

No.

State of Minnesota

In District Court

1933

Randall L. Lodin, Applicant

vs

Wm. Helm, as Secretary of State
E. A. Carlson, as County Auditor
of Ancker County
H. B. Howell, as County Auditor
of Isanti County

Respondents

Case No. 10000

10000

Upon presentation of the affidavit and petition of Randall L. Lodin and pursuant to Section 10000 of the Minnesota Statutes of 1927, section 10000,

It is ordered:

That you, Wm. Helm as Secretary of State of the State of Minnesota, immediately amend and correct your certification to the county auditors of Ancker and Isanti Counties, respectively, in respect to the nomination of candidates for the office of Senator in the legislative term from the Forty-fourth district so that the words "(Present Senator, Isanti)" following the name of Albert L. Lodin will be omitted from such certification.

That you, E. A. Carlson, and H. B. Howell, as County Auditors of the counties of Ancker and Isanti, respectively, refrain and abstain from preparing, printing, publishing, filing or distributing ballots for use by the voters of said counties containing the words "(Present Senator, Isanti)" following the name of Albert L. Lodin.

Or that you and each and all of you show cause before this court at the State Capitol in St. Paul, Minnesota, on the 10th day of October, 1933, ^{at 9:30 A.M.} why you have not done so.

And until further order of the court, you, the said county auditors, are hereby restrained from taking any steps in preparing, printing, publishing, filing or distributing ballots containing the words "(Present Senator, Isanti)" following the name of Albert L. Lodin.

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Let copies of this order and the accompanying affidavit and petition be served forthwith upon the respondent's wife by leaving the same at his office in the State Capitol Building with the person in charge thereof, if he is absent therefrom, and upon him personally, if present, and upon the respondent's county auditors in the same manner as a summons in a civil action.

Dated at St. Paul, Minnesota this 4th day of October, 1933.

Henry M. Gallagher
Clerk of Court

NO.

BOARD OF ELECTIONS

BY SPECIAL ORDER

1920

Wendell L. Lodin, Petitioner

vs

RESPONDENTS

Hila Holm, as Secretary of State;
E. A. Carlson, as County Auditor
of Anoka County;
H. E. Norrell, as County Auditor
of Isanti County

Respondents

STATE OF MINNESOTA

COUNTY OF HENRY

Wendell L. Lodin, the petitioner herein, states on oath, that:

1. Your petitioner resides at Bethel, in Anoka County, Minnesota, and is a citizen of the United States and of the State of Minnesota, a voter and taxpayer, and eligible to hold the office of Senator in the State Legislature from the Forty-fourth District of said State.

2. Respondent Hila Holm is Secretary of State of the State of Minnesota and as such was and is charged with the duty of certifying to the auditors of the several counties of the state the names of all persons found by the State Canvassing Board to be nominated as candidates for the Legislature to be voted for in more than one county and including certification of the nominees and candidates for the office of Senator in the Legislature from the Forty-fourth District comprising the counties of Anoka and Isanti.

3. Respondents E. A. Carlson and H. E. Norrell are respectively auditors of Anoka and Isanti Counties, Minnesota, and as such it is the duty of each in his own county to prepare ballots for use of the voters in said county on which shall appear the names of the nominated candidates for the office of Senator in the Legislature from said district.

4. At the June 23, 1930 Primary Election the candidates for nomination for each office of justice were George Birmingham, Albert A. Lakin, and John Hutchinson, an abstract record. Following said election the State Canvassing Board duly met as required by law and announced the returns and on June 23, 1930, Lakin, abstract record, and Hutchinson were declared to have received 1113 votes in said district, Albert A. Lakin received 838 votes, and John Hutchinson, 2113 votes, and each of the latter only nominated for said office.

5. Thereafter on July 23, 1930, the respondent, Dick Lakin, in purported compliance with the law, certified to the respondent county auditor the names of those nominated for said office of justice and in so doing certified as follows:

"Pursuant to Sec. 211, Iowa's 1846 Code Statutes, 1897, I hereby certify that the State Canvassing Board has duly canvassed all the returns of the June 23, 1930 Primary Election which were made to the Secretary of State and I do hereby further certify that said Board has duly given the persons named below to have been nominated as candidates of the political parties designated for the office stated: "

John Hutchinson (abstract record)
Gardell L. Lakin
Albert A. Lakin (present senator, Iowa)."

