

# Office of City Clerk

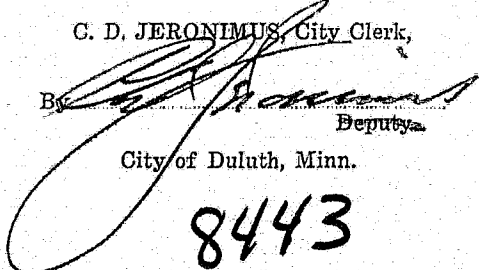
DULUTH, MINN.

C. D. JERONIMUS, CITY CLERK  
T. C. HOLMBERG, DEPUTY

I, C. D. Jeronimus, City Clerk of the City of Duluth, in the State of Minnesota, do hereby certify that I have compared the annexed copy of Resolution passed by the City Council of the City of Duluth, on the 19th day of December 1938, with the original document and record thereof on file and of record in my office, and in my custody as City Clerk of said city, and that the same is a true and correct copy thereof, and the whole thereof, and a true and correct transcript therefrom.

In Witness Whereof, I have hereunto set my hand and affixed the corporate seal of said City of Duluth, this 20th day of December 1938.

C. D. JERONIMUS, City Clerk,

By   
Deputy

City of Duluth, Minn.

8443

A Resolution by the City Council of the City of Duluth, for the purpose of Conforming with the Judgment and Decree of the District Court of the Eleventh Judicial District entered and filed in the Office of the Clerk of said District Court on December 12, 1938, in the case entitled: "Walter J. Chantigney, Contestant, vs. City of Duluth, Contestee, In the Matter of Proceedings to Contest the Declared Result of the Election upon Proposal No. 1 - Proposal of Amendment to Section 55 of the City Charter for the City of Duluth, St. Louis County, Minnesota"; also for the purpose of Conforming with the Judgment and Decree of the District Court of the Eleventh Judicial District entered and filed in the Office of the Clerk of said District Court on December 13, 1938, in the case entitled: "Herbert L. Cavanaugh, Contestant, vs. City of Duluth, Contestee, In the Matter of Proceedings to Contest the Declared Result of the Special Municipal Election held on Tuesday, November 8, 1938, upon the Proposed Amendment of Section 55 of Chapter VIII of the Charter of said City of Duluth, Submitted at said Election, Designated (and herein referred to) as Amendment No. 2; also to Rescind so much of that certain Resolution adopted and approved by said City Council on November 14, 1938 (Proceedings of the City Council of the City of Duluth for 1938, page 597), which determined that Proposal No. 1 and Proposal No. 2 of the City Charter had been rejected at the Special Municipal Election held on November 8, 1938; and also directing City Officers to do all things which may or shall be necessary to give effect to the several Judgments and Decrees of the aforesaid Court determining that said Proposal No. 1 and Proposal No. 2 had been duly Accepted, Adopted and Ratified, as required by Law.

By Mayor Berghult;

WHEREAS, Pursuant to Section 48 of the Charter of the City of Duluth adopted by the electors thereof on December 3, 1912, the City Council of said City constitutes the Canvassing Board for the canvass of the votes and the determination of the result of every general or special municipal election held under the provisions of such Charter; and

WHEREAS, on November 14, 1938, at ten o'clock in the forenoon, the said Council did then and there meet as such Canvassing Board, and did receive the returns from the several election precincts (districts) of the City of the Special Municipal Election held in said City on November 8, 1938; and said City Council, as such

Canvassing Board, did then and there canvass the votes as returned by the judges and clerks of election, and did then and there, by resolution adopted and approved November 14, 1938, certify and determine the result of such election and other matters voted upon at such election with respect to the acceptance or rejection of Proposal No. 1, Proposal No. 2, and Proposal No. 3, to amend said Charter; and did then and there, in and by said resolution determine and resolve, among other things, that at said Special Municipal Election there were cast forty-three thousand nine hundred twenty-eight (43,928) ballots; that the proposition: "Shall the proposed amendment No. 1 of the City Charter of the City of Duluth be adopted as a new paragraph, to be known as Subdivision 12 of Section 55 of Chapter VIII" received in the affirmative twenty-four thousand three hundred sixty-seven (24,367) votes, and in the negative, twelve thousand nine hundred and nine (12,909) votes; that the proposition: "Shall the proposed amendment No. 2 to the City Charter of the City of Duluth be adopted as a new Subdivision to be known as Subdivision 13 of Section 55 of Chapter VIII" received in the affirmative twenty-four thousand five hundred eighty-eight (24,588) votes, and in the negative, eleven thousand two hundred ninety-six (11,296) votes; that the proposition: "Shall the proposed Amendment No. 1 of the City Charter of the City of Duluth be adopted as a new paragraph to be known as Subdivision 12 of Section 55 of Chapter VIII" having received in the affirmative less than three-fifths of all votes cast at said Special Municipal Election, <sup>and</sup> was thereby declared duly rejected; and that the proposition: "Shall the proposed Amendment No. 2 to the City Charter of the City of Duluth be adopted as a new subdivision to be known as Subdivision 13 of Section 55 of Chapter VIII" received in the affirmative less than three-fifths of all votes cast at said Special Municipal Election, and was thereby declared duly rejected; and

WHEREAS, on November 19, 1938, there was duly served upon the City of Duluth a Notice of Appeal in the District Court of the



lation providing for the cancellation of the result of ballots cast upon Amendment No. 1 and Amendment No. 2.

