

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF FILLMORE

TENTH JUDICIAL DISTRICT.

William T. Walsh,

Contestant,

vs

Ralph Parker,

Contestee.

and

Mike Holm, Secretary of  
State of Minnesota.

Now comes Ralph Parker, contestee above named and Mike Holm, the above named Secretary of State, and for their answer return and points upon which they desire to offer testimony which are not specified in contestant's notice herein, allege the following facts:

1. That the said Ralph Parker, whose true and full name is Ralph J. Parker, now is and for more than thirty years last past has been a resident and legal voter in the County of Fillmore and State of Minnesota and during all of said time the said Ralph J. Parker has been a duly licensed and practicing attorney at law under the laws of the State of Minnesota.

2. That at the General Election held in the State of Minnesota in November 1914, the said Ralph J. Parker was duly elected a member of the House of Representatives of the State of Minnesota for the Legislative term beginning on the 1st Monday in January 1915, representing the Counties of Fillmore and Houston, comprising the 1st Legislative District and that he duly qualified and served as such Representative and that his said term expired by operation of law and the provisions of the Constitution of this State on the 1st Monday in January 1917.

3. That at the General Election held in said State in November 1916, the said Ralph J. Parker was again duly elected to said office for the Legislative term beginning on the 1st Monday in January 1917, and that he duly qualified and served as such Representative and that his said second term expired by operation of law and the provisions of the

Constitution of this State on the 1st Monday in January 1919.

4. That at the General Election held in said State in November 1918, the said Ralph J. Parker was again duly elected to said office for the Legislative term beginning on the 1st Monday in January 1919 and that he duly qualified and served as such Representative and that his said third term expired by operation of law and the provisions of the Constitution of this State on the 1st Monday in January 1921.

5. That at the General Election held in said State in November 1920, the said Ralph J. Parker was again duly elected to said office for the Legislative term beginning on the 1st Monday in January 1921, and that he duly qualified and served as such Representative and that his said fourth term will expire by operation of law and the provisions of the Constitution of this State on the 1st Monday of January 1923.

6. That the Counties of Houston, Fillmore, Nowar and Freeborn now do and for more than thirty years last past have composed the Tenth Judicial District in the State of Minnesota.

7. That the term of office of the present presiding Judge of said District expires on the 1st Monday in January 1923.

8. That on the 29th day of April 1922, and more than forty days prior to the Primary Election held in said State on the 19th day of June 1922, the said Ralph J. Parker being eligible to the office of Judge of the said Tenth Judicial District filed in the office of the said Secretary of State his affidavit in due form and thereby duly declared himself a candidate for the office of Judge of said District and then paid to said Secretary of State the fee required therefor by law.

9. That such proceedings were thereafter duly had, that at the General Election held in said State on the 7th day of November, 1922, the name of the said Ralph J. Parker duly appeared on the General Election Ballot as a candidate for the office of Judge of the District Court of the said Tenth Judicial District.

10. That further than as above stated nothing appeared on said ballot pertaining to the qualifications of the said Ralph J. Parker and said ballots and each and every one thereof were in due legal and usual form; said Parker received a majority of said votes cast for said office and was thereby duly elected to the said office of District Judge.

11. That the votes cast at said election in said District were duly returned to and canvassed by the Canvassing Boards of said Houston, Willmore, Mower and Trechorn Counties and by the Auditors of said Counties, the results thereof duly certified to the said Secretary of State. And there, by the State Canvassing Board, duly convened on the 28th day of November 1922 after a canvass of said returns, it was duly determined that at said Election the said Ralph J. Parker had received a majority of all votes cast for District Judge of said District, and that said Ralph J. Parker was duly elected to the said office of Judge of said District and that he was entitled to a certificate of election to said office, and the said Secretary of State was by said Board authorized and required to issue the same, which certificate was, pursuant to said determination and order, on the 28th day of November 1922 duly issued and delivered to and received by the said Ralph J. Parker, and the said Ralph J. Parker now is the duly elected Judge of said District for the six year term of said office commencing on the 1st day of January 1923.

