

Mr. Richardson from the Committee on Elections, to which was referred all files and records in re the Contest of Oscar W. Olson and twenty-four other voters, vs. Claude H. MacKenzie, reports said matter to the Senate with its findings, conclusions and recommendations, viz.:

From the files and records the following facts appear:

1. That at the general election held on November 6, 1934, said Claude H. MacKenzie and Lawrence T. Wiick were candidates for the office of Senator in the 15th Legislative District.

2. That according to the report of the State Canvassing Board, made November 20, 1934, Claude H. MacKenzie received a majority of the votes cast for said office and was declared duly elected Senator from said district.

3. That in accordance with the report of said State Canvassing Board, a certificate of election was issued by the Secretary of State on November 20, 1934, to said Claude H. MacKenzie, and that on January 8, 1935, he was duly sworn in as Senator from said district.

4. That on December 6, 1934, one Oscar W. Olson and 24 other persons, alleging themselves to be legal voters in said senatorial district, filed a petition in the district court of Sibley County, wherein said Claude H. MacKenzie resides, contesting such election on the ground that said Claude H. MacKenzie had, during his campaign for such office, violated the provisions of the Corrupt Practices Act, being Chapter 33 of the Laws of 1912.

5. That on December 22, 1934, said matter came on for hearing before the district court in said county, the Hon. A. B. Gislason from the Ninth District sitting in place of the Hon. C. M. Tift of the Eighth district.

6. That at said hearing the contestee objected to the jurisdiction of the court on the grounds that:

(a) The petition was not filed in said Court within the time prescribed by law.

(b) That no notice of contest was filed within the time prescribed by law.

(c) That no notice of contest was served upon contestee within the time prescribed by law.

(d) That the petition did not state facts sufficient to constitute a cause of contest.

7. That no evidence was taken at said hearing for the purpose of preserving the same for presentation to the Senate.

8. That the Judge of said Court held that he was without jurisdiction to take such evidence and stated that if contestants so desired they might apply to the Supreme Court for mandamus directing him to take and preserve the same; that no such appeal was taken; that said proceeding was dismissed, formal order to that effect being entered on January 4, 1935.

9. That a similar petition signed by 25 persons, purporting to be legal voters in said 15th Legislative District, was filed in the Senate on January 8, 1935, but said 25 persons are not all of them the same 25 persons who filed the petition in the district court.

The defeated candidate, Lawrence T. Wiick, was not a signer of either petition and did not join in the contest.

The Committee upon the foregoing facts finds and so holds that the contestant in no way has complied with the provisions of Chapter 162, Laws of 1919, which we hold is the exclusive remedy in any and all contests for a seat in the Senate or House of Representatives where claim is made of violation of the Corrupt Practices Act. That in any such cases contestant must have the evidence taken in the courts and certify such evidence to the Legislature in order that the legislative bodies may pass upon the validity of the contest without the taking of testimony involving the hearing of many witnesses. That this was plainly the intent of said Chapter 162 and the same having not been complied with, your Committee is of the opinion and recommends that the contest be dismissed.

MOTIONS AND RESOLUTIONS—CONTINUED.

Mr. Lawson moved that the foregoing committee report be printed in the Journal and lie over one day.

Which motion prevailed.

SECOND READING OF SENATE BILLS.

S. F. Nos. 500 and 522 were read the second time.

SECOND READING OF HOUSE BILLS.

H. F. No. 162 was read the second time.

MOTIONS AND RESOLUTIONS—CONTINUED.

Mr. Bridgeman moved that H. F. No. 415 be taken from the table.

Which motion prevailed.

H. F. No. 415 was taken from the table.

SUSPENSION OF RULES.

Mr. Bridgeman then moved that the rules be suspended, that H. F. No. 415 be read the second time and substituted for S. F. No. 408, No. 37 on General Orders, and that S. F. No. 408 be indefinitely postponed.

Which motion prevailed.

H. F. No. 415 was read the second time.

S. F. No. 408 was indefinitely postponed.

MOTIONS AND RESOLUTIONS—CONTINUED.

Mr. Bridgeman moved that H. F. No. 428 be taken from the table.

Which motion prevailed.

H. F. No. 428 was taken from the table.

SUSPENSION OF RULES.

Mr. Bridgeman then moved that the rules be suspended, that H. F. No. 428 be read the second time and substituted for S. F. 407, No. 38 on General Orders, and that S. F. No. 407 be indefinitely postponed.

