mr. Speaker
Duxbury	Jude	Murk	Shipka	
Enestvedt	Karth	Nelson	Shovell	
Erdahl	Kelley	Newhouse	Skeate	

Those who voted in the negative were:

Anderson, H.R.	Fugina	Luther (Mrs.)	Volstad	Widstrand
Fudro				

So the bill was passed and its title agreed to.

There being no objection, the order of business reverted to Reports of Standing Committees:

REPORTS OF STANDING COMMITTEES, Continued

The report of the Committee on Elections pertaining to the election contest in the 52nd Legislative District was again reported to the House.

Mr. Dirlam moved that all of the subject matter in the Election Committee Report on the election contest of George E. Ericson be stricken and the following be inserted in lieu thereof:

This committee, in connection with the election contest of George Ericson, heard arguments of counsel for the contestee and contestant, and has reviewed the transcript of the testimony of the various witnesses at the election contest before Judge Forbs in Cass County, and upon such arguments and the arguments of counsel, a majority of the committee recommends the adoption of the following resolution:

Resolved, that the seat of representative of Cass County, 52nd Legislative District, be and the same is declared Vacant, and the Governor is hereby requested to call a special election in such district.

The question being taken on Mr. Dirlam's motion to amend the committee report and the roll being called, there were yeas 57, and nays 69, as follows:

Those who voted in the affirmative were:

Alderink	Dunn	Jensen	Mueller	Sundet
Anderson, D.F.	Duxbury	Johnson, O.L.	Nordlie	Swenson, E.T.
Anderson, H.J.	Erdahl	Kinzer	Noreen	Swenson, G.W.
Anderson, H.R.	Ernst	Klaus	Oberg	Thompson, H.
Anderson, J.T.	Fitzsimons	Langen	Ogle	Thompson, T.
Anderson, M.	Franke	Langley	Ottinger	Ukkelberg
Angstman	French	Lindquist	Parks	VanDeRiet
Aune	Fuller	Lorentz	Paulson	Voxland
Bergerud	Furst	Lovik	Peterson	Windmiller
Christie	Grussing	McCarty	Schulz	
Cunningham	Hartle	McLeod	Schumann	
Dirlam	Huebner	Mitchell	Searle	

Those who voted in the negative were:

Adams	Franz	Kelly	Nordin	Tiemann
Affeldt	Fudro	King	O'Dea	Tomczyk
Basford	Fugina	Knudsen	Olson, C.G.	Volstad
Battles	Gerling	Kording	Olson, G.W.	Wanvick
Bergeson	Goodin	LaBrosse	Otto	Warnke
Berglund	Grittner	Larson	Podgorski	Wee
Campton	Hagland	Luther (Mrs.)	Popovich	Wetzel
Chilgren	Halsted	McGill	Prifrel	Wichterman
Cina	Herzog	McGuire	Reed	Widstrand
Conn	Iverson	Mosier	Rutter	Wilder
Conroy	Johnson, E.P.	Munger	Shipka	Wozniak
Day	Jude	Murk	Shovell	Yetka
Enestvedt	Karth	Nelson	Skeate	Mr. Speaker
Fitzgerald	Kelley	Newhouse	Sorensen	

So the motion was lost.

The question recurred on the adoption of the report from the Committee on Elections.

The question being taken on the adoption of the report,

Mr. Parks moved that those not voting be excused from voting. The motion was lost.

Messrs. Ogle, Parks and Searle assigned their reasons for not voting and, on a motion by Mr. Cina, were excused.

And the roll being called, there were yeas 72 and nays 51, as follows:

Those who voted in the affirmative were:

Adams	Day	Herzog	Larson	Nordin
Affeldt	Enestvedt	Iverson	Lindquist	O'Dea
Basford	Fitzgerald	Johnson, E.P.	Lovik	Olson, C.G.
Battles	Franz	Jude	Luther (Mrs.)	Olson, G.W.
Bergeson	Fudro	Karth	McGill	Otto
Berglund	Fugina	Kelley	McGuire	Peterson
Campton	Gerling	Kelly	Mosier	Podgorski
Chilgren	Goodin	King	Munger	Popovich
Cina	Grittner	Knudsen	Murk	Prifrel
Conn	Hagland	Kording	Nelson	Reed
Conroy	Halsted	LaBrosse	Newhouse	Rutter

