

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

IN THE MATTER OF THE CONTEST OF THE
PRIMARY ELECTION HELD ON SEPTEMBER
8, 1942, FOR THE PURPOSE OF ELECTING
NOMINEES FOR THE OFFICE OF STATE REP-
RESENTATIVE FOR THE STATE OF MINNESOTA
IN THE 31st LEGISLATIVE DISTRICT COM-
PRISING PART OF THE FIFTH WARD AND THE
SIXTH WARD OF THE CITY OF MINNEAPOLIS,
COUNTY OF HENNEPIN, STATE OF MINNESOTA.

ORDER TO SHOW CAUSE

Carl L. Lyce,

Contestant,

-VS-

Alice Olson Bergin,

Contestee.

Upon the verified Petition and Notice of Contest, and upon all the files and records in the proceeding, and upon motion of Benjamin Segal, Attorney for Contestant herein, the Court being fully advised in the premises,

IT IS ORDERED that Alice Olson Bergin, the contestee above named, show cause, if any she has, before this Court, at the Court House, in the City of Minneapolis, County of Hennepin and State of Minnesota, on the 24th day of September, 1942, at 9:30 o'clock A.M. of said day, or as soon thereafter as Counsel can be heard, why the Court should not make an Order directing the following, to-wit:

That all ballots cast at the Primary Election held on September 8, 1942, for the election and nomination of a member of the State Legislature of the State of Minnesota in the 31st Legislative District, be inspected, recounted and recanvassed in accordance with the Statutes in such case made and provided, and why the Court should not at such time make its Order appointing three referee-inspectors to make such inspection, recounting and recanvassing, and directing Al. F. Erickson, County Auditor of Hennepin County, and Charles C. Swanson, City Clerk of the City of Minneapolis, to produce the ballot boxes,

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or other containers containing the ballots cast at said Primary Election, and to open the same as provided by law, for the purpose of permitting said referee-inspectors to inspect, reread, recount and recanvass said votes, and directing said referee-inspectors to make such inspection, rereading, recanvassing and recounting with dispatch, and at the completion of said inspection, rereading, recounting and recanvassing of said ballots, to forthwith make a report thereof to this Court, stating the number of ballots shown to have been cast for the contestant and contestee together with any ballots upon which said referee-inspectors cannot agree.

Let a copy of this Order be served upon Alice Olson Bergin, contestee herein, and upon Mike Hoin, Secretary of State of the State of Minnesota, and upon Al. F. Erickson, County Auditor of Hennepin County, and upon Charles C. Swanson, City Clerk of the City of Minneapolis, Minnesota, not later than September 21, 1942, by delivering a true and correct copy thereof to each of them.

BY THE COURT

Levi M. Hall
JUDGE

Dated: September 18, 1942

STATE OF MINNESOTA
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PRISING PART OF THE FIFTH WARD AND THE
SIXTH WARD OF THE CITY OF MINNEAPOLIS,
COUNTY OF HENNEPIN, STATE OF MINNESOTA.

Carl L. Lyse,

Contestant,

-vs-

Alice Olson Bergin,

Contestee.

NOTICE OF MOTION

TO ALICE OLSON BERGIN, CONTESTEE AND AL. P. ERICKSON AUDITOR OF HENNEPIN
COUNTY; AND TO CHARLES G. SWANSON, CITY CLERK OF THE CITY OF MINNEAPOLIS,
MINNESOTA:

YOU WILL PLEASE TAKE NOTICE, That Carl L. Lyse, the Contestant
above named, will move the above named Court at the Court House in the
City of Minneapolis, on the 24th day of September, 1942, at 9:30 o'clock
A.M., or as soon thereafter as Counsel can be heard, for an Order providing
for the inspection of the ballots and directing Al. P. Erickson, County
Auditor of the County of Hennepin, State of Minnesota, to produce the ballot
boxes or other containers containing the ballots, and to open same as pro-
vided by law, and for the appointment of three (3) referee-inspectors of
ballots to make said inspection, rereading, recounting and recanvassing,
all as prayed for in the attached Petition and upon the Notice of Contest,
and upon all the records and files in this proceedings.

Dated: September 18, 1942

BENJAMIN SEGAL
BENJAMIN SEGAL,
Attorney for Contestant
536 Midland Bank Building
Minneapolis, Minnesota

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

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Carl L. Lyse,

Contestant,

-vs-

Alice Olson Bergin,

Contestee.