WHEREAS, on December 2, 1938, the aforesaid inspectors did make, file and deliver into the aforesaid District Court, a report, in writing, covering the result of the inspection and count of the ballots and votes in connection with the contests aforesaid, and that upon said inspectors' report, the respective counsel of record, representing said Chantigney and the said City, did stipulate, in writing, among other things, that the report of the said inspectors was in all respects true and correct, and that the District Court use said report as evidence in the hearing on said matter as a basis for its findings; that in and by virtue of the aforesaid stipulation, said counsel further stipulated and agreed that said matter might be placed upon the Special calendar of the aforesaid District Court for trial and determination on December 9, 1938; and

WHEREAS, In the Matter of Proceedings to Contest the Declared Result of the Election upon Proposal No. 1 - Proposal of Amendment to Section 55 of the City Charter for the City of Duluth, St. Louis County, Minnesota, the Honorable Bert Fesler, one of the Judges of the aforesaid Court, did on December 12, 1938 make, file and enter with the Clerk of the aforesaid Court, certain Findings of Fact, Conclusions of Law, and Order for Judgment thereon, as follows:

"FINDINGS OF FACT

"1. That on November 8, 1938, at a Special Municipal Election, a proposed amendment to the City Charter of the City of Duluth consisting of a new paragraph to be known as Subdivision 12 of Section 55 of Chapter VIII and to read as follows:

"12. Bonds in an amount not exceeding \$75,000, for the benefit of the Municipal All-Sports Stadium Fund, the proceeds thereof to be used for the sole and specific purpose, and none other, of paying the cost of constructing, maintaining, improving, equipping and completing a municipal all-sports stadium, when payment of such cost has been or will be made necessary as the result of action taken or which may be taken by the city council of said city in applying for grants or loans and/or loans and grants to the United States

of America, or to any agency of the United States, in connection with such municipal all-sports stadium.

'The bonds issued under authority of this subdivision shall be serial bonds, and shall not be sold at less than the par value thereof; and the principal of such bonds shall be payable, as nearly as may be possible, in equal annual serial installments, and in not more than twenty years from their dates. Said bonds shall be payable at such place or places as the council shall determine, and shall draw a rate of interest not exceeding six per cent per annum, payable semi-annually.

'The council shall annually cause to be levied a tax sufficient in amount to pay the portion of the principal of and the interest on said bonds as will mature during the next succeeding year.

'This amendment shall take effect and be in force immediately upon its ratification and approval, as provided by law.'

was duly submitted to the qualified voters of the said City of Duluth in the following form:

'PROPOSED CHARTER AMENDMENT NO. 1

'Shall the proposed Amendment No. 1 of the City Charter of the City of Duluth be adopted?'

'This proposal is designed to amend the City Charter in this respect, namely, by adding a new paragraph to Section 55 of the City Charter, which new paragraph shall be known as Subdivision 12 of Section 55 of Chapter VIII of said Charter.

'This amendment, if adopted, will authorize the City Council to issue and sell bonds in a sum not exceeding \$75,000 for the benefit of the Municipal All-Sports Stadium Fund. The proceeds from the sale of such bonds to be used only for paying the cost of constructing, maintaining, improving, equipping and completing a municipal all-sports stadium, when payment of such cost has been or will be made necessary as the result of action taken or which may be taken by the City Council of the City of Duluth in applying for grants or loans and/or loans and grants to the United States of America or to any agency of the United States, or to the State of Minnesota, or any agency of such State, in connection with such municipal all-sports stadium.'

and was contained on a ballot with proposed Charter Amendments Nos. 2 and 3 to the City Charter of the City of Duluth.

'2. That said Special Municipal Election was held on the same day and in connection with a General Election and that four ballots were presented to voters at such election, namely: a State ballot, a County ballot, a ballot containing amendments to the Constitution of the State

of Minnesota and the Special Municipal Election ballot containing three proposed amendments to the City Charter of the City of Duluth.

"3. That subsequent to said election, the Judges of the respective election districts within the said City of Duluth certified that forty-three thousand nine hundred twenty-eight (43,928) legal ballots were cast at said Special Municipal Election and that said proposed Charter Amendment No. 1 received twenty-four thousand three hundred sixty-seven (24,367) votes for its ratification and approval and twelve thousand nine hundred nine (12,909) votes for its rejection, and that on November 14, 1938, the City Council of the City of Duluth acting as a Canvassing Board found, determined and declared that said proposed Charter Amendment No. 1 had been rejected in that more than three-fifths (3/5) of those lawfully voting at such election failed to ratify said amendment as proposed.