12. That on the 13th of November, 1922, in proceeding in said Court wherein said contestant was plaintiff and said contestee and others were defendants, wherein the facts alleged by the plaintiff were the same alleged facts appearing in the present notice of election contest, and were at issue, upon a due and full hearing before said Court, each and all of said facts were duly determined and adjudicated against the said contestant. Findings of Fact, Conclusions of Law, and an Order for Judgment were duly made by the said Court immediately following said hearing, pursuant to which judgment has been duly entered in favor of

of said Ralph J. Parker, contestee, and against the said William T. Kelsh, contestant, herein and plaintiff in said order to show cause. A copy of said Judgment in said prior hearing is hereto attached, made a part hereof and marked Exhibit "A". That on account of said hearing, findings, conclusions and directions of the Court and the said judgment of the Court thereon, all of the matters and things set forth in the present notice of election contest, are res adjudicata and said contestant is barred from reopening the same and from any further hearing or finding or judgment in reference thereto.

13. The allegations contained in paragraph 8 of said contest notice are on information and belief denied as to the alleged residence of the said contestant, and it is further denied on information and belief that said contestant was properly or legally a candidate for said office of District Judge of said District, at said General Election, and said contestee and said Secretary expressly deny that said contestant was elected to the position of said District Judge, either as claimed by him in said contest notice or otherwise; and that in no event is said contestant authorized to receive any certificate of election or to assume the duties of said office or to act in the capacity of said District Judge on the first Monday of January 1923, or at any other time.

14. The only term and only session of the said State Legislature of which said Ralph J. Parker was a member, at which there was any increase in the salary or emolument of District Judges, was at the special session of 1919, wherein by Chapter 30 of the General Laws of said 1919, the salary of District Judges was advanced from \$4200.00 a year to \$4800.00 a year. That the Legislative term and Legislative session at which said law was passed, expired and ended on the first Monday of January 1921, or approximately one year and eight months prior to the General Election of 1922, at which said Ralph J. Parker was duly elected to the office of District Judge of the Tenth Judicial District, as hereinbefore stated.

15. Chapter 431 of the General Laws of 1921 relative to the salary of District Judges, in no way affects the salary of the Judge of the Tenth Judicial District, either directly or indirectly, because said Tenth Judicial District contains less than 3000 square miles.

16. Chapter 249 of the General Laws of 1981 refers in no way to the salary or emoluments of Judges of the District Court of this State.

17. Said Contestee and said Secretary deny each and every other allegation, matter and thing contained in said contest notice not herein before expressly admitted.

WHEREFORE, said contestee and said Secretary pray for a dismissal of said contest on the merits and for a judgment against said contestant for the costs and disbursements of this proceeding.

Clifford L. Hilton  
Attorney General,  
For the Secretary of State.

H.H. Dunn

Nathan E. Peterson,  
Albert Lea, Minn.

P.O. Sasse,

Catherwood & Nicholson,  
Austin, Minn.

H.O. Partridge,  
Spring Valley, Minn.

A.D. Gray,

John E. Hoop,  
Preston, Minn.

L.L. Duxbury,

H.J. Flynn,  
Caledonia, Minn.

Attorneys for the Contestee

EXHIBIT A

STATE OF MINNESOTA  
COUNTY OF FILLMOREDISTRICT COURT  
TENTH JUDICIAL DISTRICT

William T. Keloh, Plaintiff,

vs.

Ralph Parker,  
Mike Holm, Secretary of State,  
The Auditor of Nowar County,  
The Auditor of Houston County,  
The Auditor of Freeborn County,  
The Auditor of Fillmore County,  
Defendants.

JUDGMENT

The above entitled proceeding came on for hearing before the Court, at Preston, in said Fillmore County, on the 13th day of November, 1922, upon an order requiring the defendants to show cause why the name of Ralph Parker should not be stricken from the list of eligible candidates for the position of District Judge of the Tenth Judicial District, and declaring void any votes cast for him for said office, at the General Election held November 7th, 1922. The appearance<sup>s</sup> in said proceeding, were William T. Keloh, the plaintiff, in his own behalf, and Gatherwood & Nicholson and F.G. Sasse, of Austin, H.H. Dunn and Norman E. Petersen of Albert Lea, A.D. Gray and John W. Hopp of Preston, L.L. Duxbury and William D. Flynn of Caledonia, S.C. Pattridge Esq. of Spring Valley, in place of the Attorney General on behalf of the Secretary of State.