Which motion prevailed.

may be entered, with or without notice, assigning such property to the persons entitled thereto pursuant to the terms of the will, or if there be none pursuant to Article III."

11. In Section 141, line 15, make a new paragraph of the rest of the section commencing with the word "Within".

In Section 141, last line, after the period following the word "accounting" and before the parenthesis sign, insert the following sentence: "Whenever a special guardian has been appointed to protect the ward's interest in any matter wherein the interest of the general guardian appears to conflict with that of the ward, or to protect the ward's interest upon suspension of an order of removal of a general guardian by appeal, the power of such special guardian shall not cease until terminated by the court."

12. In Section 162, line 2, after the word "lease" and before the word "or" insert a comma.

13. In Section 175, line 2, after the word "place" and before the word "as", the words "and upon notice to such persons and served in such manner" be inserted.

In Section 175, line 11, after the word "control" the period be stricken and ", and to such other persons and in such manner as the court may direct." be added.

14. In Section 188, line 15, the word "county" be stricken and the word "country" be inserted in lieu thereof.

15. In Section 197, line 3, after the period, add the following sentence: "The term (G. S. —) or (L—c—) at the end of a section indicates its origin only."

16. In Section 199, line 2, after the period, add the following sentence: "For convenience only, the table of contents immediately preceding Article I shall be appended to and printed with this act immediately preceding Article I."

17. In Section 185, the last sentence be stricken and, "The word "minor" means a male person under the age of twenty-one years, or a female person under the age of eighteen years." be inserted in lieu thereof before the parenthesis sign.

18. Show S. F. No. 310 introduced by Mr. Loftsgaarden for the Committee on Judiciary in lieu of "by request."

And when so amended that the bill do pass.

Amendments adopted.

Report adopted.

SECOND READING OF SENATE BILLS.

S. F. Nos. 175, 108, 363 and 310 were read the second time.

MOTIONS AND RESOLUTIONS—CONTINUED.

Mr. Richardson moved that the report of the Committee on Elections relating to the contest of Oscar W. Olson and twenty-four other voters, vs. Claude H. MacKenzie, as found recorded on pages 347 and 348, in the Journal of the thirty-first day, be now adopted.

MINORITY COMMITTEE REPORT.

Mr. Lawson, a member of the committee on Elections to which

was referred all files and records in re the contest of Oscar W. Olson and twenty-four other voters, vs. Claude H. MacKenzie, made the following minority report to the Senate with his findings, conclusions and recommendations, to-wit:

From the files and records the following facts appear:

1. That at the general election held on November 6, 1934, said Claude H. MacKenzie and Lawrence T. Wiick were candidates for the office of Senator in the 15th Legislative District.

2. That according to the report of the State Canvassing Board, made November 20, 1934, Claude H. MacKenzie received a majority of the votes cast for said office and was declared duly elected Senator from said district.

3. That in accordance with the report of said State Canvassing Board, a certificate of election was issued by the Secretary of State on November 20, 1934, to said Claude H. MacKenzie, and that on January 8, 1935, he was duly sworn in as Senator from said district.

4. That on December 6, 1934, one Oscar W. Olson and twenty-four other persons, alleging themselves to be legal voters in said senatorial district, filed a petition in the District Court of Sibley County, wherein said Claude H. MacKenzie resides, contesting such election on the ground that said Claude H. MacKenzie had, during his campaign for such office, violated the provisions of the Corrupt Practices Act, being Chapter 33 of the Laws of 1912.

5. That on December 22, 1934, said matter came on for hearing before the District Court in said county, the Honorable A. B. Gislason from the Ninth District sitting in place of the Honorable C. M. Tiff of the Eighth District.

6. That at said hearing the contestee objected to the jurisdiction of the court on the grounds that:

(a) The petition was not filed in said Court within the time prescribed by law.

(b) That no notice of contest was filed within the time prescribed by law.

(c) That no notice of contest was served upon contestee within the time prescribed by law.

(d) That the petition did not state facts sufficient to constitute a cause of contest.

(e) That the Court was without jurisdiction to hear, determine and make findings.

7. That no evidence was taken at said hearing for the purpose of preserving the same for presentation to the Senate, for the reason that the Court held that it was without jurisdiction to take such evidence, that the State Senate alone had sole and original jurisdiction, and thereafter and on the 4th day of January, 1935, made and entered its order for the purpose of having the subject matter involved in this contest certified to the State Senate for hearing.