"4. That Walter J. Chantigney, the contestant herein, at all times mentioned was and still is a resident of the said City of Duluth, County of St. Louis and State of Minnesota, and was on November 8, 1938, and still is a voter duly and legally qualified to vote. That said contestant within ten (10) days after said canvass was completed, filed with the Clerk of this Court due and proper Notice of Appeal from the declared result of said Special Municipal Election upon said proposed Charter Amendment No. 1; and served a copy of said Notice of Appeal upon the City of Duluth, contestee, within the time and in the manner directed by an order of this Court. That after said contest had been instituted, the contestant filed with the Clerk of this Court, his verified petition, stating therein that he could not properly prepare his case for trial without an inspection of the ballots cast at said Special Municipal Election with reference to said proposed Charter Amendment No. 1 and thereupon pursuant to said petition, the stipulation of the parties and their consent thereto, the Court, by Order dated November 21, 1938, appointed Robert A. Malone, Hiel Campbell and Merle DeWees to inspect and recount

said ballots; that the same were duly inspected and counted by such inspectors duly appointed and canvassed said ballots in the presence of the Custodian of same and on December 9, 1938, filed in this Court their report of such inspection which said report was stipulated by the parties to this proceeding to be, and is in all respects true and correct.

"3. That said inspection revealed that forty-three thousand seven hundred ninety-six (43,796) ballots were cast at said Special Municipal Election; that there were three thousand two hundred fourteen (3,214) ballots containing the several Charter Amendments bearing no marks whatsoever as an indication or an attempted indication by the voter of his intention, said ballots being wholly blank or unmarked; that one hundred ninety-eight (198) ballots containing the several Charter Amendments were so marked by the voters that they were wholly unintelligible as to the intention of said voter; and that upon three ballots the intention of the voter was questionable, and there were fifteen ballots which did not contain the election judges initials.

"6. That there were forty thousand three hundred eighty-four (40,384) legal votes cast on the several proposed Charter Amendments at such Special Municipal Election.

"7. That twenty-four thousand three hundred thirty (24,330) legal votes were cast in favor of the ratification and approval of said proposed Charter Amendment No. 1, and twelve thousand eight hundred ninety-five (12,895) legal votes cast for the rejection thereof.

"8. That more than three-fifths ( $3/5$ ) of the legal votes cast at said Special Municipal Election were in favor of the ratification and adoption of said proposed Charter Amendment No. 1.

"9. That the declared result of said election as canvassed and returned by said City Council acting as a canvassing board was and is erroneous.

#### "CONCLUSIONS OF LAW

"1. That said proposed Charter Amendment No. 1 was duly



accepted, ratified and adopted by more than three-fifths (3/5) of the qualified voters of the City of Duluth voting at the Special Municipal Election upon said proposed Charter Amendment No. 1 in said City on November 6, 1938.

"2. That the City Council be directed to rescind its previous resolution dated November 14, 1938, wherein it resolved that said proposed Charter Amendment No. 1 was duly rejected, and pass a resolution forthwith that said proposed Charter Amendment No. 1 was duly ratified and approved, and that thereupon the Mayor of said City of Duluth cause to be made duplicate certificates setting forth said proposed Charter Amendment No. 1 and its ratification and sign the same as such Mayor in the name of said City, authenticate the same with the corporate seal of said City of Duluth and the proper officer of said contestee shall thereupon deposit one copy thereof in the office of the Secretary of State of the State of Minnesota, and record one copy thereof in the office of the Register of Deeds in and for St. Louis County, Minnesota, and thereafter deposit such recorded copy among the archives of the said City of Duluth, and that the said City Council of the City of Duluth shall forthwith do and perform such other acts as are necessary and proper to duly ratify and adopt said proposed Charter Amendment No. 1.

"Let judgment be entered accordingly.

"Dated at Duluth, Minnesota, this 12th day of December, 1938.

"BY THE COURT,

BERT FESLER  
Judge of the District Court." ; and

WHEREAS, pursuant to the foregoing Findings of Fact, Conclusions of Law, and Order for Judgment thereon, the Clerk of the aforesaid District Court did on December 12, 1938 enter judgment, and did certify said judgment as follows:

(Title of case omitted)

"The above entitled matter having been regularly placed on the Special Term calendar of the above named Court, came duly on for

hearing and determination before Hon. Carl Fisher, one of the Judges of said Court, at the Court House in the City of Duluth, County of St. Louis and State of Minnesota, on December 9, 1938; Lanners and Martini by Edwin A. Martini appearing as attorneys for the contestant and Harry E. Weinberg and Niel Campbell by Niel Campbell appearing as attorneys for the contestee; and the Court having been fully advised in the premises, did on the 12th day of December, 1938, duly make and file its Findings of Fact, Conclusions of Law and Order for Judgment herein.

"Now, pursuant to said order, and on motion of Lanners and Martini, attorneys for contestant, IT IS HEREBY ADJUDGED AND DECREED:

"1. That said proposed Charter Amendment No. 1 was duly accepted, ratified and adopted by more than three-fifths (3/5) of the qualified voters of the City of Duluth, voting at the Special Municipal Election upon the proposed Charter Amendment No. 1 in said City of Duluth on November 8, 1938.