A motion<sup>s</sup> was made and presented on behalf of the defendants, for a dismissal of the proceeding and a discharge of the said order to show cause, upon numerous<sup>s</sup> grounds set out in the motion papers and filed with the Court in said action.

Upon reading the motion papers filed in said cause on behalf of their respective parties, listening to the arguments of counsel and being duly advised, the Court made and filed Findings of Fact and Conclusions of Law in said cause.

The Court found among other things, that for more than fifty years, the Counties of Houston, Fillmore, Moor and Crookston have composed the Tenth Judicial District of Minnesota, and during said time the office of Judge of said District Court has been an office under the authority of said State. The term of office of the present presiding Judge will expire on the first Monday of January, 1923, and his successor was one of the officers to be chosen by the voters at the General Election held November 7th, 1922. At said election the name of the defendant Ralph Parker as Ralph J. Parker which is his true and full name, was on the official ballot in each of the counties in said Judicial District, as a candidate for the office of District Judge. The said ballots were in all respects fair upon their face and contained nothing indicating any disqualification or ineligibility upon the part of said Parker for said office. At the election said Parker was elected by a majority of more than two-thirds of the total votes cast, his plurality exceeding 10,000 votes.

The Court further found, that said Parker was a member of the Legislature of the State of Minnesota, for the two-year term ending on the first Monday in January, 1923; that the emoluments of the office of the Judge of the District Court of said Tenth Judicial District were not increased in any way during said term, and have not been increased in any manner, at any time since the increase made by Chapter 30 of the Special Legislative Session of 1918 and which occurred long prior to the commencement of the present term of said Parker in the House of Representatives. Said Parker was also a member of the House of Representatives of said State Legislature during the two-year term of office which ended on the first Monday in January 1921, but that term of office had expired more than one year before the General Election of November 7th, 1922, at which said Parker was chosen Judge of said District Court for the term commencing the first Monday in January 1923.

The Court having found that said Parker was at said election duly elected to the office of Judge of the District Court of said Tenth Judicial District, that the ballots at said election were fair upon their face and that there was no showing of any disqualification or ineligibility on the part of said Parker to hold said office, and having found that said motion of the defendants for a dismissal should be granted and said Order to show cause discharged, and having ordered and directed that judgment should be entered in accordance with said Findings;

NOW THEREFORE, Pursuant to said findings and directions of the Court and upon motion of Catherwood & Nicholson attorneys for the said defendants,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, That said motion for a dismissal of said proceeding be and is hereby granted, and said application of the plaintiff dismissed upon the merits and that said order to show cause be and is hereby in all things discharged.

It is further Ordered, Adjudged and Decreed, That the said defendants have judgment against the plaintiff for the costs and disbursements of this proceeding herein taxed by the Clerk of said Court, in the sum of \$14.00 and that the defendants have execution therefor.

WITNESS THE HONORABLE JOHN F.D. MEIGREN, Judge of said Court, and the seal of said Court, at Preston, Fillmore County, Minnesota, this 9th day of December, 1922.

By the Court,

A. D. Gray Jr.  
Clerk of said Court.

(Court Seal)



STATE OF MINNESOTA

COUNTY OF FILLMORE

Ralph J. Parker of said County being duly sworn, says he is the Contestee in this action; that he knows the contents of the foregoing Answer and Return and that the same is true of deponent's own knowledge, except as to those matters which are therein stated on his information and belief, and as to those matters that he believes it to be true.

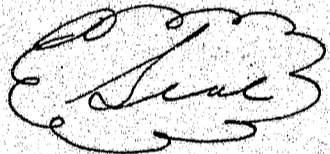
Subscribed and sworn to before me

this 12<sup>th</sup> day of December, 1927.

Ludwig Sullivan

Notary Public, Fillmore County, Minn.

My Commission expires Dec 13, 1927

A circular notary seal with the word "Seal" written in the center.

Ralph J. Parker

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