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SENATE

{ REPORT
No. 1021

SENATOR FROM MINNESOTA

JUNE 7 (calendar day, JUNE 8), 1926.—Ordered to be printed

Mr. DENEEN, from the Committee on Privileges and Elections, submitted the following

REPORT

[To accompany S. Res. 243]

CONTEST AND PROTEST IN CONNECTION WITH THE ELECTION OF UNITED STATES SENATOR FROM THE STATE OF MINNESOTA, 1924

The Committee on Privileges and Elections herewith submits its report in the matter of the contest and protest relating to the primary and general elections of 1924 in the State of Minnesota for United States Senator, under Senate Resolution 20, Sixty-ninth Congress, special session, adopted March 10, 1925, which reads as follows:

Whereas a petition of contest concerning the election of Thomas D. Schall as Senator from Minnesota for the term beginning March 4, 1925, has been filed and charges have been made touching the excessive and illegal expenditure of money in said election and touching the qualifications of the said Thomas D. Schall to hold the said office and touching violations of law in connection with the said election: Therefore be it

Resolved, That the Committee on Privileges and Elections, or any subcommittee thereof, or any person or persons designated by them, be, and it is hereby, authorized and directed to investigate the charges and countercharges, if any, as may be made in the matter, and that the Sergeant at Arms of the Senate and his deputies and assistants be, and they are hereby, instructed to carry out the instructions of such Committee on Privileges and Elections, or any subcommittee thereof, in that behalf.

Resolved further, That the Committee on Privileges and Elections, or any subcommittee thereof, be authorized to sit during the session of the Senate, or during any recess of the Senate, or of the Congress, and to hold its sessions at such place or places as it shall deem most convenient for the purposes of the investigation, and to conduct the same, if so deemed wise, by agents or representatives appointed by said committee, and to have full power to subpoena parties and witnesses, and to require the production of all papers, books, and documents and other evidence relating to the said investigation; and to employ clerks and other necessary assistants and stenographers (at a cost not to exceed 25 cents per 100 words) to take and make a record of all evidence taken and received by the committee or under its authority, and to keep a record of its proceedings; and to have such evidence, records, and other matter required by the committee printed.

Resolved further, That the Sergeant at Arms of the Senate and his deputies and assistants are hereby required to attend the said Committee on Privileges and Elections, or any subcommittee thereof, and to execute its directions; that the chairman or any member of the committee be, and is hereby, empowered to administer oaths; that each of the parties to the said contest be entitled to representatives and attorneys at the recount and the taking of evidence; that all disputed ballots and records be preserved so that final action may be had thereon by the full committee and the Senate; that the committee may appoint subcommittees of one or more members or other agents to represent the committee at the various places in the making of the recount and the taking of evidence, and the committee may appoint such supervisors of any recount as it may deem best; and that the committee may adopt and enforce such rules and regulations for the conduct of the recount and the taking of evidence as it may deem wise, not inconsistent with this resolution; and that the committee shall report to the Senate as early as may be, and from time to time, if it deems best, submit all the testimony and the result of the recount and of the investigation.

Resolved further, That the expenses incurred in the carrying out of these resolutions shall be paid from the contingent fund of the Senate upon vouchers ordered by the committee, or any subcommittee thereof, and approved by the chairman of the committee.

PETITION, PROTEST, AND ANSWER

Magnus Johnson (contestant) filed with the Senate on the 2d day of February, 1925, a petition contesting the election of Thomas D. Schall (contestee) as Senator from Minnesota in the general election of November 4, 1924, and a protest against the election and the qualifications of contestee. First and second amended petitions were filed by the contestant. The allegations by the contestant were:

(1) That certain violators of the liquor laws were induced to contribute money for the expenses of contestee's campaign by certain persons who were either employed by or were constant visitors at the "Schall political headquarters" at the West Hotel in Minneapolis.

(2) That sums in excess of the amount permitted to candidates for the United States Senate were expended by contestee in violation of the statutes of the United States and of the State of Minnesota.

(3) That false statements about contestant were made by contestee during the campaign for election in violation of the Corrupt Practices Act of Minnesota, which declares the making of such false statement to be a misdemeanor, the penalty for which may be a fine or imprisonment, or both, or removal from office; that said false statements were made at Thief River Falls on October 10, 1924; at St. Cloud on October 18, 1924; at Erskine on October 9, 1924; before a meeting of the League of Women Voters at the People's Church in the city of St. Paul; at Wadena on August 20, 1924; at Wabasha on September 30, 1924; and at Virginia on October 16, 1924; all of which are cities or towns in the State of Minnesota. That contestee caused the publication of 450,000 copies of a paper called the Minnesota Harpoon, and caused said Harpoon to be unlawfully mailed as second-class matter in the United States post office at Minneapolis; that said Harpoon contained a defamatory article against said contestant and that said Harpoon was unlawfully admitted and carried through the mails as second-class matter, notwithstanding its circulation violated the postal laws in several particulars specified in petition.

(4) That said contestee violated the franking law privilege in sending through the mails "millions of copies of speeches and extensions of remarks."

(5) That contestee promised offices and positions for influence and support in his campaign.

(6) That contestee, A. N. Jacobs, and Frank Corneaby conspired to expend a sum of money in excess of \$50,000 in procuring the election of said contestee.

Petitioner prays "that said Thomas D. Schall be declared not elected and also disqualified and not entitled to a seat because of the aforesaid violations of the law".