"2. That the City Council of the said City of Duluth be and it hereby is ordered and directed to rescind its previous resolution dated November 14, 1938, wherein it resolved that said proposed Charter Amendment No. 1 was duly rejected and pass a resolution forthwith that said proposed Charter Amendment No. 1 was duly ratified and approved, and that thereupon the Mayor of said City of Duluth shall cause to be made duplicate certificates setting forth said proposed Charter Amendment No. 1 and its ratification, and sign the same as such Mayor in the name of said City, authenticate the same with the corporate seal of said City of Duluth, and the proper officer of said contestee shall thereupon deposit one copy thereof in the office of the Secretary of State of the State of Minnesota, and record one copy hereof in the office of the Register of Deeds in and for St. Louis County, Minnesota, and thereafter deposit such recorded copy in the archives of the said City of Duluth, and that the said City Council of the City of Duluth shall forthwith do and perform such other acts as are necessary and proper to duly ratify

FILED IN DEPARTMENT OF REVENUE  
ST. LOUIS, MISSOURI  
FRED ASH, Clerk of the Court  
By J. A. Cunningham, Deputy

"STATE OF MINNESOTA,  
COUNTY OF ST. LOUIS:

DISTRICT COURT  
ELEVENTH JUDICIAL DISTRICT

"I, FRED ASH, Clerk of the District Court, St. Louis County, and State of Minnesota, do hereby certify that I have compared the foregoing process with the original INSTRUMENT AND DEEDS in the office of said Clerk of the District Court of St. Louis County, and that the same is a true and correct copy and transcript of said original JUDGMENT AND DEEDS and the whole thereof.

"WITNESS my hand and seal of said District Court, at Duluth, this 12th day of December A.D., 1936.

FRED ASH, Clerk of the District Court.  
By J. A. Cunningham, Deputy Clerk."

(Seal of the  
District Court of  
St. Louis County, Minn.)

WHEREAS, on November 19, 1936, there was duly served upon the City of Duluth a Notice of Appeal to the District Court of the Eleventh Judicial District of St. Louis County, Missouri, said Notice of Appeal was entitled as follows: "WILLIAM J. GARDNER, Contestant, vs. CITY OF DULUTH, Contestee, in the matter of proceedings to contest the Declared Result of the Special Municipal Election held on Tuesday, November 3, 1936, upon the Proposed Amendment of Section 55 of Chapter VIII of the Charter of said City of Duluth, submitted at said Election,

Designated (and herein designated) as Proposed No. 2; and whereas at the same time there issued out of said Court and there was served upon said City an order of the aforesaid Court directing the delivery of such Notice of Appeal; and

WHEREAS, pursuant to the aforesaid Notice of Appeal and the Order for Service therein, the said Herbert A. Cavanaugh, as Contestant, and the City of Duluth, as Contestee, did enter into written stipulation, dated November 22, 1934, whereby the said parties stipulated and agreed, among other things, that the aforesaid parties, through their respective attorneys of record therein, that Robert A. Malone, Neil Campbell and Gertrude Nelson might be named as inspectors for the purpose of inspecting and counting the ballots and votes cast upon the aforesaid Proposed No. 2; and whereas, such stipulation was thereafter, in all things, duly confirmed by order of the aforesaid District Court, dated November 22, 1934; and

WHEREAS, on December 9, 1934, the aforesaid inspectors did make, file and deliver unto the aforesaid District Court, a report, in writing, covering the result of the inspection and count of the ballots and votes in connection with the contest aforesaid, and that upon said inspectors' report, the respective counsel of record, representing said Cavanaugh and the said City, did stipulate, in writing, among other things, that the report of the said inspectors was in all respects true and correct, and that the District Court use said report as evidence in the hearing on said matter as a basis for its findings; that in and by virtue of the aforesaid stipulation, said counsel further stipulated and agreed that said matter might be placed upon the Special calendar of the aforesaid District Court for trial and determination on December 9, 1934; and

WHEREAS, in the Matter of Proceedings to Contest the Declared Result of the Special Municipal Election held on Tuesday, November 5, 1934, upon the Proposed Amendment of Section 55 of Chapter VIII of the Charter of said City of Duluth, Submitted at said Election, Designated

and herein referred to) an amendment No. 8, the Honorable Bert Peeler, one of the Judges of the aforesaid Court, did on December 15, 1939 write, file and enter with the Clerk of the aforesaid Court certain findings of fact, conclusions of law, and Order for Judgment thereon, as follows:

FINDINGS OF FACT.

1. That on December 15, 1939 the Honorable Bert Peeler held in and for the City of Duluth, St. Paul County, Minnesota a proposed amendment to the City Charter of said City of Duluth, consisting of a new subdivision to be known as Subdivision 13 of Section 55 of Chapter VIII, and to read as follows:

"13. Bonds in an amount not exceeding \$150,000 during the year 1939 and bonds in an amount not exceeding \$150,000 during the year 1940, for the benefit of the Permanent Improvement Unemployment Projects Fund, the proceeds whereof shall be used only in the payment of such portion of the cost of any public improvement, any public project, or any unemployment relief program of the City of Duluth which may or shall devolve upon such city as the result of action heretofore or hereafter taken by or under the authority of the City Council in applying to any agency of the United States of America or to any agency of the State of Minnesota for grants in connection with any such improvement project or program.

"The bonds issued under authority of this subdivision shall be serial bonds, and shall not be sold at less than the par value thereof, and the principal of such bonds shall be payable, as nearly as possible, in equal annual serial installments, and in not more than twenty years from their dates. Said bonds shall be payable at such place or places as the council shall determine, and shall draw a rate of interest not exceeding six per cent per annum, payable semi-annually.