Shipka
Shovell
Skeate
Sorensen

Tiemann
Tomczyk
Volstad
Wanvick

Warnke
Wee
Wetzel
Wichterman

Widstrand
Wilder
Wozniak
Yetka

Mr. Speaker

Those who voted in the negative were:

Alderink
Anderson, D.F.
Anderson, H.J.
Anderson, H.R.
Anderson, J.T.
Anderson, M.
Angstman
Aune
Bergerud
Christie
Cunningham

Dirlam
Dunn
Duxbury
Erdahl
Ernst
Fitzsimons
Franke
French
Fuller
Furst
Grussing

Hartle
Huebner
Jensen
Johnson, O.L.
Kinzer
Klaus
Langen
Langley
Lorentz
McCarty
McLeod

Mitchell
Mueller
Nordlie
Noreen
Ober
Ottinger
Paulson
Schulz
Schumann
Sundet
Swenson, E.T.

Swenson, G.W.
Thompson, H.
Thompson, T.
Ukkelberg
VanDeRiet
Voxland
Windmiller

So the report was adopted.

MESSAGE TO THE GOVERNOR

Honorable Orville L. Freeman
Governor
State Capitol
Saint Paul, Minnesota

Your Excellency:

You are hereby informed that at a regular session of the Minnesota House of Representatives held on February 1, 1957, a report from the Committee on Elections was duly adopted wherein a vacancy was declared to exist in the seat for the House of Representatives from the 52nd District, Cass County, Minnesota.

Very sincerely yours,
A. I. JOHNSON, Speaker
House of Representatives
G. H. LEAHY, Chief Clerk,
House of Representatives.

Dated February 1, 1957

Mr. Cina moved that when the House adjourns today, it adjourn until 11:45 a. m., February 4. The motion prevailed.

Mr. Cina moved that the House adjourn. The motion prevailed, and the Speaker declared the House adjourned until 11:45 a. m., February 4.

G. H. LEAHY, Chief Clerk, House of Representatives.

EIGHTEENTH DAY

SAINT PAUL, MINNESOTA, MONDAY, FEBRUARY 4, 1957

The House met at 11:45 a. m. and was called to order by the Speaker.

Prayer was offered by the Chaplain.

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

Adams	Duxbury	Jude	Nordin	Swenson, E.T.
Affeldt	Enestvedt	Karth	Nordlie	Swenson, G.W.
Alderink	Erdahl	Kelley	Noreen	Thompson, H.
Anderson, D.F.	Ernst	Kelly	Oberg	Thompson, T.
Anderson, H.J.	Fitzgerald	King	O'Dea	Tiemann
Anderson, J.T.	Fitzsimons	Kinzer	Ogle	Tomczyk
Anderson, M.	Franke	Klaus	Olson, C.G.	Ukkelberg
Angstman	Franz	Knudsen	Olson, G.W.	VanDeRiet
Aune	French	Kording	Ottinger	Volstad
Basford	Fudro	LaBrosse	Otto	Voxland
Battles	Fugina	Langen	Parks	Wanvick
Beanblossom	Fuller	Langley	Paulson	Warnke
Bergerud	Furst	Lindquist	Peterson	Wee
Bergeson	Gerling	Lovik	Podgorski	Wetzel
Berglund	Goodin	Luther (Mrs.)	Popovich	Wichterman
Campton	Grittner	McCarty	Prifrel	Widstrand
Chilgren	Grussing	McGill	Reed	Wilder
Christie	Hagland	McGuire	Rutter	Windmiller
Cina	Halsted	McLeod	Schulz	Wozniak
Conn	Hartle	Mitchell	Schumann	Wright
Conroy	Herzog	Mosier	Searle	Yetka
Cummings	Huebner	Mueller	Shipka	Mr. Speaker
Cunningham	Iverson	Munger	Shovell	
Day	Jensen	Murk	Skeate	
Dirlam	Johnson, E.P.	Nelson	Sorensen	
Dunn	Johnson, O.L.	Newhouse	Sundet	

A quorum was present.

Messrs. Anderson, H. R., Lorentz, Hofstad, and Larson were excused.

