Union Calendar No. 804
82d Congress, 2d Session - - - - - - House Report No. 2517

CAMPAIGN EXPENDITURES COMMITTEE

REPORT

OF THE

SPECIAL COMMITTEE TO INVESTIGATE CAMPAIGN EXPENDITURES

HOUSE OF REPRESENTATIVES

EIGHTY-SECOND CONGRESS

SECOND SESSION

PURSUANT TO

H. Res. 558

A RESOLUTION CREATING A SPECIAL COMMITTEE TO INVESTIGATE THE ELECTION OF MEMBERS OF THE HOUSE OF REPRESENTATIVES

UNITED STATES
GOVERNMENT PRINTING OFFICE
27005 WASHINGTON : 1953

COMMITTEE ON CAMPAIGN EXPENDITURES

HALE BOGGS, Louisiana, *Chairman*

JOHN J. ROONEY, New York
FRANK M. KARSTEN, Missouri
KENNETH B. KEATING, New York
WILLIAM M. McCULLOCH, Ohio

GILLIS W. LONG, *General Counsel*

ARA M. HAMILL, *Clerk*

WALTER L. FITZPATRICK, Jr., *Chief Investigator*
FARLEY W. WARNER *Associate Counsel*
RAYMOND D. WATTS, *Professional Staff Member*
MARGARET J. ROBEY, *Assistant Clerk*

CONTENTS

82D CONGRESS
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CAMPAIGN EXPENDITURES COMMITTEE

JANUARY 3, 1953.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed, with illustrations

Mr. BOGGS of Louisiana, from the Special Committee To Investigate Campaign Expenditures, submitted the following

REPORT

[Pursuant to H. Res. 558, 82d Cong.]

PART I

AUTHORITY AND MEMBERSHIP OF COMMITTEE

House Resolution 558, Eighty-second Congress, second session, creating a Special Committee To Investigate Campaign Expenditures in the election of Members of the House of Representatives in 1952, was introduced by Hon. John W. McCormack, the majority leader, on March 6, 1952.

The resolution was referred to the Committee on Rules and reported to the House by that committee on March 20, 1952. Text of the resolution, which was considered and agreed to on May 12, 1952, is set out in appendix I, infra, on pages 80 and 81.

The Speaker of the House, on June 16, 1952, appointed the following members to the committee:

Hale Boggs (Democrat, Louisiana), chairman.
John J. Rooney (Democrat, New York)
Frank M. Karsten (Democrat, Missouri)
Kenneth B. Keating (Republican, New York)
William M. McCulloch (Republican, Ohio)

House Resolution 691, Eighty-second Congress, second session, appropriating funds, not to exceed $30,000, for the expenses incurred by

the Special Committee To Investigate Campaign Expenditures, 1952, was introduced by Mr. Boggs, of Louisiana, on June 16, 1952, and was referred to the Committee on House Administration. Text of this resolution, as agreed to on July 2, 1952, is set out in appendix I, infra, on page 81.

Jurisdiction and Policy

House Resolution 558 authorized and directed the committee to investigate and report to the House with respect to—

1. The expenditures of all candidates for the House of Representatives made in connection with their 1952 campaigns for nomination and election to such office;

2. The amounts contributed, and the value of services and facilities made available, by any individual, individuals, group of individuals, committee, partnership, corporation, or labor union in connection with any such campaign for nomination or election;

3. The use of any other means or influence, including the promise or use of patronage, for the purpose of aiding such campaigns for nomination or election;

4. The contributions received, and expenditures made, by any individual, individuals, group of individuals, committee, partnership, corporation, or labor union, including any political committee thereof, in connection with any such election, and the amounts received by any political committee from any corporation, labor union, individual, individuals, group of individuals, committee, or partnership;

5. The violations, if any, of the Federal Corrupt Practices Act; the Hatch Act; provisions of section 304 of the Labor-Management Relations Act, 1947; and of other Federal or State statutes, the violation of which would affect the qualification of a Member of the House of Representatives;

6. Other matters relating to the election of Members of the House of Representatives in 1952, which would be of public interest and of assistance to the House of Representatives in enacting remedial legislation, or in deciding any elections that might be contested.

Within the brief span of the committee's existence (July 2, 1952, when its appropriation was approved, to January 2, 1953, when the Eighty-second Congress ends) and the limited amount of its appropriation ($30,000), it was impossible for the committee to attempt any detailed investigation, supervision, or inspection of every primary and general election campaign involving candidates for the House of Representatives. Instead, the committee determined that the intent of the House, as expressed in House Resolution 558, could best be complied with by the committee's undertaking the following three-point program, which was capable of full attainment within the time and financial limitations obtaining:

1. Supply all candidates in the general election with copies of the pertinent Federal legislation, including information of the committee's existence, jurisdiction, and policy, to serve as a guide to candidates in conducting their campaigns, and to advise them of the purpose and laws governing the questionnaire forms that each received from the Clerk of the House.

2. Conduct investigations of particular campaigns only upon receipt of a complaint signed by a candidate, containing sufficient and definite

allegations of fact to establish a prima facie case requiring investigation by the committee, reserving, however, the right to act upon its own motion in any matter which it believed would better enable it to carry out the duties imposed by House Resolution 558.

3. Conduct a study of the effectiveness of present legislation in the field, and the practicality of proposed remedial legislation, and then recommend amendments.

Preliminary Work of the Committee

A staff, appointed by the committee to assist in carrying out the responsibilities delegated to it, entered upon its prescribed duties August 3, 1952. The first step in the program, outlined in the foregoing section on the committee's policy, was undertaken at once.

At the request of the committee, the American Law Section, Legislative Reference Service, Library of Congress, compiled the texts of provisions of the United States Constitution and Federal statutes concerning the election of Representatives and Resident Commissioners in, and Delegates to, the House of Representatives. A committee print, entitled "Information of Importance to Candidates for Office of United States Representative in the Eighty-third Congress," was thereupon prepared by the committee and its staff, and copies were mailed to every congressional candidate. The print (reproduced infra, page 64, as appendix I) included brief explanatory summaries and excerpts from the texts of relevant provisions of the United States Constitution, the Federal Corrupt Practices Act, the Hatch Act, the Pendleton Act, and the Powers Act, as well as information concerning the existence, jurisdiction, and policy of the committee.

Part II of this report deals with the work of the committee and its staff in carrying out the second phase of its program: investigation of particular campaigns, upon receipt of signed complaints of candidates. Part III of the report outlines the basic questions and considerations studied by the committee and its staff, independently and at public hearings, in connection with revision and supplementation of the Federal laws governing the conduct of elections. The committee's recommendations are contained in part IV.