"The Council shall annually cause to be levied a tax sufficient in amount to pay the portion of the principal of and the interest on said bonds as will mature during the next succeeding year.

"This amendment shall take effect and be in force immediately upon its ratification and approval as provided by law."

"was duly submitted to the qualified voters of the City of Duluth in the following form:

PROPOSED CHARTER AMENDMENT NO. 2

Shall the proposed Amendment No. 2 to the City Charter of the City of Duluth be adopted?

This proposal is designed to amend the City Charter in this respect, to-wit, by adding a new subdivision to Section III. of the City Charter, which now reads as follows: "The City Council may, by ordinance, create, alter, divide or abolish any of the wards of the City of Duluth, and may, by ordinance, change the boundaries of any ward of the City of Duluth." The proposed amendment reads: "The City Council may, by ordinance, create, alter, divide or abolish any of the wards of the City of Duluth, and may, by ordinance, change the boundaries of any ward of the City of Duluth, and may, by ordinance, create, alter, divide or abolish any of the wards of the City of Duluth, and may, by ordinance, change the boundaries of any ward of the City of Duluth." The proposed amendment is designed to provide for the creation, alteration, division or abolition of any ward of the City of Duluth, and for the change of the boundaries of any ward of the City of Duluth, and for the creation, alteration, division or abolition of any ward of the City of Duluth, and for the change of the boundaries of any ward of the City of Duluth.

Yes  
No

As contained on a ballot with Proposed Charter Amendments No. 1 and No. 3 to the City Charter of the City of Duluth.

2. That said Special Municipal Election was held on the year day and in connection with a General Election, and that four ballots were presented to the voters at such election, namely: a state ballot, a county ballot, a ballot containing proposed amendments to the Constitution of the State of Minnesota, and the Special Municipal Election ballot containing three proposed amendments to the City Charter of the City of Duluth among which was Proposed Amendment No. 2, heretofore referred to.

3. That subsequent to said Special Municipal Election the judges and clerks of the several election districts within and for the City of Duluth made returns thereof and certified to the City Council of the City of Duluth that 43,922 legal ballots were cast at said Special Municipal Election, and that 24,532 votes were cast for the ratification, adoption and approval of said Proposed Charter Amendment

No. 2, and that 11,296 votes had been cast for the rejection of said Charter Amendment No. 2.

"4. That on November 14th, 1934, the City Council of the City of Duluth, acting as a Canvassing Board, duly canvassed said returns of said election judges and clerks, and found, determined and declared that 12,385 votes or ballots had been cast at said Special Municipal Election; that 24,503 votes had been cast in the affirmative for said Charter Amendment No. 2; that 11,296 votes had been cast in the negative upon said Proposed Charter Amendment No. 2; and that said Proposed Charter Amendment No. 2, having received in the affirmative less than three-fifths of all votes cast at said Special Municipal Election, was and had been rejected.

"5. That Herbert G. Cavanaugh, the contestant herein, at all times herein material was and still is a resident of the City of Duluth, St. Louis County, Minnesota, and was on November 6th, 1934, and still is, a voter duly and legally qualified to vote at said Special Municipal Election.

"6. That said contestant, within ten days after the declaration and canvass was completed and returned by the City Council of the City of Duluth, acting as a Canvassing Board, filed with the Clerk of the above named Court a due and proper Notice of Appeal from the declared results of said Canvassing Board upon said Proposed Charter Amendment No. 2; and thereafter served a copy of said Notice of Appeal upon the City of Duluth, contested, in the manner and within the time directed by an Order of this Court made and entered on November 19th, 1934.

"7. That after said contest had been instituted, the contestant herein filed with the Clerk of the above named Court his verified petition, stating, among other things, that he could not properly prepare his case for trial without an inspection of the ballots cast at

said Special Municipal Election with reference to said Proposed Amendment No. 2, and thereafter, pursuant to said resolution, and the stipulation of the parties hereto, the Court, by its Order dated November 22nd, 1938, appointed Robert A. Malone, Mel Campbell and Merle DeWees as inspectors to inspect and recount said ballots; that thereupon, and pursuant to said Order, said inspectors duly inspected and counted said ballots in the presence of the custodian of the same, and on December 9th, 1938, duly filed herein their report of such inspection and recount; which said report was by the stipulation of the parties hereto determined to be in all respects true and correct and received in evidence.

"8. That the report of said inspectors indicated, as was the fact, that 41,699 ballots were found in the ballot boxes by said inspectors; that the voting machines used in the several precincts in said election indicated that 2,097 people voted upon said machines; making a total of 43,796 ballots deposited at said election and cast upon said voting machines; that there were a total of 3,214 ballots deposited in the several ballot boxes at said election which were wholly unmarked as to any of the several proposed amendments thereon, and totally blank; that there were 198 ballots deposited at said election which were marked in such a manner as to be unintelligible, and wholly failed to indicate the intention of the parties depositing the same, either for or against the adoption of said Amendment No. 2.

"9. That 40,366 legal votes were cast at said Special Municipal Election.

"10. That 24,320 legal votes were cast at such election in favor of the passage, adoption and ratification of said Proposed Charter Amendment No. 2.

"11. That 11,622 legal votes were cast at such election against the passage and adoption of said proposed Charter Amendment No. 2.