The Chief Clerk then proceeded to read the Journal of the preceding day, when on motion of Mr. Reed the further reading was dispensed with and the Journal approved as corrected.

CHIEF CLERK'S REPORT OF PRINTED BILLS

Printed copies of H. F. Nos. 40, 50, 92, 146, 178, 228, 230, 282, 329, 331, 452, 453, 472, 137, 341, and S. F. Nos. 26, 93, 96, and 139 have been placed in the binders.

Mr. Cina moved that the House recess. The motion prevailed, and the Speaker declared the House recessed.

Page 1, Section 1, Subdivision 1, line 10, after the word "employees" and before the word "The", insert the following: "Any one or more of such governmental units may determine that a person is an officer or employee if such officer or employee receives the greater portion of his income from such governmental subdivisions without regard to the manner of his election or appointment."

On motion of Mr. Kording, the report of the Committee of the Whole was adopted.

REPORT FROM COMMITTEE ON RULES

Mr. Cina from the Committee on Rules reports the appointment and cancellation of the following employees under the rules: Appoint: effective February 27, 1957: Virginia Kerr, and Marvel Fitzsimons, general stenographers; Cancel: effective February 27, 1957: Martin Linfelser, doorkeeper; Appoint: effective February 27, 1957: James Reiter, doorkeeper.

Mr. Halsted moved that the House adjourn. The motion prevailed, and the Speaker declared the House adjourned until 2 p. m. February 28.

CORRECTIONS BY THE CHIEF CLERK

Pursuant to Rule 22, the Chief Clerk has made the following clerical correction in the original H. F. No. 457: In Section 6, line 7, section 7 was changed to section 5.

G. H. LEAHY, Chief Clerk, House of Representatives.

THIRTY-FOURTH DAY

SAINT PAUL, MINNESOTA, THURSDAY, FEBRUARY 28, 1957.

The House met at 2 p.m. and was called to order by the Speaker.

Prayer was offered by the Chaplain.

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

Adams	Ernst	Kelly	Nordin	Swenson, E.T.
Alderink	Fitzgerald	King	Nordlie	Swenson, G.W.
Anderson, H.J.	Fitzsimons	Kinzer	Noreen	Thompson, H.
Anderson, H.R.	Franke	Klaus	Oberg	Thompson, T.
Anderson, J.T.	Franz	Knudsen	O'Dea	Tiemann
Anderson, M.	French	Kording	Ogle	Tomczyk
Angstman	Fudro	LaBrosse	Olson, C.G.	Ukkelberg
Basford	Fuller	Langen	Olson, G.W.	VanDeRiet
Battles	Furst	Langley	Ottinger	Volstad
Beanblossom	Goodin	Larson	Otto	Voxland
Bergerud	Grittner	Lindquist	Parks	Wanvick
Bergeson	Grussing	Lorentz	Paulson	Warnke
Campton	Hagland	Lovik	Peterson	Wee
Chilgren	Halsted	Luther (Mrs.)	Podgorski	Wetzel
Christie	Hartle	McCarty	Popovich	Wichterman
Cina	Herzog	McGill	Prifrel	Widstrand
Conroy	Hofstad	McGuire	Reed	Windmiller
Cummings	Huebner	McLeod	Rutter	Wozniak
Cunningham	Iverson	Mitchell	Schulz	Wright
Day	Jensen	Mosier	Schumann	Yetka
Dirlam	Johnson, E.P.	Mueller	Searle	Mr. Speaker
Dunn	Johnson, O.L.	Munger	Shovell	
Duxbury	Jude	Murk	Skeate	
Enestvedt	Karth	Nelson	Sorensen	
Erdahl	Kelley	Newhouse	Sundet	

A quorum was present.

Messrs. Aune, Affeldt, Anderson, D. F., Berglund, Conn, Kinzer, Shipka, Wilder and Fugina were excused.

Mr. Dunn presented Mr. Robert Renner, who presented proof of his eligibility to be seated as a member from the Fifty-second District, Cass County.

OATH OF OFFICE

The Speaker administered the oath of office to Mr. Renner, and he took his seat in the House.

The Chief Clerk then proceeded to read the Journal of the preceding day, when on motion of Mr. Anderson, M., the further reading was dispensed with and the Journal approved as corrected.