AFFIDAVIT

BENJAMIN SEGAL, being first duly sworn, deposes and says that he is the Attorney for the Contestant herein; that the County Canvassing Board made its report on September 14, 1942; that only about Forty (40) days, exclusive of Sundays and holidays, now remain before the General Election; that in this proceeding there must be an Order of the Court for the inspection of the ballots; that the ballots must then be recounted and recanvassed and the referee-inspectors must make their report; that thereafter a Motion must be made to bring the cause to trial; that the case must then be set for trial and thereafter brought to trial; that if it is necessary to follow the regular eight (8) day Notice of Motion in each of these, the case cannot be tried and determined before the General Election which will be on November 3, 1942; that in the interest of the parties involved, and in the interest of the voters in this District, it is necessary to have this cause determined prior to the date of the General Election, November 3, 1942.

Further Affiant saith not, except that this Affidavit is made for the purpose of showing that an exigency exists, and that for the purpose of showing to the Court that the Court should issue an Order to Show Cause shortening the time for the preliminary hearing in this matter.

BENJAMIN SEGAL

Subscribed and sworn to before me
this 18th day of September, 1942.

S. Harry Bandy
Notary Public, Hennepin County, Minn.

(Seal)

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

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PRISING PART OF THE FIFTH WARD AND THE
SIXTH WARD OF THE CITY OF MINNEAPOLIS,
COUNTY OF HENNEPIN, STATE OF MINNESOTA.

Carl L. Lyse,

Contestant,

-vs-

Alice Olson Bergin,

Contestee.

NOTICE OF CONTEST

TO ALICE OLSON BERGIN, CONTESTEE; AL. P. ERICKSON, AUDITOR OF HENNEPIN COUNTY; AND TO GEORGE H. HEMPERLY, CLERK OF THE DISTRICT COURT, FOURTH JUDICIAL DISTRICT, HENNEPIN COUNTY, STATE OF MINNESOTA; AND TO CHARLES C. SWANSON, CITY CLERK OF THE CITY OF MINNEAPOLIS, MINNESOTA:

You, and each of you are hereby notified that Carl L. Lyse, the Contestant above named, hereby does and will contest the election and nomination of Alice Olson Bergin for the Office of State Representative of the 31st Legislative District of the State of Minnesota, comprising part of the Fifth and Sixth Wards of the City of Minneapolis, Minnesota, at the primary election held in said District on the 8th day of September, 1942, on the following grounds:

1. That the County Canvassing Board of the County of Hennepin has declared the said Alice Olson Bergin elected as one of the nominees for said State Representative, to be voted upon at the general election to be held on November 3, 1942.

2. That the Contestant, Carl L. Lyse, is now and was on the 8th day of September, 1942, and for more than a year immediately prior and next preceding said primary election held September 8, 1942, a qualified voter of the State of Minnesota, and does now and has continuously for many years resided in the said 31st District, comprising part of the Fifth and Sixth Wards of the City of Minneapolis, County of Hennepin and State of Minnesota, and did file

as a candidate for the nomination for the above named Office.

3. That at said Primary Election as held in the above described District, there were more legal votes cast for the contestant than were cast for the contestee.

4. That in said District at said Primary Election, there were cast for the Contestant herein, more votes for the Office of State Representative than were canvassed, counted and declared to have been cast for him by the County Canvassing Board of Hennepin County.

5. That in said District at the said Primary Election, there were cast for the Contestee a less number of legal votes than were canvassed, counted and declared to have been cast for her by the County Canvassing Board of Hennepin County.

6. That by reason of the above recited errors, the County Canvassing Board of Hennepin County declared the said contestee to have been duly elected and nominated for the Office of State Representative of the 31st Legislative District of the State of Minnesota, but had the legal votes duly cast for the contestee and the contestant respectively been properly and duly canvassed counted and declared and so returned, it would show and the County Canvassing Board would have declared the contestant, Carl L. Lyse, to have been elected and nominated for the Office of State Representative of the 31st Legislative District of the State of Minnesota.

7. That the judges and clerks at the said Primary Election in the various precincts or voting districts in the Thirty-first Legislative District, in judging, counting, tallying and totaling the votes cast, committed errors and mistakes to the prejudice of the contestant, and returned the votes so erroneously totalled and extended so that the County Canvassing Board in canvassing, counting and declaring the return of said votes, committed errors and mistakes to the prejudice of this Contestant, whereby the contestee was declared elected as aforesaid, whereas in truth and in fact, the Contestant did receive the greater number of legally cast votes by the qualified voters than did the contestee in the Thirty-first Legislative District, for the office of State Representative.

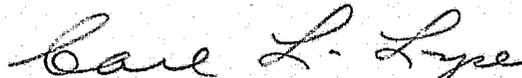
8. That at said Primary Election in said 31st Legislative District and in the several election precincts or polling places into which the said Thirty-first Legislative District is divided, there were cast for the Contestant herein, a larger number of legal and properly marked ballots which the judges and clerks of the several precincts failed to count and return for the said Contestant.