"12. That more than three-fifths of all of the legal votes cast at such Special Municipal Election were cast in favor of the passage, adoption and ratification of said Proposed Charter Amendment No. 2.

"13. That the declared result of said election as canvassed and returned by said City Council acting as a Canvassing Board was and is erroneous.

"CONCLUSIONS OF LAW.

"1. That said Proposed Charter Amendment No. 2, consisting of a new subdivision to be known as Subdivision 13 of Section 55 of Chapter VIII to read as follows:

"13. Bonds in an amount not exceeding \$150,000 during the year 1939 and bonds in an amount not exceeding \$150,000 during the year 1940, for the benefit of the Permanent Improvement Unemployment Projects Fund, the proceeds whereof shall be used only in the payment of such portion of the cost of any public improvement, any public project, or any unemployment relief program of the City of Duluth which may or shall devolve upon such city as the result of action heretofore or hereafter taken by or under the authority of the City Council in applying to any agency of the United States of America or to any agency of the State of Minnesota for grants in connection with any such improvement project or program.

"The bonds issued under authority of this subdivision shall be serial bonds, and shall not be sold at less than the par value thereof, and the principal of such bonds shall be payable, as nearly as possible, in equal annual serial installments, and in not more than twenty years from their dates. Said bonds shall be payable at such place or places as the council shall determine, and shall draw a rate of interest not exceeding six per cent per annum, payable semi-annually.

"The Council shall annually cause to be levied a tax sufficient in amount to pay the portion of the principal of and the interest on said bonds as will mature during the next succeeding year.

"This amendment shall take effect and be in force immediately upon its ratification and approval as provided by law.

"was duly accepted, ratified and adopted at the Special Municipal Election held in and for the City of Duluth on November 5th, 1938, by more than three-fifths of the qualified voters of the City of Duluth

legally voting at said Special Municipal Election.

"2. That the City Council be directed to revoke its previous Resolution dated November 14th, 1938, wherein it resolved that said Proposed Charter Amendment No. 2 was duly rejected; and forthwith pass and adopt a Resolution providing that said Proposed Charter Amendment No. 2 was duly ratified and approved at said Special Municipal Election; that thereupon the Mayor of the City of Duluth cause to be prepared and execute certificates setting forth the ratification, approval and adoption of said Proposed Charter Amendment No. 2, and to sign said certificates in the name of the City of Duluth as the Mayor thereof, and authenticate the same with the corporate seal of said City of Duluth; and that thereupon the proper officer of said City of Duluth deposit one copy of said certificate in the office of the Secretary of the State of Minnesota and record one copy thereof in the office of the Register of Deeds in and for St. Louis County, Minnesota, and thereafter deposit such recorded copy with the permanent records of the City of Duluth; and that said City of Duluth shall forthwith do and perform such other acts as may be necessary to ratify and adopt said Proposed Charter Amendment No. 2.

"Let judgment be forthwith entered accordingly.

"Dated at Duluth, Minnesota, this 13th day of December, 1938.

"BY THE COURT

Bert Fesler

JUDGE ; and

(FILED IN MY OFFICE

AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M

DEC. 13, 1938.

FILED MAIL, Clerk of Dist. Court

By E. G. Billing, Deputy.)

WHEREAS, pursuant to the foregoing Findings of Fact, Conclusions of Law, and Order for Judgment thereon; the Clerk of the afore-

said District Court did, on December 13, 1938, enter judgment, and did certify said judgment as follows:

(Title of case omitted)

"The above entitled matter having been duly placed upon the Special Term Calendar of the above named Court, and having come regularly on for hearing before Hon. Bert Pesler, one of the judges of said Court, on December 9th, 1938, in the Court House in the City of Duluth, St. Louis County, Minnesota; C. G. Lindquist and Whipple & Atmore appearing as attorney; for the above named contestant, and Harry E. Weinberg and Hiel Campbell appearing as attorneys for the above named contestee; and the Court having considered the evidence adduced at said hearing, the report of the inspectors, the stipulations of the parties hereto, and the arguments of counsel, and all the files, records and proceedings herein, and being fully advised in the premises, did on December 13th, 1938, make, enter and file Findings of Fact, Conclusions of Law and Order for Judgment;

"Now, therefore, pursuant to said Order for Judgment, and upon motion of C. G. Lindquist and Whipple & Atmore, the attorneys for the above named contestant, it is hereby determined, adjudged and decreed:

"1. That Proposed Charter Amendment No. 2 to the City Charter of the City of Duluth, consisting of a new subdivision to be known as Subdivision 13 of Section 55 of Chapter VIII to read as follows:

"13. Bonds in an amount not exceeding \$150,000 during the year 1939 and bonds in an amount not exceeding \$150,000 during the year 1940, for the benefit of the Permanent Improvement Unemployment Projects Fund, the proceeds whereof shall be used only in the payment of such portion of the cost of any public improvement, any public project, or any unemployment relief program of the City of Duluth which may or shall devolve upon such city as the result of action heretofore or hereafter taken by or under the authority of the City Council in applying to any agency of the United States of America or to any agency of the State of Minnesota for grants in connection with any such improvement project or program.