The bill was read for the first time and referred to the Committee on Taxes.

Messrs. Cina, Chilgren, Fugina, Rutter and Widstrand introduced—

H. F. No. 1269, A bill for an act relating to the payment and distribution of mortgage registration taxes; amending Minnesota Statutes 1953, Section 287.09.

The bill was read for the first time and referred to the Committee on Taxes.

Messrs. Cina, Chilgren, Fugina, Rutter and Widstrand introduced—

H. F. No. 1270, A bill for an act relating to the taxation of taconite and iron sulphides; amending Minnesota Statutes 1953, Section 298.25, as amended by Laws 1955, Chapter 729.

The bill was read for the first time and referred to the Committee on Taxes.

Messrs. Fugina and LaBrosse, for the St. Louis County Delegation, introduced—

H. F. No. 1271, A bill for an act relating to levy of taxes in certain counties; amending Laws 1947, Chapter 322, as amended.

The bill was read for the first time and referred to the Committee on Towns and Counties.

Mr. Chilgren introduced—

H. F. No. 1272, A bill for an act relating to the salary of the county treasurer in certain counties.

The bill was read for the first time and referred to the Committee on Towns and Counties.

Messrs. Fugina and Wanvick, for the St. Louis County Delegation, introduced—

H. F. No. 1273, A bill for an act relating to a building reserve for a work farm in certain counties and providing for a levy therefor.

The bill was read for the first time and referred to the Committee on Towns and Counties.

MOTIONS AND RESOLUTIONS

Mr. Affeldt moved that the name of Mr. Wichterman be added as co-author on H. F. No. 1123. The motion prevailed.

Mr. Affeldt moved that the names of Mr. Dunn and Mr. Ukkleberg be added as co-authors on H. F. No. 898. The motion prevailed.

Mr. Chilgren moved that H. F. No. 838, now on General Orders, be referred to the Committee on Appropriations. The motion prevailed.

Messrs. Basford, Karth, Halsted, Wichterman and Berglund offered:

HOUSE RESOLUTION NO. 10

A resolution to reimburse Seth R. Phillips for expenses incurred in an election contest.

Whereas, Seth R. Phillips has incurred expenses in the amount of \$8,620.20 due to an election contest and court costs involved therein between himself and George E. Ericson, both having run for the office of State Representative from Cass County.

Now, Therefore, Be It Resolved, that Seth R. Phillips be paid the sum of \$8,620.20 from the legislative expense fund, as reimbursement for such expense.

The resolution was referred to the Committee on Rules.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 64, A bill for an act relating to the membership of the State Board of Education in associations of state departments of education for the purpose of obtaining necessary services and authorizing payment of membership dues.

H. F. No. 300, A bill for an act relating to the registration of motor vehicles; amending Minnesota Statutes 1953, Section 168.33, Subdivision 2.

H. F. No. 422, A bill for an act relating to the registration and taxation of motor vehicles owned by non-resident circuses and carnivals and providing for issuance of permits under certain conditions.

H. F. No. 763, A bill for an act relating to establishment of sewage systems in certain towns.

H. Y. TORREY, Secretary of the Senate.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

The bill was read for the first time and referred to the Committee on University.

Messrs. Fitzsimons, Day and Battles introduced—

H. F. No. 1299, A bill for an act relating to prior authorization for medical care under the categorical aid programs; amending Minnesota Statutes 1953, Section 256.01, Subdivision 2, as amended.

The bill was read for the first time and referred to the Committee on Welfare.

Messrs. Sundet, Anderson, M., Skeate and Ottinger introduced—

H. F. No. 1300, A bill for an act relating to services for the deaf and repealing Minnesota Statutes 1953, Section 256.97.

The bill was read for the first time and referred to the Committee on Welfare.

Mr. Adams introduced—

H. F. No. 1301, A bill for an act relating to nursing homes, regulating the use of buildings for such purposes; prescribing duties of State Fire Marshal in connection therewith.

The bill was read for the first time and referred to the Committee on Welfare.

MOTIONS AND RESOLUTIONS

Mr. Schulz moved that H. F. No. 775 be recalled from the Committee on Civil Administration and be re-referred to the Committee on General Legislation. The motion prevailed.