PART II

FIELD INVESTIGATIONS

House Resolution 558, section 6, authorizes the committee to investigate and report—

> * * * matters * * * which in its opinion will aid the House of Representatives in * * * deciding any contests that may be instituted involving the right to a seat in the House of Representatives.

With respect to this authority, the committee announced as its policy, in a special committee print sent to all candidates for the House of Representatives, that it would—

> conduct investigations of particular campaigns only upon receipt of a complaint, signed by a candidate, containing sufficient and definite allegations of fact to establish a prima facie case requiring investigation by the committee. However, the committee reserves the right to act upon its own motion in any matter which it believes will better enable it to carry out the duties imposed by House Resolution 558.

Complaints which met the policy of the committee, and which were accordingly investigated, were received from:

1. Woodrow Wilson Sayre, candidate for the Democratic nomination for United States Representative, Twenty-fifth Congressional District, California.
2. Walter S. Baring, United States Representative and Democratic nominee for reelection to that office from Nevada (at large).
3. Robert L. Ramsay, United States Representative and candidate for the Democratic nomination for that office, First Congressional District, West Virginia.

Certain other complaints received by the committee failed to establish a prima facie case requiring investigation and, therefore, no investigation was conducted. Three additional complaints were received too late for any action by this committee before its expiration. These were from (1) Hon. John T. Wood, Member of Congress from the First District of Idaho, who requested a recount of ballots cast for United States Representative in that district, on the bases of the small plurality of votes received by his opponent, failure of his State to provide recount machinery, and possible improprieties in the conduct of his opponent's campaign; (2) Theodore Gunnett, chairman of the Lawrence County Democratic Committee, Pennsylvania, who presented information to the committee pertaining to the general election for United States Representative in the Twenty-fifth Congressional District of Pennsylvania alleging "error, negligence, and * * * perhaps fraud"; and (3) Edmund D. Campbell, defeated Democratic candidate for Representative in the Tenth District of Virginia, who asked for a recount by this committee of the ballots cast for Representative in the general election, on the bases of possible errors of tabulation and erroneous voiding of ballots.

The information submitted by Mr. Gunnett, Democratic chairman of Lawrence County, Pa., was referred by this committee to the Committee on House Administration of the Eighty-third Congress for its consideration. Representative Wood, of Idaho, and Mr. Campbell, of Virginia, were advised of the impossibility, in the time available, of this committee's conducting the recounts they requested, and of their right to file an election contest with the Committee on House Administration of the Eighty-third Congress.

The remainder of this part of your committee's report is devoted to accounts of the committee's investigation of (1) the Democratic primary election for United States Representative in the Twenty-fifth District of California, (2) the general election for Representative at Large in the State of Nevada, and (3) the Democratic primary election for United States Representative in the First Congressional District of West Virginia, pursuant to the complaints filed by Mr. Sayre and Representatives Baring and Ramsay, respectively.

Primary election, Twenty-fifth District, California

On August 22, 1952, your committee received the complaint of Woodrow Wilson Sayre, a candidate for the Democratic nomination for United States Representative from the Twenty-fifth Congressional District of California.

In his complaint Mr. Sayre alleged:

1. That complainant was a candidate for the Democratic nomination for Representative in the Twenty-fifth District in the primary election held June 3, 1952, and that his only opponent for the nomination was incumbent Republican Representative Patrick J. Hillings, who had cross-filed as a Democrat.

2. That the regular canvass of the votes cast in the Democratic primary election for nomination for Representative showed that Mr. Sayre received exactly 30,000 votes, and Mr. Hillings received 30,033 votes.

3. That on July 2, 1952, Mr. Sayre filed an election contest statement in the superior court, county of Los Angeles, pursuant to the provisions of the California Elections Code, praying that a statutory simple recount be had of the ballots cast in the said primary election; that on the same date, Representative Hillings, through his attorney, moved to dismiss the recount proceedings on jurisdictional grounds, claiming that under article I, section 5 of the United States Constitution, and the ruling of the California courts in the case of *In re McGee* (36 Cal. 2d 592), the court lacked jurisdiction to proceed with the recount; and that on July 17, 1952, after hearing, the superior court granted the motion to dismiss.

4. That on July 24, 1952, the Supreme Court of the State of California denied complainant's petition for writ of certiorari. (Although the complaint did not so allege, counsel for Mr. Sayre later informed the general counsel of the committee that a subsequent motion for a rehearing on the denial of the petition for a writ of certiorari was also denied by the California Supreme Court, by a vote of 5 to 4.)

5 and 6. That the peculiar features of California election laws, which allow cross-filing, cause confusion among both the voters and the various precinct election boards, leading to inaccurate returns and, in this instance, an erroneous election result.

7. That the registrar of voters for Los Angeles County held all of the ballots, precinct by precinct, awaiting use of these ballots by, among others, congressional committees, and that the ballots were subject to examination by this committee.

8. That the registrar of voters for Los Angeles County would provide space and personnel for a recount, that such a recount would take about a week; that under the California law the complainant would have to pay the personnel to do the recounting; that the complainant was ready, if required, to pay the costs of the personnel required to do the actual counting; and that complainant believed that a general recount would show him to have been the victor over the Republican for the Democratic nomination.

9. That, under California law, as construed by its courts, a recount of ballots conducted by this committee would be honored by the registrar of voters, and that, if it were not honored, it would be enforceable.

10. That records of the registrar of voters disclosed discrepancies between duplicate tally sheets used for tallying results in at least five precincts; that in each of these precincts the tally sheets favoring the Republican candidate were used in compiling official returns; and that if the duplicate tally sheets favoring Mr. Sayre were used, he would have received 60 additional votes.

11. That returns of certain precincts were so far out of line with surrounding precincts that the only probably explanation of their vote was an error in counting.

12. That in certain other precincts, the number of votes reported to have been cast exceeded the number of ballots recorded as issued.

13. That the Democratic State Central Committee of California at its regular meeting on August 3, 1952, passed a resolution stating that checks of the tally sheets of the primary election showed that complainant was the victor in the primary, and that unless a showing was made to the contrary by a legal recount of the votes cast, complainant would be recognized as the Democratic Party's elected nominee for Representative in Congress from the Twenty-fifth Congressional District.

14. That the final date for making changes on the November election ballot would be October 4, 1952.

On the basis of these facts and allegations, Mr. Sayre requested the following action by the committee:

1. That the committee send a representative to California to supervise a recount of the ballots cast for candidates for Democratic nominee for Congress, from the Twenty-fifth Congressional District.

2. That the committee certify to the registrar of voters of the county of Los Angeles, and to the California secretary of state, the true result in said election.

Or, in the alternative, and only if the recount were denied:

3. That the committee determine the true returns in certain precincts named in the complaint.

4. That the Republican incumbent be disqualified from being the Democratic nominee on the November ballot in California, by reason of his inability to represent both platforms and parties, and by reason of the action taken by the official body of the Democratic Party in California, repudiating the Republican as Democratic nominee for Congress from the Twenty-fifth District.