"The bonds issued under authority of this subdivision shall be serial bonds, and shall not be sold at less than the par value thereof, and the principal of such bonds shall be pay-

shall be levied on the property of the City of Duluth in-  
sufficient to meet the cost of the same from the  
City of Duluth, and the same shall be paid out of the  
City of Duluth, and the same shall be paid out of the  
City of Duluth, and the same shall be paid out of the  
City of Duluth.

The Council shall annually either to be levied a tax  
sufficient to meet the cost of the same from the  
City of Duluth, and the same shall be paid out of the  
City of Duluth, and the same shall be paid out of the  
City of Duluth.

This resolution shall take effect and be in force imme-  
diately upon its adoption and approval as provided by  
law.

"was duly accepted, ratified and adopted at the Special Municipal  
Election held in and for the City of Duluth on November 8th, 1936, by  
more than three-fifths of the qualified voters of the City of Duluth  
legally voting at said Special Municipal Election.

"2. That the City Council of the City of Duluth be, and it  
is hereby, directed to revoke its previous Resolution dated November  
14th, 1936, wherein it resolved that said Proposed Charter Amendment  
No. 2 was duly rejected, and forthwith pass and adopt a Resolution pro-  
viding that said Proposed Charter Amendment No. 2 was duly ratified and  
approved at said Special Municipal Election; that thereupon the Mayor  
of the City of Duluth cause to be prepared duplicate certificates  
setting forth the ratification, approval and adoption of said Proposed  
Charter Amendment No. 2, and to sign said certificates in the name of  
the City of Duluth as the Mayor thereof, and authenticate the same with  
the corporate seal of said City of Duluth; and that thereupon the proper  
officer of said City of Duluth deposit one copy of said certificate in  
the office of the Secretary of the State of Minnesota and record one  
copy thereof in the office of the Register of Deeds in and for St. Louis  
County, Minnesota, and thereafter deposit such recorded copy with the  
permanent records of the City of Duluth; and that said City of Duluth  
shall forthwith do and perform such other acts as may be necessary to  
ratify and adopt said Proposed Charter Amendment No. 2.

"Witness the Hon. Bert Fesler, Judge of the District Court

aforesaid, at Duluth, Minnesota, this 13th day of December, A. D.  
1938.

THIS IS:

Clerk of the District Court

By D. G. MILLER,  
Deputy Clerk.

(Seal of the  
District Court)

"STATE OF MINNESOTA, :  
                              : SS:  
COUNTY OF ST. LOUIS :"

D I S T R I C T C O U R T  
ELEVENTH JUDICIAL DISTRICT

"I, FRED ASH, Clerk of the District Court, St. Louis County,  
and State of Minnesota, do hereby certify that I have compared the  
foregoing papers writing with the original FINDINGS OF FACT, CONCLU-  
SIONS OF LAW and ORDER FOR JUDGMENT and JUDGMENT in the action  
therein entitled, now remaining of record in my office, and that the  
same is a true and correct copy and transcript of said original  
FINDINGS OF FACT, CONCLUSIONS OF LAW and ORDER FOR JUDGMENT and the  
whole thereof.

"WITNESS, My hand and seal of said District Court, at Duluth,  
this 13th day of December A. D., 1938.

FRED ASH, Clerk of the District Court,

By Wainie M. Kline,  
Deputy Clerk."

(Seal of the District  
Court of St. Louis  
County, Minnesota)

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Duluth, that so much of that certain resolution adopted and approved on November 14, 1938, by the City Council (Proceedings of the City Council of the City of Duluth Vol. 1170, page 597) which determined and certified that proposed No. 1 and proposed No. 2 to amend the City Charter of the City of Duluth were rejected by the electors of the City of Duluth at the Special Municipal Election held on November 4, 1938, as said the same in said resolution, and

BE IT FURTHER RESOLVED, that the City Council of the City of Duluth hereby determines and certifies that at the aforesaid Special Municipal Election forty-three thousand seven hundred and ninety-six (43,796) ballots were cast; that there were three thousand two hundred and fourteen (3,214) ballots containing the several Charter Amendments bearing no marks whatsoever as an indication or an attempted indication by the voter of his intention, said ballots being wholly blank or unmarked; that one hundred and ninety-eight (198) ballots containing the several Charter Amendments were so marked by the voters that they were wholly unintelligible as to the intention of such voters; that upon three (3) ballots the intention of the voter was questionable, and there were fifteen (15) ballots which did not contain the election judge's initials; that there were forty thousand three hundred and eighty-four (40,384) legal votes cast on the several proposed Charter Amendments at such Special Municipal Election; that twenty-four thousand three hundred and thirty (24,330) legal votes were cast in favor of the ratification and acceptance of proposed Charter Amendment No. 1, and twelve thousand eight hundred and ninety-five (12,895) legal votes cast for the rejection of said proposed Amendment No. 1; that more than three-fifths (3/5) of the legal votes cast at said Special Municipal Election were cast in favor of the acceptance and ratification of said proposed Charter Amendment No. 1; that said proposed Amendment No. 1, having

received in the affirmative more than three-fifths (3/5) of all votes cast at said Special Municipal Election, is hereby declared duly accepted, adopted and ratified.