Mr. Wozniak moved that H. F. No. 868, now on General Orders, be re-referred to the Committee on Civil Administration. The motion prevailed.

Mr. Anderson, H. J., moved that the names of Mrs. Luther and Mr. Fitzgerald be added as co-authors on H. F. No. 595. The motion prevailed.

Messrs. Dunn and French offered:

HOUSE RESOLUTION NO. 11

A Resolution to reimburse George Ericson for expenses incurred in an election contest.

Whereas, George Ericson has incurred expenses in connection with an election contest, in the amount of \$5,065.06, involving his election to the House of Representatives.

Now, Therefore, Be It Resolved, that George Ericson be paid the sum of \$5,065.06 from the legislative expense fund, as reimbursement for such expense.

The resolution was referred to the Committee on Rules.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 167, A bill for an act relating to inspection and registration of soft drinks; amending Minnesota Statutes 1953, Section 34.03.

H. F. No. 368, A bill for an act authorizing counties having more than 350,000 and less than 500,000 inhabitants to acquire property for public parks and other places of recreation; to provide rules and regulations for the use of the same and for arrest and punishment for violations.

H. F. No. 369, A bill for an act relating to sheriff's deputies in counties having more than 350,000 and less than 500,000 inhabitants; amending Laws 1953, Chapter 499, as amended.

H. F. No. 370, A bill for an act relative to the assignment clerk in the office of the Clerk of the District Court in counties having more than 240,000 and less than 330,000 inhabitants; and repealing Minnesota Statutes 1953, Section 485.04.

H. F. No. 372, A bill for an act relating to owning and operating of radio broadcasting stations by counties having more than 350,000 and less than 500,000 inhabitants for police, fire, highway and other purposes and authorizing the use of such facilities by towns and municipalities within such counties and by adjoining counties and towns and municipalities therein.

H. Y. TORREY, Secretary of the Senate.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 277: A bill for an act relating to the satisfaction of conditional sales contracts; amending Minnesota Statutes 1953, Section 511.18, Subdivision 4.

H. Y. TORREY, Secretary of the Senate.

Thompson, T.	Volstad	Wee	Wilder
Tiemann	Voxland	Wetzel	Windmiller
Ukkelberg	Wanvick	Wichterman	Wozniak
VanDeRiet	Warnke	Widstrand	Yetka

Mr. Speaker

Mr. Fuller voted in the negative.

So the resolution was adopted.

HOUSE SPECIAL ORDERS

The hour of 3 p. m. having arrived, Mr. Wozniak moved that the House Special Orders be continued until 3:30 p. m. The motion prevailed.

REPORTS OF STANDING COMMITTEES—Continued

Mr. Cina from the Committee on Rules to which was referred—

House Resolution No. 10, to reimburse Seth R. Phillips for expenses incurred in an election contest.

Reported the same back with the following amendments:

In paragraph 2, line 2, strike the figure "\$8,620.20" and insert in lieu thereof the figure "\$4,000.00".

Further amend by adding another paragraph to read:

"Said sum of \$4,000.00 shall be paid to Seth R. Phillips and to the firm of Robins, Davis & Lyons, Attorneys at Law, as co-payees."

With the recommendation that when so amended the resolution do pass.

The report was adopted.

Mr. Cina moved that House Resolution No. 10 be adopted.

The question being taken on the adoption of the resolution and the roll being called, there were yeas 92, and nays 13, as follows:

Those who voted in the affirmative were:

Adams	Duxbury	Jude	O'Dea	Tomczyk
Affeldt	Enestvedt	Karth	Ogle	Ukkelberg
Alderink	Erdahl	Kelly	Olson, C.G.	VanDeRiet
Anderson, H.R.	Fitzgerald	King	Olson, G.W.	Volstad
Anderson, J.T.	Fitzsimons	Kording	Ottinger	Voxland
Basford	Franz	LaBrosse	Otto	Wanvick
Battles	French	Langen	Parks	Warnke
Beanblossom	Fudro	Larson	Paulson	Wee
Bergeson	Furst	Lorentz	Peterson	Wetzel
Berglund	Gerling	Luther (Mrs.)	Podgorski	Wichterman
Campton	Goodin	McGill	Prifrel	Widstrand
Chilgren	Grittner	McGuire	Rutter	Wilder
Cina	Hagland	Munger	Searle	Windmiller
Conn	Halsted	Murk	Shipka	Wozniak
Conroy	Hartle	Nelson	Shovell	Yetka
Cunningham	Herzog	Nordin	Skeate	Mr. Speaker
Day	Hofstad	Nordlie	Sorensen	
Dirlam	Iverson	Noreen	Sundet	
Dunn	Johnson, E.P.	Oberg	Swenson, E.T.	

