

Chapter CLVI.¹

THE QUALIFICATIONS OF THE MEMBER.

1. Citizenship in the United States. Section 55.

2. Inhabitancy. Section 55.

55. The Indiana election case of Updike v. Ludlow, in the Seventy-first Congress.

Residence in the District of Columbia for years as a newspaper correspondent and maintenance there of church membership were not considered to outweigh payment of poll and income taxes, ownership of real estate, and a record for consistent voting in the district from which elected.

Excuse from jury duty in the District of Columbia on a plea of citizenship in the State from which elected and exercise of incidental rights of such citizenship, were accepted as evidence of inhabitancy.

Instance wherein the time specified by the rules within which the Election Committees of the House shall make final report on contested election cases was extended by resolution.

On December 12, 1929,² the contested-election case of Ralph E. Updike v. Louis L. Ludlow, from the seventh district of Indiana, was referred to the Committee on Elections No. 1, and on June 25, 1930,³ Mr. Carroll L. Beedy, of Maine, from that committee, asked unanimous consent for consideration of the following resolution:

Resolved, That the Committee on Elections No. 1 shall have until January 20, 1931, in which to file a report on the contested-election case of Updike v. Ludlow, notwithstanding the provisions of clause 47 of Rule XI.

The resolution was considered and agreed to, and on December 20, 1930,⁴ the committee submitted its report.

Mr. Ludlow was conceded to have received a majority of 6,380 votes, but his election was contested on two issues: First, on the ground that Mr. Ludlow was not an inhabitant of the State of Indiana within the meaning of the constitutional

¹Supplementary to Chapter XIII.

²Second session Seventy-first Congress, Record, p. 573.

³Second session Seventy-first Congress, Record, p. 11701.

⁴Third session Seventy-first Congress, House Report No. 2139.

qualifications; and, second, upon the ground that his election was tainted by fraud and corruption.

In the course of the contest, the allegation of fraud and corruption was abandoned and the case finally turned on the issue of inhabitancy.

The report recounts that Mr. Ludlow was born in Indiana and resided there until 1901 when he came to Washington as a correspondent of an Indianapolis newspaper and remained in that capacity until his election in 1928.

It was shown that while his family resided in Washington except for visits back to Indiana, and he was a communicant and trustee of the Union Methodist Church in Washington, he engaged in the real estate business in Indianapolis during that time, owned unimproved land in Indiana, and expected eventually to return to that State.

It was also testified that Mr. Ludlow paid his poll tax and his income tax in Indiana and had voted regularly in Indianapolis during his entire residence in Washington.

The report thus distinguishes between legal and actual residence:

It is the view of the committee that the term "inhabitant" as employed in section 2, Article I of the Constitution, embraces the idea of legal residence as contradistinguished from actual residence. In other words, it is the view of the committee that one's inhabitancy is where he maintains his ideal residence.

It is commonly accepted that an actual resident may not be entitled to all the privileges or subject to all the duties of an inhabitant. This is clearly so when the individual goes to the trouble of paying his taxes and insisting upon his right to vote in the place of his birth which he claims as his legal residence. In such a case, one continues to be an inhabitant where he maintains his right to vote, irrespective of his actual residence. In other words, the inhabitancy of the individual is to be determined by his intention as evidenced by his acts in support thereof.

The committee referred to Mr. Ludlow's excuse from jury duty in the District of Columbia on the plea of his Indiana citizenship, and in closing their report concluded that his course of action for years was such as to indicate his intention to retain his inhabitancy in the State of Indiana.

The committee therefore unanimously recommended the adoption of a resolution confirming his right to his seat in the House.

The resolution was considered in the House on December 20, 1930,⁵ and was agreed to without division.

⁵Third session Seventy-first Congress, Record, p. 1313.