BE IT FURTHER RESOLVED, that the City Council of the City of Duluth hereby determines and certifies that at the aforesaid Special Municipal Election twenty-four thousand eight hundred and twenty (24,821) legal votes were cast in favor of the ratification and acceptance of proposed Charter Amendment No. 2, and eleven thousand six hundred and twenty-two (11,622) legal votes cast for the rejection of said proposed Amendment No. 2; that more than three-fifths (3/5) of the legal votes cast at said Special Municipal Election were cast in favor of the acceptance and ratification of said proposed Charter Amendment No. 2; that said proposed Amendment 2, having received in the affirmative more than three-fifths (3/5) of all votes cast at said Special Municipal Election, is hereby declared duly accepted, adopted and ratified; and

BE IT FURTHER RESOLVED, that the Mayor of the City of Duluth is hereby authorized and directed to cause to be made duplicate certificates setting forth said proposed Charter Amendment No. 1 and Amendment No. 2, and the acceptance and ratification of each of said amendments; to sign such certificates as such Mayor, in the name of the City of Duluth; to cause each of such certificates to be authenticated with the corporate seal of said City of Duluth; and

BE IT FURTHER RESOLVED, that the City Clerk of the City of Duluth is hereby authorized and directed to deposit, or to cause to be deposited in the office of the Secretary of State of the State of Minnesota one copy of each of the aforesaid proposed Amendments, as authenticated, as aforesaid, and to record with the Register of Deeds in and for St. Louis County, Minnesota, one copy of each of the aforesaid proposed Amendments, as authenticated, and thereafter to

deposit among the archives of the said City of Duluth, one of each of said Amendments, as authenticated, deposited and recorded, as aforesaid.

Mayor Bergault moved the adoption of the resolution and it was declared adopted upon the following vote:

Yeas: Commissioners Bodin, Gilbertson, Herritt, Williams, and Mayor Bergault - 5.

Nays: None.

Adopted Dec. 19, 1938

Approved Dec. 21, 1938.

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PROPOSAL NO. 1.

A proposed amendment to the City Charter, consisting of a new subdivision to be known as Subdivision 13 of Section 55 of Chapter VIII, and to read as follows:

'13. Bonds in an amount not exceeding \$1,000,000, for the benefit of the Municipal All-Sports Stadium and, the proceeds thereof to be used for the site and auxiliary purposes, and more other, of paying the cost of constructing, maintaining, improving, equipping and completing a municipal all-sports stadium, when payment of such cost has been or will be made necessary as the result of action taken or which may be taken by the city council of said city in applying for grants or loans and/or loans and grants to the United States of America, or to any agency of the United States, or to the State of Minnesota, or any agency of such state, in connection with such municipal all-sports stadium.

'The bonds issued under authority of this sub-division shall be serial bonds, and shall not be sold at less than the par value thereof, and the principal of such bonds shall be payable, as nearly as may be possible, in equal annual serial installments, and in not more than twenty years from their dates. Said bonds shall be payable at such place or places as the council shall determine, and shall draw a rate of interest not exceeding six per cent per annum, payable semi-annually.

'The council shall annually cause to be levied a tax sufficient in amount to pay the portion of the principal of and the interest on said bonds as will mature during the next succeeding year.'

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PROPOSAL NO. 2.

A proposed amendment to the City Charter, consisting of a new subdivision to be known as Subdivision 13 of Section 55 of Chapter VIII, and to read as follows:

'13. Bonds in an amount not exceeding \$150,000 during the year 1939 and bonds in an amount not exceeding \$150,000 during the year 1940, for the benefit of the Permanent Improvement Unemployment Projects Fund, the proceeds thereof shall be used only in the payment of such portion of the cost of any public improvement, any public project, or any unemployment relief program of the City of Duluth which may or shall devolve upon such city as the result of action heretofore or hereafter taken by or under the authority of the City Council in applying to any agency of the United States of America or to any agency of the State of Minnesota for grants in connection with any such improvement, project or program.

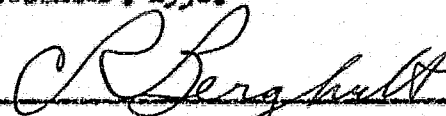
'The bonds issued under authority of this subdivision shall be serial bonds and shall not be sold at less than the par value thereof, and the principal of such bonds shall be payable, as nearly as may be possible, in equal annual serial installments, and in not more than twenty years from their dates. Said bonds shall be payable at such place or places as the council shall determine, and shall draw a rate of interest not exceeding six per cent per annum, payable semi-annually.

'The council shall annually cause to be levied a tax sufficient in amount to pay the portion of the principal of and the interest on said bonds as will mature during the next succeeding year.'

State of Minnesota }  
County of St. Louis } ss

I, G. H. Berglund, Mayor of the City of Duluth, of St. Louis County, Minnesota, do hereby certify that the foregoing amendments to the Charter of the City of Duluth, was submitted to the qualified voters of the City of Duluth, for adoption and ratification on the 5th day of November, 1938, and that said amendments were duly ratified by a three-fifths vote of all of the qualified voters voting at said election.

IN WITNESS WHEREOF, I have signed this certificate and caused it to be authenticated by the Corporate Seal of the City of Duluth, in triplicate, this 28th day of December, 1938.



Mayor of the City of Duluth,

Minnesota.

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