8. That in filing said notice of contest, contestants proceeded under Section 570, Mason's Minnesota Statutes for 1927, reading as follows:

"Any twenty-five voters of the state, or of any political division thereof, may contest the right of any person to nomination, position, or office for which said voters had the right to vote, on the ground of deliberate, serious and material violation of the provisions of this act or of any other provisions of law relating to nominations and elections. Any defeated candidate for said nomination, position or office may make said contest. Said procedure shall be commenced by petition filed in the district court of the county in which the candidate whose election is contested resides, and the contest shall be carried on according to law."

That the Court ruled, in substance, that the Legislature failed to provide any machinery for the hearing of said cause under said Section 570; that the provisions of Chapter 162, Laws of 1919, does not authorize the Court to take evidence for the purpose of preserving the same for presentation to the Senate under proceedings commenced under said Section 570.

9. That a similar petition signed by twenty-five persons, purporting to be legal voters in said 15th Legislative District, was filed with the Senate on January 8, 1935, under and pursuant to the provisions of Sections 3 of Article 4, of the constitution of the State of Minnesota, reading as follows:

"Each house shall be the judge of the election, returns, and eligibility of its own members; a majority of each shall constitute a quorum to transact business, but a smaller number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as it may provide."

10. That an offer of proof in the form of affidavits was presented by petitioners charging the said Claude H. MacKenzie with a deliberate, serious and material violation of the provisions of the Corrupt Practices Act; that original copies of said affidavits are hereto attached and hereby made a part hereof; that an offer of proof was made that the said Claude H. MacKenzie expended the sum of approximately Six Thousand Dollars (\$6,000.00) to be elected to said office of State Senator.

11. That the Committee on Elections refused to accept such offers of proof, or any testimony in support thereof or of the charges alleged in either of the petitioners herein.

That the Senate, upon the foregoing facts, finds and so holds, that the contestants and petitioners herein have in all respects complied with the provisions of law and the constitution of the State of Minnesota; that the Senate has original jurisdiction and is the sole judge of the eligibility of its own members; that the provisions of Chapter 162, Laws of 1919, are inapplicable to any proceeding involving a contest on the ground of a violation of the Corrupt Practices Act of the State of Minnesota as provided in and by the provisions of Section 570, Mason's Minnesota Statutes of 1927; that the provisions of said Chap-

ter 162, Laws of 1919, is applicable only to a proceeding commenced by any candidate for the office of Senator or Representative, and is not applicable to any proceeding commenced by twenty-five voters of the state as provided in said Section 570, Masons' Minnesota Statutes for 1927; that there is no law requiring contestants or petitioners herein to have evidence taken in the courts for the purpose of having the same certified to the Legislature; that the said contestee, Claude H. MacKenzie, should have an opportunity to present evidence in defense of the said charges of alleged violation of the Corrupt Practices Act of the State of Minnesota, as set forth in the said notice of contest, petition, and offer of proof as set forth in said affidavits; that the entire subject matter involved in the proceedings herein be re-referred to the Committee on Elections; that the said Committee is hereby instructed to hear and determine the same upon the merits and upon full and complete presentation of all evidence presented by contestants, petitioners and contestee herein, and make due report to the Senate of findings of fact and recommendations thereon.

MOTIONS AND RESOLUTIONS—CONTINUED.

Mr. Lawson moved that the foregoing Minority committee report be substituted for the report of the committee on Elections, as found recorded on pages 347 and 348 in the Journal of the thirty-first day, and that the report by the committee on Elections be indefinitely postponed.

CALL OF THE SENATE.

Mr. Orr moved a call of the Senate.

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

Adams	Finstad	Loftsgaarden	Orr	Sprung
Almen	Foslien	Lommen	Pederson	Starks
Anderson	Galvin	MacKenzie	Ribenack	Stiening
Berg	Hausler	McLeod	Rice	Sullivan, H. H.
Berglund	Imm	Marshall	Richardson	Tungseth
Bonniwell	Johnson, C. E.	Mellon	Rockne	Weber
Bridgeman	Johnson, T. H.	Miller, A. H.	Roepke	Wing
Carley	Kingsley	Miller, F. J.	Romberg	Wolfe
Cashman	Kozlak	Morrison	Ruotsinoja	Woolsey
Cravens	Larson	Mullin	Schmechel	Wright
Crowley	Lawson	Murphy	Sell	
Dietz	Lightner	Novak	Sletvold	
Farnand	Lodin	Oliver	Solstad	

With the unanimous consent of the Senate, the following business was transacted, pending the call of the Senate.