5. That, in any event, the committee make its report in this matter to the Eighty-third Congress, recommending that the Republican Patrick J. Hillings not be seated as Representative from the Twenty-fifth Congressional District.

Action of the Committee

After discussion of Mr. Sayre's complaint at a meeting held on September 8, 1952, your committee decided to conduct the recount requested, in view of the fact that Mr. Sayre had been unable to get relief in the courts of the State of California.

The chairman thereupon instructed the committee's general counsel, Gillis W. Long, to proceed to Los Angeles, and supervise the recounting of the votes which had been cast in the Democratic primary election to nominate a Democratic candidate for Representative of the Twenty-fifth Congressional District.

This action was taken with the understanding that it would not be necessary for a member of the committee to supervise the recount personally, and that the complainant would pay the cost of hiring the workers who actually conducted the recount.

Conduct of the Recount

The general counsel of the committee called a meeting for Thursday, September 11, 1952, with the attorney representing Representative Hillings, Spencer E. Van Dyke of Los Angeles, and the attorney representing the complainant, Mr. Sayre, Winston M. Fick of San Bernardino.

At this meeting, and at a meeting which was held on the following day, the procedure which would govern the conduct of the recount was discussed. With the approval of the general counsel of the committee, counsel for the parties entered into a stipulation and agreement as to the rights of the parties in the recount, the provisions of which agreement were:

1. That the recount will be conducted under the supervision of the Special Committee To Investigate Campaign Expenditures, House of Representatives, 1952, and specifically under the supervision of Gillis W. Long, general counsel of said committee, with authority to represent the same.

2. That the count of absentee ballots cast in said election as made by the regular election officials and reported by them, is accepted as true and correct for the purpose of this recount, and no recount of these absentee ballots is desired by either party because of the fact that representatives of both parties were present and attended the original count of the absentee ballots. The count of absentee ballots in this election, as reported by the registrar of voters of the county of Los Angeles, is hereby incorporated as a part of this recount.

3. The physical recount of the ballots shall be conducted by teams of four persons, one to serve as a caller, one to verify the call, and two to serve as tally clerks, each maintaining a separate tally.

Each candidate has the right to have observers present to protect the call made by the caller, or to challenge the validity of any ballot.

Every ballot which is protested by a representative of either candidate, or of which the caller or challenger has any doubt as to its validity, shall be set aside and submitted to the general counsel of the committee and the counsels of the respective candidates for a determination as to the validity and interpretation thereof.

The California election laws shall be applied in determining the validity or interpretation of all challenged ballots.

4. This stipulation is subject to the adoption of such rules and regulations for the conduct of this recount as the representatives of the special committee

may deem necessary, and any complaint as to procedures adopted must be made at the time the procedure is adopted, or the parties are considered to have waived their objections as to the procedure adopted.

If objections are voiced by either party as to any phase of the recount, the objections and the reasons therefor shall be submitted to the representative of the committee, in writing, and shall be incorporated as a part of the record of these proceedings.

This stipulation concerns only the procedure for conducting the recount, and does not constitute an agreement that the committee has jurisdiction to conduct same.

The undersigned counsel have no knowledge concerning the jurisdiction of the committee and cannot, therefore, stipulate on this subject.

Necessary arrangements were then made with the Registrar of Voters for Los Angeles County, Mr. Benjamin Hite, to have the ballots and space available to begin counting on Monday, September 15, 1952.

Mr. Hite was unable to obtain sufficient workers to count the votes, but was able to secure the services of 16 workers to serve as tally clerks. Repeated efforts to secure the necessary personnel elsewhere failed, so it was finally agreed that the callers and the call checkers would be partisan political workers, furnished by the candidates themselves, with a representative of one of the parties serving as caller, and the representative of the other serving as checker, to see that the correct call was made. They were to change positions as they agreed among themselves.

The 16 workers, whose services were secured by the registrar of voters, were taken from a list of available employees in the possession of the registrar. Care was taken that none of these employees were from the Twenty-fifth Congressional District.

Each of the parties supplied eight callers, or checkers, and each had watchers in attendance at all times. An accountant and a secretary were hired to assist the representative of the committee.

On Monday morning the workers and watchers were instructed as to the procedure to be followed in the conduct of the recount, and all were specifically informed that if any caller, checker, or watcher had any doubt as to the validity or interpretation of any ballot, it should be set aside for a determination, or interpretation, by the representative of the committee and the counsel for the parties.

Representatives of both parties were present at all stages of the recount of the ballots, and no written protests were filed with the representative of the committee as to any procedure that was employed, or any decision made. Three questions verbally raised by the parties during the recount, and the manner in which they were determined by the committee's general counsel, were as follows:

1. Although the California Elections Code requires that the envelopes containing the ballots cast in each precinct be sealed and signed by the election board officials of the precinct before they are turned over to the registrar of voters, many of these envelopes were not sealed, and an even greater number were not signed. Mr. Sayre was quite perturbed by this fact during the recount, but other than making a note of the fact, nothing could be done, and these votes were recounted on the same basis as those in properly sealed and signed containers. The registrar of voters was questioned on this point and he stated that, in spite of explicit instructions given at every precinct polling place, it was not unusual for this to occur.

2. It was discovered that one team, in spite of repeated instructions to refer doubtful ballots to the general counsel, had attempted to interpret, and had counted, an undetermined number of ballots on which the voter had stamped the cross in the square opposite a blank line below the name of the candidate (Mr. Sayre) for whom the ballot was counted. (See photostatic illustration, marked "Exhibit III," p. 11.) On the basis of a mathematical computation of the number of such ballots encountered during the entire recount, it was agreed by all parties concerned that this was to the advantage of Mr. Sayre, and that Mr. Sayre would stipulate that he had received four more votes than he was entitled to, under the ruling of the committee representative that such ballots should be interpreted as "no vote" under California election laws. It was the opinion of the committee representative that this adequately corrected the error that was made, and counsel for each party concurred.

3. The envelope marked as containing the ballots for the Democratic primary at Temple City, Precinct No. 16, was found actually to contain the Republican primary ballots for that precinct. A check revealed that the Democratic ballots were in the envelope that should have contained the Republican ballots. The Democratic ballots, apparently placed in the wrong envelope by the precinct election board, were counted. Neither of the parties made any protest of this action.

In each precinct where there was a discrepancy of four or more votes between the count arrived at by the regular election officials and the recount tabulation, a second recount was conducted to assure complete accuracy.

Since the petition filed by the complainant had requested an investigation of alleged peculiarities in the returns of particular precincts only as an alternative to a general recount of all the votes cast, and since a general recount was conducted under the supervision of the committee, no detailed investigation was made of the allegations numbered 5, 6, 10, 11, and 12 of Mr. Sayre's complaint (see p. 6, supra).