The words in parenthesis "present senator, Iowa" were added to the name of candidate Lakin by respondent Secretary of State at the request of said Lakin as affiant verily believes, all without warrant or right, and ^{said} words were not contained in the report or findings of the State Canvassing Board.

6. Said purported words of designation or description are not properly a part of the certification by respondent Secretary of State for the reason that it is the duty of the respondent county auditor to prepare the ballots in their respective counties and the duty of the respondent Secretary of State merely to certify to said county auditor the names of the nominees without the addition of words of description or otherwise.

7. Respondent secretary of state has refused to permit the petitioners to prepare to send notices and pamphlets containing the names of candidates for the office of State Senator in the Liberty-Burgh district.

8. Said county auditors exercise it to be their duty to print the names on the ballots as certified by respondent secretary of state and have been specifically instructed by respondent secretary of state so to do. Unless restrained by this court, said county auditors will cause ballots to be printed, published, filed, and distributed containing the name of "Albert A. Ladin (present Senator, Incumbent)".

9. The names, Ladin and Ladin, are not the same and are not pronounced the same. The name Ladin is commonly pronounced as though it were spelled "Law - dain" with accent on the first syllable and petitioner's name is commonly pronounced as though it were spelled "Lé - dain" with the accent on the last syllable. The dissimilarity of the Christian name is apparent and negates any possibility of confusion.

10. Albert A. Ladin is not and for many years past has been a farmer by occupation, residing on and operating his own farm in Athens Township, Incumbent County, and his occupation is not that of "present Senator."

11. If the name of Albert A. Ladin as a candidate for the State Senate is printed on the ballots followed by the words above quoted he will receive an unfair and inequitable advantage over other petitioners in that it will be unfairly and improperly brought to the attention of each voter at the time he votes that Ladin is the present incumbent.

12. Said county auditors are required by law to prepare the ballots on which the names of the candidates for the State Senate appear, and to cause one week's published notice of the contents thereof to be given at least two weeks before the election, and to file a copy of each ballot

In their respective offices on the general Thursday preceding election day, to wit: October 27, 1933, and the same is not sufficient to permit your petitioner to institute proceedings in the district court and to secure an adjudication with a prohibitive effect on this exact election day. Your petitioner did not learn of the manner of certification of the name of said Ledin and the proposed action of said county auditors until October 29, 1933, and he will be without a remedy where this court assumes jurisdiction.

15. There is no remedy for petitioner in the ordinary course of law or in the district court in view of the circumstances above recited. His application for the relief herein prayed has heretofore been denied.

WHEREFORE, petitioner prays that the court issue its order directed to the respondents as herein:

1. That the respondent, Lilo Hefu, Secretary of State, immediately cease and desist his certification as to the said county auditors so that the words "[Present Senator, Ledin]" following the name of Albert A. Ledin, will be omitted from such certification.

2. That the respondents, W. A. Carlson and A. J. Herold, as county auditors of the counties of Linn and Linn respectively, refrain and desist from preparing, printing, publishing, filing or distributing ballots for use by the voters of said counties containing the words "[Present Senator Ledin]" following the name of Albert A. Ledin.

3. Or that said respondents and each and all of them show cause at a time and place to be fixed by said court why they have not done so.

4. And that until further order of the court the respondents county auditors refrain from taking any steps in preparing, printing, publishing, filing and distributing ballots containing the words "[Present Senator, Ledin]" thereon following the name of Albert A. Ledin.

5. And for such other relief as the petitioner may be entitled to.

Subscribed and sworn to before me
this 4th day of October, 1933
Oscar H. Ahlberg
Notary Public, Goodhue Co., Minn.
My Commission Expires 6/20/43

(Notarial Seal)

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WENDELL L. LEDIN
petitioner
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Saint Paul, Minnesota
and
Robert D. Gillette
Dorchester, Minnesota
Attorneys for Petitioner