Those who voted in the negative were:

Angstman	Fuller	Johnson, O.L.	Mitchell	Swenson, G.W.
Bergerud	Grussing	McCarty	Schulz	
Franke	Huebner	McLeod	Schumann	

So the resolution was adopted.

Mr. Cina from the Committee on Rules to which was referred—

House Resolution No. 11, to reimburse George Ericson for expenses incurred in an election contest.

Reported the same back with the following amendments:

In paragraph 2, line 2, strike the figure "\$5,065.06" and insert in lieu thereof the figure "\$3,100.00".

Further amend by adding another paragraph to read:

"Of said sum of \$3,100.00, \$578.22 shall be remitted to Seth R. Phillips and the firm of Robins, Davis & Lyons, Attorneys at Law, as co-payees as reimbursement to said Seth R. Phillips for taxable costs which said Seth R. Phillips could have assessed against said George E. Ericson and that receipt of said sum shall be in lieu of any judgment that said Seth R. Phillips may have against the said George E. Ericson for said costs."

With the recommendation that when so amended the resolution do pass.

The report was adopted.

Mr. Cina moved that House Resolution No. 11 be adopted.

The question being taken on the adoption of the resolution and the roll being called, there were yeas 96, and nays 11, as follows:

Those who voted in the affirmative were:

Adams	Enestvedt	Karth	O'Dea	Tomczyk
Affeldt	Erdahl	Kelly	Ogle	Ukkelberg
Alderink	Fitzgerald	King	Olson, C.G.	VanDeRiet
Anderson, H.R.	Fitzsimons	Kording	Olson, G.W.	Volstad
Anderson, J.T.	Franz	LaBrosse	Ottinger	Voxland
Aune	French	Langen	Otto	Wanvick
Basford	Fudro	Larson	Parks	Warnke
Battles	Gerling	Lindquist	Paulson	Wee
Beanblossom	Goodin	Lorentz	Peterson	Wetzel
Berglund	Grittner	Lovik	Podgorski	Wichterman
Campton	Grussing	Luther (Mrs.)	Prifrel	Widstrand
Chilgren	Hagland	McCarty	Rutter	Wilder
Cina	Halsted	McGill	Searle	Windmiller
Conn	Hartle	McGuire	Shipka	Wozniak
Conroy	Herzog	Munger	Shovell	Yetka
Cunningham	Hofstad	Murk	Skeate	Mr. Speaker
Day	Iverson	Nelson	Sundet	
Dirlam	Jensen	Nordlie	Swenson, E.T.	
Dunn	Johnson, E.P.	Noreen	Thompson, H.	
Duxbury	Jude	Oberg	Thompson, T.	

Those who voted in the negative were:

Bergerud	Fuller	Johnson, O.L.	Mitchell	Schumann
Cummings	Huebner	McLeod	Schulz	Swenson, G.W.
Franke				

So the resolution was adopted.

Mr. Cina from the Committee on Rules to which was referred—

House Resolution No. 14, To reimburse Joseph J. Kelly for expenses incurred in an election contest.

Reported the same back with the following amendments:

In paragraph 2, line 2, strike the figure "\$519.90" and insert in lieu thereof, the figure "\$350.00"

With the recommendation that when so amended the resolution do pass.

The report was adopted.

Mr. Cina moved that House Resolution No. 14 be adopted.