Results of the Recount

The recount supervised by the committee, through its representative, disclosed the following result of the balloting for Democratic congressional nominee in the Twenty-fifth Congressional District:

Class of ballots	Hillings	Sayre
Noncontested votes, total of all precincts [1]	29,692	29,825
Contested by callers or watchers but conceded by counsel for opposing candidates [2]	261	234
Absentee [3]	251	179
Unrevised total	30,204	30,238
To be deducted as a result of stipulation by counsel [4]	None	−4
Revised total	30,204	30,234

[1] These figures include a small number of votes which were contested on the second recount in those precincts recounted twice; however, these were conceded by counsel for both parties.

[2] The representative of the committee reserved the right to make the final decision on every questioned ballot; but there was no disagreement between counsel for the respective parties as to how any of these votes would be counted.

[3] These figures represent the count as conducted by the registrar of voters and incorporated into the recount, by written stipulation of the parties. (See p. 8, supra.)

[4] Verbal agreement at the recount. (See p. 10, supra.)

EXHIBIT III

MARK CROSSES (+) ON BALLOT ONLY WITH RUBBER STAMP; N
(ABSENTEE BALLOTS may be marked with PEN AND INK OR PI
(Fold Ballot to this Perforated Line, leaving Top Margin expose

OFFICIAL CONSOLIDATED PRIMARY ELECTI

DEMOCRATIC PARTY

25th Congressional, 38th Senatorial, 50th Assembly District

To vote for the group of candidates preferring a person whose name appears on the ballot, stamp a cross (+) in the square in the column headed by the name of the person preferred.

FOR DELEGATES TO NATIONAL CONVENTION. VOTE FOR ONE GROUP ONLY.

Candidates Preferring ESTES KEFAUVER	Candidates Preferring EDMUND G. (PAT) BROWN
X	
A cross (+) stamped in this square shall be counted as a vote for all candidates preferring Estes Kefauver.	A cross (+) stamped in this square shall be counted as a vote for all candidates preferring Edmund G. (Pat) Brown.

To vote for a person whose name appears on the ballot, stamp a cross (+) in the square at the RIGHT of the name of the person for whom you desi not printed on the ballot, write his name in the blank space provided for that purpose. To vote on any measure, stamp a cross (+) in the voting squar All marks, except the cross (+) are forbidden. All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly stamp, t tor of election and obtain another. On absent voter's ballots mark a cross (+) with pen or pencil.

CONGRESSIONAL

United States Senator — Vote for One

WILLIAM E. KNOWLAND, United States Senator	X
ARTHUR W. WATWOOD, Professor of Law	
CLINTON D. McKINNON, Congressman	

Representative in Congress, Twenty-Fifth District — Vote for One

PATRICK J. HILLINGS, Member of Congress	
WOODROW WILSON SAYRE, Educator	
	X

LEGISLATIVE

Member of Assembly, Fiftieth District — Vote for One

THOMAS M. ERWIN, Member of Assembly	
DONALD E. FEELEY, Attorney at Law	
JAMES A. GARROW	X

COUNTY COMMITTEE

Member County Central Committee, Fiftieth Assembly District — Vote for Seven

WILLIAM C. WILLIS, JR., Labor Representative	X
VERA R. GARRABRANT, Member County Committee	X
JOSEPH B. O'DAY, Salesman	
DAILEY S. STAFFORD, Incumbent	
EVELYN E. JOHNSON, Member County Committee	X
JOHN G. CONDIT, Newspaper Editor	
FRANKLIN W. GLOVER, College Instructor	
SANDRA WHELAN HITTSON, Lecturer, Writer	

JUDICIAL

Judge of the Superior Court, Office No. One — Vote for One

CHAS. W. FRICKE, Judge of the Superior Court	X

Judge of the Superior Court, Office No. Two — Vote for One

SAMUEL R. BLAKE, Judge of the Superior Court	

Judge of the Superior Court, Office No. Three — Vote for One

CLARENCE L. KINCAID, Judge of the Superior Court	X

Judge of the Superior Court, Office No. Four — Vote for One

THOMAS L. AMBROSE, Judge of the Superior Court	

Judge of the Superior Court, Office No. Five — Vote for One

JUDICIAL

Judge of the Justice Court, Ramona Judicial District — Vote for One

THOMAS B. REED, Incumbent	
FRED W. RAAB, JR., Lawyer	
SAMUEL R. ZIMMERMAN, Attorney at Law	X

COUNTY

District Attorney — Vote for One

S. ERNEST ROLL, District Attorney, Los Angeles County	
CLAUDE A. WATSON, Attorney at Law	X

EXHIBIT IV

MARK CROSSES (✚) ON BALLOT ONLY WITH RUBBER STAMP; NI
(ABSENTEE BALLOTS may be marked with PEN AND INK OR PI
(Fold Ballot to this Perforated Line, leaving Top Margin expose

OFFICIAL CONSOLIDATED PRIMARY ELECTI

DEMOCRATIC PARTY

25th Congressional, 38th Senatorial, 49th Assembly District

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FOR DELEGATES TO NATIONAL CONVENTION. VOTE FOR ONE GROUP ONLY.

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tor of election and obtain another. On absent voter's ballots mark a cross (+) with pen or pencil.

CONGRESSIONAL

United States Senator Vote for One

- WILLIAM F. KNOWLAND, United States Senator — X
- CLINTON D. McKINNON, Congressman
- ARTHUR W. WATWOOD, Professor of Law

Representative in Congress, Twenty-Fifth District Vote for One

- PATRICK J. HILLINGS, Member of Congress
- WOODROW WILSON SAYRE, Educator — X

LEGISLATIVE

Member of Assembly, Forty-Ninth District Vote for One

- ERNEST R. GEDDES, Member California Legislature, Forty-ninth Assembly District — X
- PETER J. ROSI, Teacher

COUNTY COMMITTEE

Member County Central Committee, Forty-Ninth Assembly District Vote for Seven

- RUTH G. WHEELER, Member County Committee — X
- LUCIUS T. TALLEY, Member County Committee — X
- STEVE ZETTERBERG, Member County Committee — X
- CHARLES T. BREWER, Member County Committee — X
- HARVEY A. BUCHER, Member County Committee — X
- ANNA LAURA MYERS, Member County Committee — X
- SEYMOUR A. SELTZER, Member County Committee — X