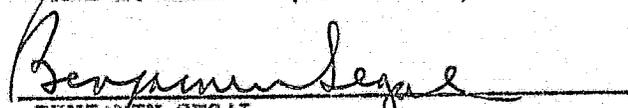
9. That at said Primary Election in the several election precincts of the 31st Legislative District, the judges and clerks did return a considerable number of votes for the Contestee herein which were not duly and legally cast for the said Contestee for the Office of State Representative of the 31st Legislative District of the State of Minnesota.

10. That in each election precinct of the said 31st Legislative District, there were one or more legal votes duly cast for the Contestant for said Office of State Representative, 31st Legislative District, which were not tallied, counted and canvassed for and on behalf of the Contestant by the judges and clerks; and the Canvassing Board of Hennepin County did erroneously and improperly tally, count, return and canvass for the Contestee one or more votes in each of said election precincts, in excess of those in fact and legally cast for the Contestee for the Office of State Representative, 31st Legislative District, State of Minnesota.

11. That the effect of these errors, improper tallying, counting, returning and canvassing was to cause it to appear, upon the canvass of the said County Canvassing Board, that there were more votes cast at said Primary Election for the Contestee than were cast for the Contestant.

WHEREFORE, Contestant prays that this Court make its Order that the Contestant Carl L. Lyse, be declared to be legally elected and duly nominated and entitled to receive the Certificate of election for the nomination as a candidate for the Office of State Representative of the 31st Legislative District, Hennepin County, State of Minnesota


CARL L. LYSE (Contestant)


BENJAMIN SEGAL
Attorney for Contestant
438 Midland Bank Building
Minneapolis, Minnesota

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) SS

CARL L. LYSE, being first duly sworn, on oath, states that he is the Contestant named in the foregoing attached Notice of Contest, and that he has read the said foregoing attached Notice of Contest and that the facts stated therein are true of his own knowledge except as to those matters stated on information and belief, and as to those matters, he believes it to be true.

Carl L. Lyse

Subscribed and Sworn to Before Me
this 18th day of September, 1942.

Bernard Segal
Notary Public, Hennepin County, Minn.

My Commission Expires March 9, 1948

(SEAL)

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

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Carl L. Lyse,

Contestant,

-vs-

Alice Olson Bergin,

Contestee.

PETITION FOR INSPECTION

OF BALLOTS

TO THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT, HENNEPIN COUNTY,
MINNESOTA:

The Petitioner, Carl L. Lyse, respectfully shows to the above
named Court:

1. That he is the Contestant in the above entitled proceeding.
2. That he instituted the contest herein, contesting the decla-
ration of the County Canvassing Board of Hennepin County declaring that
Alice Olson Bergin, the above named Contestee was elected and nominated for
the Office of State Representative of the 31st Legislative District of the
State of Minnesota, at the primary Election held in said District on the
8th day of September, 1942.
3. That said Contestant cannot properly prepare his case for
trial without an inspection of the ballots cast at the Primary Election held
on the 8th day of September, 1942, in each of the election districts comprising
the 31st Legislative District of the State of Minnesota.

WHEREFORE, your Petitioner respectfully petitions the above named
Court to make its Order appointing three (3) referee-inspectors to examine,
inspect, reread and recount the ballots cast at the Primary Election held on
the 8th day of September, 1942 in the 31st Legislative District, State of

Minnesota, for the election and nomination of a State Representative for the 31st Legislative District of the State of Minnesota; authorizing an inspection, rereading, recounting and recanvassing of said ballots; directing Al. F. Erickson, County Auditor of the County of Hennepin, and Charles G. Swanson, City Clerk of the City of Minneapolis, to produce the ballot boxes, or other containers containing the ballots cast in said Primary Election in the said 31st Legislative District, and to open the same as provided by law, for the purpose of permitting the said referee-inspectors to make the inspection, rereading, recounting and recanvassing with dispatch, and at the completion of said inspection, rereading, recounting and recanvassing of said ballots, to make a report thereof to this Court, stating the number of votes shown to have been cast for the Contestant and the Contestee respectively.

Carl L. Lyse
Petitioner and Contestant

STATE OF MINNESOTA }
COUNTY OF HENNEPIN } ss

Carl L. Lyse, being first duly sworn, deposes and says that he is the Petitioner in the foregoing petition, and the Contestant in the above entitled proceeding; that he knows the contents of the foregoing petition and that the same is true of his own knowledge except as to those matters stated on information and belief, and as to those matters he believes it to be true.

Carl L. Lyse

Subscribed and sworn to before me
this 28th day of September, 1942.

Benjamin Segal
Notary Public, Hennepin County, Minn.

My Commission Expires March 9, 1948

(SEAL)

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