The question being taken on the adoption of the resolution and the roll being called, there were yeas 116, and nays 2, as follows:

Those who voted in the affirmative were:

Adams	Day	Jensen	Newhouse	Sundet
Affeldt	Dirlam	Johnson, E.P.	Nordlie	Swenson, E.T.
Alderink	Dunn	Johnson, O.L.	Noreen	Thompson, H.
Anderson, D.F.	Duxbury	Jude	Oberg	Thompson, T.
Anderson, H.J.	Enestvedt	Karth	O'Dea	Tomczyk
Anderson, H.R.	Erdahl	King	Ogle	Ukkelberg
Anderson, J.T.	Ernst	Knudsen	Olson, C.G.	VanDeRiet
Anderson, M.	Fitzgerald	Kording	Olson, G.W.	Volstad
Angstman	Fitzsimons	LaBrosse	Ottinger	Voxland
Aune	Franke	Langen	Otto	Wanvick
Basford	Franz	Larson	Parks	Warnke
Battles	French	Lindquist	Paulson	Wee
Beanblossom	Fudro	Lorentz	Peterson	Wetzel
Bergerud	Furst	Lovik	Podgorski	Wichterman
Bergeson	Gerling	Luther (Mrs.)	Prifrel	Widstrand
Berglund	Goodin	McCarty	Renner	Wilder
Campton	Grittner	McGill	Rutter	Windmiller
Chilgren	Hagland	McGuire	Schulz	Wozniak
Christie	Halsted	McLeod	Schumann	Yetka
Cina	Hartle	Mitchell	Searle	Mr. Speaker
Conn	Herzog	Mueller	Shipka	
Conroy	Hofstad	Munger	Shovell	
Cummings	Huebner	Murk	Skeate	
Cunningham	Iverson	Nelson	Sorensen	

Messrs. Fuller and Swenson, G. W. voted in the negative.

So the resolution was adopted.

Mr. Cina from the Committee on Rules to which was referred—

House Resolution No. 15, To reimburse Ralph R. Madden for expenses incurred in an election contest.

Reported the same back with the following amendments:

In paragraph 2, line 2, strike the figure "\$715.70" and insert in lieu thereof, the figure "\$300.00"

Further amend by adding a new paragraph as follows:

"Be It Further Resolved, that such sum of \$300 shall be paid to Ralph R. Madden and P. M. Meehl, Attorney at Law, Marshall, Minnesota, as co-payees."

With the recommendation that when so amended the resolution do pass.

The report was adopted.

Mr. Cina moved House Resolution No. 15 be adopted.

The question being taken on the adoption of the resolution and the roll being called, there were yeas 121, and nays 1, as follows:

Those who voted in the affirmative were:

Adams	Dirlam	Iverson	Newhouse	Sorensen
Affeldt	Dunn	Jensen	Nordin	Sundet
Alderink	Duxbury	Johnson, O.L.	Nordlie	Swenson, E.T.
Anderson, D.F.	Enestvedt	Jude	Noreen	Thompson, H.
Anderson, H.J.	Erdahl	Karth	Oberg	Thompson, T.
Anderson, H.R.	Ernst	King	O'Dea	Tiemann
Anderson, J.T.	Fitzgerald	Knudsen	Ogle	Tomczyk
Anderson, M.	Fitzsimons	Kording	Olson, C.G.	Ukkelberg
Angstman	Franke	LaBrosse	Olson, G.W.	VanDeRiet
Aune	Franz	Langen	Ottinger	Volstad
Basford	French	Langley	Otto	Voxland
Battles	Fudro	Larson	Parks	Wanvick
Beanblossom	Fugina	Lindquist	Paulson	Warnke
Bergerud	Fuller	Lorentz	Peterson	Wee
Bergeson	Furst	Lovik	Podgorski	Wetzel
Berglund	Gerling	Luther (Mrs.)	Prifrel	Wichterman
Campton	Goodin	McCarty	Reed	Widstrand
Chilgren	Grittner	McGill	Renner	Wilder
Christie	Grussing	McGuire	Rutter	Windmiller
Cina	Hagland	McLeod	Schulz	Wozniak
Conn	Halsted	Mitchell	Schumann	Mr. Speaker
Conroy	Hartle	Mosier	Searle	
Cummings	Herzog	Mueller	Shipka	
Cunningham	Hofstad	Murk	Shovell	
Day	Huebner	Nelson	Skeate	

Mr. Swenson, G. W. voted in the negative.

So the resolution was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 950, 1352, 1451, 993, 1901, 2006, 2053, 2054, 1584 and 1862 were read for the second time.