JUDICIAL

Judge of the Superior Court, Office No. One Vote for One

- CHAS. W. FRICKE, Judge of the Superior Court — X

Judge of the Superior Court, Office No. Two Vote for One

- SAMUEL R. BLAKE, Judge of the Superior Court — X

Judge of the Superior Court, Office No. Three Vote for One

- CLARENCE L. KINCAID, Judge of the Superior Court — X

Judge of the Superior Court, Office No. Four Vote for One

- THOMAS L. AMBROSE, Judge of the Superior Court — X

Judge of the Superior Court, Office No. Five Vote for One

JUDICIAL

Judge of the Municipal Court, San Jose Judicial District Vote for One

- JAMES G. WHYTE, Justice of Peace — X

COUNTY

District Attorney Vote for One

- S. ERNEST ROLL, District Attorney, Los Angeles County — X
- CLAUDE A. WATSON, Attorney at Law

EXHIBIT V

MARK CROSSES (+) ON BALLOT ONLY WITH RUBBER STAMP; NEV
(ABSENTEE BALLOTS may be marked with PEN AND INK OR PEN
(Fold Ballot to this Perforated Line, leaving Top Margin exposed)

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CONGRESSIONAL

United States Senator Vote for One

- WILLIAM F. KNOWLAND, United States Senator
- ARTHUR W. WATWOOD, Professor of Law — X
- CLINTON D. McKINNON, Congressman

Representative in Congress, Twenty-Fifth District Vote for One

- PATRICK J. HILLINGS, Member of Congress — X
- WOODROW WILSON SAYRE, Educator

LEGISLATIVE

Member of Assembly, Fiftieth District Vote for One

- THOMAS M. ERWIN, Member of Assembly
- DONALD E. FEELEY, Attorney at Law
- JAMES A. GARROW, [illegible] Manager

COUNTY COMMITTEE

Member County Central Committee, Fiftieth Assembly District Vote for Seven

- WILLIAM C. WILLIS, JR., Labor Representative
- VERA R. GARRABRANT, Member County Committee
- JOSEPH B. O'DAY, Salesman
- DAILEY S. STAFFORD, Incumbent
- EVELYN E. JOHNSON, Member County Committee
- JOHN G. CONDIT, Newspaper Editor
- FRANKLIN W. GLOVER, College Instructor
- SANDRA WHELAN HITTSON, Lecturer, Writer

JUDICIAL

Judge of the Superior Court, Office No. One Vote for One

- CHAS. W. ERICKE, Judge of the Superior Court

Judge of the Superior Court, Office No. Two Vote for One

- SAMUEL R. BLAKE, Judge of the Superior Court

Judge of the Superior Court, Office No. Three Vote for One

- CLARENCE L. KINCAID, Judge of the Superior Court

Judge of the Superior Court, Office No. Four Vote for One

- THOMAS J. AMBROSE, Judge of the Superior Court

Judge of the Superior Court, Office No. Five Vote for One

JUDICIAL

Judge of the Municipal Court, El Monte Judicial District Vote for One

- JOHN K. OTIS, Judge of the Municipal Court

COUNTY

District Attorney Vote for One

- S. ERNEST ROLL, District Attorney, Los Angeles County
- CLAUDE A. WATSON, Attorney at Law

Ballots which the representative of the committee ruled would be counted as "no vote," and to which verbal protests were made by counsel for the parties, were as follows:

Verbal protests entered by counsel for Mr. Sayre

Reason for ruling as "no vote"	*Number of such ballots*
Cross made in square opposite blank line below name[1]	68
Cross made in pencil or in ink rather than with rubber stamp[2]	21
Total	89

[1] See photostatic illustration marked "Exhibit III," p. 11.
[2] See photostatic illustration marked "Exhibit IV," p. 12.

Verbal protests entered by counsel for Mr. Hillings

Reason for ruling as "no vote"	*Number of such ballots*
Cross made in pencil or in ink rather than with rubber stamp[1]	15
Total	15

[1] See photostatic illustration marked "Exhibit V," p. 13.

No written protests as to any phase of the recount proceedings were filed by counsel for the respective parties, probably because a reversal of any or all of the rulings would not have changed the outcome of the recount. The bases for the "no vote" rulings to which verbal protests were made were (in the class of ballots exemplified by photostatic exhibit III) that it was not possible to ascertain the intent of the voter beyond a reasonable doubt; or (in the class of ballots exemplified by photostatic exhibits IV and V) that the cross on the ballot was not made in compliance with California law, which provides that on other than absentee ballots the cross must be made with a rubber stamp.

In the original count conducted by the election officials, the total reached was only 60,033 valid ballots, while in the recount conducted under the authority of this committee, there were found to have been 60,438 valid ballots cast. Approximately 50 of these additional 405 ballots were found in one precinct. The remainder were scattered through the 702 precincts in the Twenty-fifth Congressional District. In the recount, however, every ballot that was counted for either candidate was passed upon by a representative of the opposing candidate as being a valid ballot.

Subsequent History of the Case

On September 22, 1952, the general counsel of the committee filed his report of the recount proceedings with the committee, as in the foregoing account. The committee accepted the report and on September 25, the chairman certified to Frank M. Jordan, secretary of state of California, the results of the balloting, as ascertained by the recount.

Mr. Jordan had previously announced, with the approval of California's attorney general, Edmund G. Brown, that he was without statutory authority to certify Mr. Sayre as Democratic nominee for printing on the official ballot for the general election on the basis of the recount conducted under the supervision of this committee.

On September 25, accordingly, Mr. Sayre, through counsel, filed a petition in the Superior Court of the State of California, County of

Los Angeles, praying that the court compel the secretary of state and the registrar of voters of Los Angeles County to print Mr. Sayre's name on the November 4 general election ballot, as Democratic nominee. The court held, on September 30, "that in truth and fact Woodrow Wilson Sayre is the nominee of the Democratic Party for said office" and that the defendant officials should therefore print his name on the general election ballot as such nominee.

The opinion, by Judge James G. Whyte, however, reaffirmed the position taken by Judge Joseph W. Vickers of the same court, in Mr. Sayre's earlier unsuccessful action to secure a recount by order of the California judiciary, that the court had no jurisdiction to determine "the election, returns or qualifications of a Member of Congress." The rationale of Judge Whyte's opinion was, that since this committee's recount of the votes, "for what it may be worth," had been stipulated by all parties to be correct, Mr. Sayre became in fact the nominee. The question of "whether Mr. Hillings was elected to Congress in the primary election of June 3, 1952," the opinion declared, "can only be determined by the Eighty-third Congress, which will convene next January." [1]

An order directing the secretary of state and registrar of voters to correct their records to show the vote totals arrived at by the committee's recount, and to print Mr. Sayre's name on the ballot as Democratic nominee in the general election, was issued by the court October 1, 1952.[2]

On the same date, Mr. Hite, the Registrar of Voters for Los Angeles County, wrote to the committee asking if he could correctly assume that there was no longer a contest pending with regard to the Democratic primary election for Representative, and whether he could destroy the ballots as required by statute, in the absence of a contest, 6 months after the date of the election.