Contestee, on November 21, 1925, filed a motion to dismiss petition of contestant, setting forth the reasons therefor, which was afterwards overruled by the subcommittee and leave was given to contestee to file an answer. Contestee, on the 18th of December, 1925, filed an answer to the amended petition filed by contestant, denying each and every allegation in said petition contained and prayed that the petition of contestant be disallowed and dismissed.

The subcommittee had hearings on January 28, 1926; January 29, 1926; January 30, 1926; February 1, 1926; February 2, 1926; February 3, 1926; February 5, 1926; February 8, 1926; February 9, 1926; March 4, 1926; March 5, 1926; and March 8, 1926.

The following witnesses testified before the subcommittee: Peter A. Cosgrove, Andrew Szysko, Addison C. Townsend, W. F. Corneaby, Maurice Silverman, S. B. Qvale, Charles E. Llewellyn, and Andrew A. D. Rahn.

Peter A. Cosgrove, called as a witness by contestant, testified as follows:

That he is a lawyer and resides in the city of Minneapolis; that he talked with contestee on August 13; that contestee said that Jake (meaning Jacobs) and Andy (meaning Mr. Rahn) were looking after his affairs; that Mr. Bowen (organizer of the Nonpartisan League) had gone over to the La Follette people, but Mr. Bowen said most of his crowd wanted to be with contestee; that Bowen was not working; that he could not work gratis; that he had to support himself. Contestee said "Let him see Jake and Andy."

That witness talked to Mr. Jacobs about one J. M. Anderson; that witness talked with contestee in April, 1924, about Anderson; that contestee asked witness to get a copy of a letter written in 1923 in the campaign by Anderson and another letter written by Lesoeur, published in some St. Paul papers; that witness got these articles, which contained an attack on Magnus Johnson, and that contestee said that Anderson would write them up for the Harpoon. That contestee told witness that he (contestee) established the Harpoon; that the paper was published by Jacobs at election time; that contestee said that the paper was his and that he (contestee) had merely turned it over to Jacobs, who had never paid him anything for it. Contestee asked witness to assist Jacobs at headquarters in the West Hotel until George Magnusson could come; that Jacobs was the campaign manager of contestee, and would carry it on until Magnusson was ready to take it over. Witness saw Corneaby in contestee's office either in July or August and at other times during the campaign of 1924. Witness called at contestee's home about the 20th of September, 1924. Witness said he was looking after the county newspapers' write-ups for him and against him (contestee).

Witness said that Herman Rowe had received a letter from Jacobs asking him to "reimburse me (witness) for my expenses," and that Mr. Rowe had refused to do so. Contestee said, "I am busted wide open so far as money is concerned. Can't Jake do anything for you?" I said, "No." He said, "He is out of money, too—well, go and see Andy. Jake and Andy have charge of my campaign." I looked after some of the newspaper work for Mr. Schall and for Mr. Jacobs, and they said that they would be able to reimburse me. I will add that Mr. Jacobs did, after several weeks, contrive to pay me twenty-eight dollars (\$28.00).

Witness had a talk with Jacobs about a copy of the Harpoon, contestant's Exhibit No. 2. This was before the article was published. Witness asked Jacobs what J. M. Anderson was doing there. Jacobs replied, "Well, he is writing it," and he said, "He can not write it; I am going to write it, and when it comes out it will be a scream." Jacobs said to witness, "Have you seen the Harpoon?" Witness said "No." Jacobs said, "Well, here it is over here—take a copy and read it. I have got all that Anderson stuff in. I told you it would be a scream and it is one." This occurred at headquarters at the West Hotel. Witness saw a great pile of the Harpoons at the headquarters. Witness did not know what was in that copy of the Harpoon. Witness took one home but did not read it. Boone Talbott took care of one room at the political headquarters at the West Hotel.

CROSS-EXAMINATION

Witness said, "I was with Mr. Jacobs in the West Hotel and was afterwards at the Ryan Hotel in St. Paul, assisting him in conducting the campaign for Senator Schall." Early in the year 1924 witness began writing to contestee urging him to become a candidate for the Senate. Witness was in charge of headquarters when Jacobs was away; started work at 8 o'clock in the morning and remained there until 12 at night. Contestee asked witness to go to headquarters. Witness was a part of the voluntary committee. There were 60 or 70 members of this committee. Witness went to St. Paul and opened up headquarters and called it a Schall headquarters. "Contestee did not ask me to do this." "Jacobs sent me over there." Witness in the primary wrote a letter to contestee dated March 13, 1924, and asked contestee to give witness authority to raise campaign funds. Contestee did not give witness such authority.

On March 17, 1924, witness wrote contestee asking for duplicate authority to him and Mr. Waters to try to collect some funds. Witness stated that he should have a little change to buy a cigar or a lunch once in a while. On March 20, 1924, witness wrote contestee as follows:

I had a little heart-to-heart talk with Jake. Jake told me he was going to select a big man to manage your campaign. He said he could not take the management himself because he is a Jew. He said he was going to select George A. Mackleson as the manager of the sixth district, but he didn't think George was quite big enough to be State manager. From the little talks I have had with George I think he is not big enough for the job either. (Jake referred to Jacobs.)

On April 5, 1924, witness joined with others urging contestee to become a candidate for the United States Senate. Witness identifies