MOTIONS AND RESOLUTIONS—CONTINUED.

Mr. Miller, F. J., moved that S. F. No. 765 be taken from the table.

Which motion prevailed.

S. F. No. 765 was taken from the table.

SUSPENSION OF RULES.

Mr. Miller, F. J., then moved that the rules be suspended and that

member of the Compensation Insurance Board, be referred to the committee on Workmen's Compensation.

Which motion prevailed.

Mr. Berg moved that consideration of the nomination by his Excellency, the Governor, of Frank Yetka as Commissioner of Insurance, be referred to the committee on Insurance.

Which motion prevailed.

Mr. Berg moved that consideration of the nomination by his Excellency, the Governor, of Mr. Melvin C. Passolt, as Superintendent of the Minnesota Bureau of Criminal Apprehension, be referred to the committee on Crime and Crime Prevention.

Which motion prevailed.

Mr. Berg moved that consideration of the nomination by his Excellency, the Governor, of Dr. K. Janie Manuel, as a member of the State Board of Osteopathy, be referred to the committee on Public Health.

Which motion prevailed.

CALL LIFTED.

Mr. Orr moved to dispense with further proceedings under the Call of the Senate.

Which motion prevailed.

FURTHER CONSIDERATION OF REPORT BY COMMITTEE ON ELECTIONS.

The question then recurred on the adoption of the motion as made by Mr. Lawson, that the Minority committee report be adopted.

And the roll being called, there were yeas 16, and nays 45, as follows:

Those who voted in the affirmative were:

Bridgeman	Foslien	Kozlak	Lommen	Rice
Cravens	Johnson, C. E.	Lawson	Mellon	Romberg
Dietz	Johnson, T. H.	Lodin	Pederson	Sprung
Farnand				

Those who voted in the negative were:

Adams	Finstad	Marshall	Ribenack	Starks
Almen	Galvin	Miller, A. H.	Richardson	Stiening
Anderson	Hausler	Miller, F. J.	Rockne	Sullivan, H. H.
Berg	Imm	Morrison	Roepke	Tungseth
Berglund	Kingsley	Mullin	Ruotsinoja	Weber
Bonniwell	Larson	Murphy	Schmechel	Wing
Carley	Lightner	Novak	Sell	Wolfe
Cashman	Loftsgaarden	Oliver	Sletvold	Woolsey
Crowley	McLeod	Orr	Solstad	Wright

So the motion did not prevail.

Which Minority committee report was not adopted.

The question then recurred on the motion as made by Mr. Richardson that the report of the committee on Elections, as

found recorded on pages 347 and 348 in the Journal of the thirty-first day, be now adopted.

Which motion prevailed.

Which committee report was adopted.

MOTIONS AND RESOLUTIONS—CONTINUED.

Mr. Richardson moved that the affidavits, referred to in the contest of Oscar W. Olson and twenty-four other voters vs. Claude H. Mackenzie, be not printed in the Journal.

Which motion prevailed.

Mr. Foslein moved that one thousand copies of S. F. No. 652 be printed.

Which motion prevailed.

Mr. Stiening moved that two thousand copies of S. F. No. 743 be printed.

Which motion prevailed.

Mr. Cravens moved that S. F. No. 749 be withdrawn from the Committee on Markets and Marketing.

Which motion prevailed.

S. F. No. 749 was withdrawn from the Committee on Markets and Marketing.

Mr. Cravens then moved that S. F. No. 749 be re-referred to the Committee on Dairy Products and Livestock.

Which motion prevailed.

S. F. No. 749 was re-referred to the Committee on Dairy Products and Livestock.

Mr. McLeod moved that the report of the Feed Relief committee, as found recorded on pages 333 and 334 in the Journal of the thirtieth day, be now adopted.

Which motion prevailed.

Which report was adopted.

THIRD READING OF SENATE BILLS.

S. F. No. 557, A bill for an act providing the manner in which notice of redemption of outstanding bonds of any independent school district, with territorial limits which coincide with the territorial limits of any city of the first class in the State of Minnesota and the government of which independent school district is not provided for in the charter of said city, may be published in cases where the act authorizing such bonds does not specify the manner in which such notice of redemption shall be given and the bonds themselves do not recite on their face the manner in which such notice of redemption shall be given, and validating all of such bonds and authorizing the issuance of refunding bonds in order to redeem such bonds.

Was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

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

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