On October 15, 1952, the committee informed Mr. Hite that, insofar as it was concerned, there was no contest pending with regard to the specified election.

Mr. Sayre's name did appear on the November 4 general election ballot, as ordered by the superior court. In the general election, Representative Hillings was reelected.

General election Representative at Large, Nevada

The committee received a complaint on November 26, 1952, signed by the Honorable Walter S. Baring, Representative at Large from the State of Nevada and Democratic nominee for reelection to that office.[3] The allegations of Representative Baring's complaint were:

1. That the official count of the votes cast for United States Representative at Large in the November 4, 1952, general election in the State of Nevada was 39,912 votes for Representative Baring to 40,885 votes for his Republican opponent, the Honorable Clifton Young.

2. That the Democratic National Congressional Committee reviewed the election returns and discovered numerous errors in the various counties and precincts of Nevada. That the errors discovered were of three categories:

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[1] The full opinion of Judge Whyte in this case is reproduced, infra, p. 96, in appendix II.
[2] The text of the order is reproduced infra, p. 97, in appendix II.
[3] The text of the complaint is set out in appendix III, p. 98, infra, as exhibit 1.

(*a*) Instances where the number of votes cast in a particular precinct was greater than the number of voters to whom ballots had been issued in that precinct, indicating error either in the counting of the ballots or in transposition of figures.

(*b*) Instances of unusual and unprecedented differences between the number of votes cast for United States Representative and the number of votes cast for President in particular precincts.

(*c*) Instances of irregularity in vote patterns which seemed to indicate error in favor of or against Representative Baring's election.

3. That the Democratic National Congressional Committee had further discovered two 100-vote errors, that these errors had been reported to the Secretary of State of the State of Nevada, that the Secretary of State would correct the errors, and that this correction, when made, would reduce Mr. Young's plurality in the State-wide congressional race from 973 votes to 773 votes.

4. That under the laws of the State of Nevada it was impossible for the complainant to obtain a recanvass of the ballots cast unless fraud was alleged, and that such fraud must be charged in each county in which a recanvass is sought. That while fraud was not being charged, there was nevertheless evidence of sufficient honest error to warrant a recount of the votes.

On the basis of the foregoing allegations, Representative Baring requested that this committee recount the ballots cast for candidates for the House of Representatives in the Nevada general election of November 4, 1952.

Action of the Committee

The committee reviewed Representative Baring's complaint at a meeting held on December 1, 1952. A telegram from W. T. Mathews, attorney general of the State of Nevada, was considered. Mr. Mathews' telegram substantiated Representative Baring's allegation that Nevada law does not provide for a recount of ballots upon an allegation of error.

The decision of the committee, in view of the facts and allegations available, was that it should conduct a preliminary investigation of the official election returns and the records of polling place officials in Clark County, alleged to be the principal source of error, and determine, from error or absence of error apparent on the face of such official records, whether a recount of the ballots by this committee would be required. The total vote of Clark county comprises approximately 25 percent of the total vote of the State.

The committee thereupon directed the chief investigator, Walter L. Fitzpatrick, Jr., to proceed to Las Vegas, Nev., county seat of Clark County, and there conduct such preliminary investigation as might be necessary to determine the case of the two 100-vote errors discovered by the Democratic National Congressional Committee, and to examine the tally books and voting records in Clark County for additional errors.

The Preliminary Investigation

Although Nevada has enacted legislation permitting the use of voting machines, paper ballots are still used exclusively throughout

the State. The make-up of the ballots is uniform in all counties. State election law requires that ballots be marked with a rubber stamp, and in black ink, provided by the election officials. The voter stamps a cross or X in the square opposite the names of candidates for whom he desires to vote.

Duplicate records are kept in two tally books at each precinct. These books are specially printed for each election. One section of the book, filled out by the precinct election board which supervises the actual polling, provides space for the listing of voters and the number of the ballot issued to each voter. A second section of the duplicate tally books provides space, for the use of the counting board which come in when the polls close, for tallying the vote of each candidate in the election. In this section the counting board also accounts for all spoiled and rejected ballots and gives a general accounting for all ballots issued to the precinct.

When the counting is completed, one tally book is sealed and stored with the voted ballots and the other is returned open to the county commissioners, who use it to compute the official county returns. It was the opinion of Clark County officials that the county commissioners do not have the authority to examine the sealed tally books when there is only a question of error existing with regard to the open tally books. Here again, State officials are without power to open the ballot envelopes, which contain the sealed tally books, in the absence of proof of fraud.

The examination of the official records kept by the counting boards in one-half of the precincts in Clark County resulted in findings by the committee's chief investigator that errors of procedure or tabulation had been committed in 27 precincts. The types of errors and the number of precincts in which they were found to have been committed were as follows:

In three precincts, the tally book, in which the names of voters are recorded, showed that the number of persons voting was greater than the number of ballots tallied.

In nine precincts, the tally book showed that the number of persons voting was less than the number of ballots tallied.

In 11 precincts, the tally marks were incorrectly totaled on the tally sheets in the case of one or more candidates, so that the recorded total vote of the affected candidates was greater or less than the actual vote received. In only 1 of these 11 precincts, however, was an error of this type committed in tabulating the votes of the congressional candidates.

In 10 precincts, the counting board had opened the absentee ballots and recorded them before the polls had closed and the last of the regular ballots had been issued, in violation of chapter 90, section 10, Election Laws of Nevada.

In two precincts, the records in the tally books were written in pencil.

In one precinct, the counting board had failed to make the required accounting of its disposition of the ballots issued to it, i. e., by indicating the number of ballots received, ballots issued to voters, spoiled ballots, unused ballots returned, etc.

In one precinct, the polling place officials issued a ballot to a voter without recording his name.

Action of the Committee on Preliminary Report

The chief investigator reported to the committee by telephone the foregoing findings of his preliminary investigation. The committee thereupon determined that the errors discovered warranted a recanvass of the votes cast for United States Representative in Clark County, and, further, that a spot-check of precinct election returns and reports should be made in Washoe County (Reno) to ascertain whether similar errors had been committed in that county.

The chief investigator was instructed to take the necessary steps to obtain the ballots cast in Clark County in the November 4 election and to recanvass the votes for United States Representative.

Additional Matters Considered by the Committee's Representative Prior to and During the Recount in Clark County

1. Mr. Young, the contestee in the recount proceedings, expressed concern to the chief investigator of the committee as to the conditions under which the ballots were preserved in Clark County.

To determine whether the ballots had been tampered with, the committee's representative requested the county clerk of Clark County, Mrs. Helen Scott Reed, to permit him and the contestants to examine the place where the ballots for the entire county were stored from the time of the official count following the November 4 general election until the time that they were delivered to the committee's representative for a recount. Permission was granted, and Mrs. Reed took Representative Baring, Mr. Young, and the chief investigator to the garages of the county road department, ouside Las Vegas, where the ballots were stored. At Mrs. Reed's request, representatives of the press were invited to attend this inspection. The examination disclosed that the envelopes containing the ballots for each precinct were stored loosely in large cardboard cartons and that these cartons were locked in a garage which also contained other county records. The garage could not be considered impregnable, but there was no evidence whatsoever that the doors and locks of the garage had been tampered with. Mrs. Reed stated that the only keys to the garage were in her possession, that she had personally supervised the placing of the ballots in the garage after the election, and that they were as she had left them.

It was observed that many of the ballot envelopes were open, but all present agreed that there was no evidence that they had been opened purposely. The envelopes were bulky and unevenly packed and it was found that mere handling was sufficient to break the seals in many instances. It should be noted in this connection that many of the seals subsequently applied to the envelopes by the teams which conducted the recount became loose before the envelopes were returned to storage.

Mr. Young and Representative Baring expressed satisfaction after this inspection, that the ballots had not been tempered with. The county clerk, Mrs. Reed, certified to the committee's representative in writing that the ballots had not been disturbed in any way at the time she delivered them for the recount.[4]

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[4] Copy of Mrs. Reed's statement is contained in appendix III, p. 101, infra, aas exhibit 2.

As a second precaution, the teams conducting the recount were required to make a record of the condition in which they found the ballot envelopes and to attest that they had replaced the entire contents of the envelope and had sealed the same.

2. Another problem arose when the envelopes were opened by the counting teams at the recount. It was then discovered that several of the envelopes did not contain the duplicate tally book which Nevada law requires be stored with the ballots. The county clerk explained that many of the counting boards had misunderstood their instructions and had enclosed the duplicate tally book in a separate sealed envelope which they mailed to the county clerk. Mrs. Reed supplied 15 of these tally books, which she had kept in her custody since the general election. No substantial errors were discovered in any of the precincts in which this erroneous procedure had been followed.

3. In some of the envelopes the recount teams found materials that had been issued to other precincts. No full explanation of these discrepancies could be made, but the parties were in agreement that one of the following innocent causes probably accounted for the error: (*a*) Many of the envelopes had apparently come open in the cardboard cartons in which they were stored, and tally books and other election-board material could have fallen out of the envelope and been replaced in the wrong envelope by the workers who transported the ballots from the county courthouse to the storage garage after the general election. (*b*) In several instances more than one precinct voted in the same polling place. Reports from some of the election boards indicated that occasionally voters had placed their ballots in the wrong precinct boxes. Also, in these polling places, the counting boards for two or more precincts often worked in the same room until 4 o'clock in the morning. In these cases, it is quite possible that the election board supplies became confused and were placed in the wrong envelopes.

4. The chief investigator called in the members of the counting board of Las Vegas precinct 31 to inquire about the fact that Mr. Young had 178 tally marks but his total vote had been registered as 278. It was agreed by the members of the board that this wrong figure had been placed in the open tally book by Mrs. Ethel McCarthy, a board member 71 years of age. The correct total vote for Mr. Young had been entered in the sealed tally book. Mrs. McCarthy explained that the entry had been made at 4 a. m., when she was very tired, and that she could not account for the error in any other way. It appeared to have been a case of honest error.

5. Another 100-vote error in favor of Mr. Young was made in Paradise precinct B. There the counting board incorrectly entered, in the open tally book, a vote of 345 for Mr. Young, instead of the 245 votes actually tallied, and then attempted to correct the mistake by superimposing a "2" over the "3" (correct practice, under Nevada law, is to spell out the digits). The numeral required study to determine whether it was a "3" or a "2," and the county commissioners, in tabulating the vote, apparently counted it as 345, without checking the actual tally which was next to the figure. The sealed tally book, incidentally, contained the correct total.

6. As the recount proceeded, Representative Baring questioned a discrepancy between the open and sealed tally books in one precinct.

The numbers of the ballots issued to two voters were reported differently in the two books. However, the total number of ballots issued and voters recorded in each tally book were in accord.

Conduct of the Recount

Mr. Young was reluctant to enter into a written stipulation as to the conduct of the recount, but did desire to be represented at such recount.

Arrangements were then made by the committee's representative and agreed to by both Representative Baring and Mr. Young that:

1. The recount would be conducted under the supervision of the Special Committee To Investigate Campaign Expenditures, 1952, House of Representatives, and specifically under the supervision of the chief investigator of the said committee.

2. The actual counting would be conducted by teams of four persons each, that each team would be made up of two Republicans and two Democrats, and that both Representative Baring and Mr. Young could select the persons who were to work on each team. Each team would have a caller and a checker, who would verify the call, and that the caller and the checker must in each case represent opposite parties. Each team would have two tally clerks, one from each party.

3. Representative Baring and Mr. Young would each name a person to act in his behalf as judge of the recount, and that these judges would examine and approve all tally sheets before they would be accepted by the committee's representative.

4. All ballots that did not clearly indicate a choice or that were improperly marked would be set aside in a sealed envelope, and, upon the completion of the recount, these ballots would be opened in the presence of all interested parties and judged according to the interpretation of the law of Nevada made by Clark County District Attorney Roger Foley.

5. The only persons to be allowed in the room where the recount was conducted would be those actually engaged in conducting the recount, the representatives of the county clerk, and the committee's representative (because of the size of the room, it was not feasible to grant the request of reporters to be present during the actual recount).

6. The county clerk was to have a representative present at all times and proper guard was to be provided to protect the ballots during those hours when the counters would be at lunch.

7. Each separate team would make a record of the condition of the envelopes in which the ballots were received.

Arrangements were made with Clark County Clerk Helen Scott Reed and her deputy, Loretta Bowman, to have space provided in the county courthouse for the actual counting of the votes, and to have the ballots produced in that space on Thursday, December 11, 1952, at 9 a. m.

With all interested parties present, the workers who were to conduct the actual recount were instructed on this agreed procedure. These additional instructions were also given:

1. Workers were not to leave the work table during the count of a particular precinct and were not to change positions during the count of a particular precinct.

2. Workers at each table were to determine from the tally books the exact number of voters in each precinct before they began their tally, and were to determine that the number of ballots counted was the same as the total number of voters before presenting the tally for acceptance. If an error was made in taking the tally, the precinct was to be recounted, and no attempt was to be made to correct the error other than by a second recount of all the votes. In the event the total number of ballots returned by the precinct did not agree with the number of voters in that precinct, as recorded in its tally book, a complete report was to be made by the counting board accounting for this discrepancy.

The actual recounting by the four teams began at 10:30 a. m. on Thursday, December 11, took three full days, and was completed at noon on December 15. Rejected and contested ballots, which had been sealed in envelopes by precinct and locked in a ballot box in the custody of the county clerk, were examined on the afternoon of December 15. Prior to the examination of these contested ballots, Clark County District Attorney Roger Foley instructed the two judges, Edward Joyce and Mrs. Sue Beaman, Representative Baring, and Mr. Young's representative, Alvin Wartman, as to the law of the State of Nevada governing the validity or invalidity of a ballot.

A total of 301 ballots which had been rejected or contested by the counting teams were then examined by the persons above named, and the committee's representative. Agreement was reached by all parties as to the disposition of each of these ballots. Of the total of 301, 13 were accepted as good ballots, and of these, 7 were counted for Representative Baring and 6 for Mr. Young. Of the 288 rejected, the great majority were void because marked with pen or pencil. Nevada law requires that ballots must be stamped with a cross in the square opposite the name of the candidate, and the cross must be made with the stamp provided by the board of elections.

The tally sheets turned in by the various counting teams were signed by the person who actually made the tally, and also bear the signatures of the two judges who examined and approved them.

The results of the recount in Clark County were as follows:

Total votes counted	25,634
Baring (including 7 awarded by judges)	14,068
Young (including 6 awarded by judges)	9,977
Void ballots	288
Failed to vote for Congressional candidate	1,301
Total	25,634

The official count, as recorded by the county commissioners, was:

Total votes counted	25,647
Baring	14,110
Young	10,024
Total[1]	24,134

[1] No record was kept of void ballots or of those who failed to register a vote in the congressional contest.

In the original count Representative Baring had a plurality in the county of 4,086. In the recount, his plurality was 4,091.

It should be noted that while Mr. Baring's plurality in Clark County was increased by only 5 votes as a result of the recount, the recount disclosed differences in 71 of the 89 Clark County precincts recanvassed. In 30 precincts, either one or both of the candidates had their total vote increased as a result of the recount. These increases range from 1 to 12 votes. In 41 precincts, either one or both of the candidates lost votes on the recanvass of the ballots. These losses ranged from 1 to 11 votes. While it was impossible to account fully for each change, it appeared that the loss of votes for the most part resulted from a stricter interpretation of the Nevada law in rejecting ballots, and the increases resulted primarily from errors in the original count.

In appendix III, page 102, infra, are the tabulations of the Clark County recount by precincts, and a summary of the accounting for rejected ballots. These are identified as exhibits 3 and 4 respectively.

Difference Between Vote Cast for Representative and for President

After completion of the Clark County recount, the committee's representative considered the question, raised by Representative Baring in his complaint to this committee, that certain precincts showed an "unprecedented" difference between the number of votes cast for President and the number cast for United States Representative. As determined by the recount, there were 25,634 ballots cast in Clark County in the November 4 general election, and 1,301 of these ballots did not indicate a choice for either candidate for United States Representative. Investigation disclosed that the majority of these 1,301 ballots were cast in precincts where the voters were for the most part laboring people whose educational standard was considered to be lower than that of the average voter. No special significance would accordingly seem to attach to their failure to register a vote in the congressional contest.

Washoe County Investigation and Recount

At the instruction of the committee, the chief investigator next proceeded to Reno, in Washoe County, and examined the tally books for that county. This examination revealed that in four precincts the number of ballots tallied exceeded the number of those voting. In two precincts, the counting board had used space other than that provided in the tally book to complete the tally of the ballots. In one precinct the names of the voters had been divided between the open and sealed tally books and only one record of those voting had been kept. In one precinct the board had failed to keep a list of the voters. In other precincts, the board had failed to record the names of absentee voters.

Arrangements were then made, upon instructions of the committee, to make a spot-check recount of 10 to 15 precincts in Washoe County. In selecting the precincts so to be checked, the committee's representative relied upon his analysis of the tally books and pertinent information supplied by Representative Baring. The precincts selected for recount in Washoe County were Reno precincts 4, 5, 12A,

13A, 27, 27A, 35, 47A, 51, 56A and Sparks precincts 5A, 8, 10, 11A, and 12.

The conduct of the recount followed the same procedure as that conducted in Clark County. The ballots were subpenaed from Delle B. Boyd, recorder and auditor for Washoe County, and the recount was begun in the county courthouse on Thursday, December 18.

The results of the recount were as follows:

Baring:	
Gain in 4 precincts	11
Loss in 8 precincts	22
Net loss	11
Young:	
Gain in 5 precincts	12
Loss in 6 precincts	8
Net gain	4

The net result of the recount was to give Mr. Young a gain of 15 votes.[5]

The principal change occurred in Reno precinct 27A, where 15 votes that had been credited to Representative Baring were rejected on the basis that they were marked with pen or pencil. All interested parties agreed that these ballots were void.

In two of the precincts recounted, the total number of ballots counted did not agree with the number of ballots issued. Several recounts of the ballots were made to assure that the number obtained in the recanvass was correct. In Reno precinct 27 there were 550 ballots cast and only 546 voters were recorded. In Reno precinct 27A there were only 513 ballots cast and 514 voters were recorded.

The county clerk, Harry Brown, explained that both of these precincts, together with six other precincts, voted in the same building and that he had received several reports that voters had placed their ballots in the wrong ballot boxes. This could account for the discrepancy. Under the provisions of Nevada law, the counting board is required to purge the ballot box when it discovers that the box contains more ballots than there were voters. This is supposed to be done by withdrawing the excess of ballots from the box, at random, and destroyed them. In the case of Reno precinct 27, this had not been done. The committee's representative did not follow this procedure in the recount, as the results would not have been changed materially thereby.

The investigation in Washoe County further revealed that the county commissioners had compared the actual tally marks with the vote credited, and in those cases where the tally and the recorded figure did not agree, had called upon the counting board for an explanation. The laws of Nevada do not permit the county commissioners in such cases to recanvass the ballots on their own motion, and it has been their policy to accept explanations of the counting or election board when a discrepancy is found.

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[5] A tabulation of the results of the recount by precinct is included in appendix III, p. 105, infra, as exhibit 5.

Conclusion

This committee's action on the complaint of Representative Baring included a recount under the supervision of the committee's chief investigator, of almost 40 percent of the votes cast in the general election of November 4, 1952, in Nevada. The chief investigator examined the tabulation of more than 50 percent of the ballots cast.

On the basis of the investigation and recount conducted by its representative, the committee is satisfied that the conduct of the election reflected an honest effort on the part of the election officials to register the voting will of the people of Nevada. Although numerous errors were found in the tabulation of the results of the congressional election and in other contests, the errors, when corrected, did not change the outcome of the election, and appeared to have been attributable to the difficulties under which many of the counting boards were forced to work and the universal difficulty that is experienced in tabulating paper ballots. Furthermore, no evidence was uncovered which indicated a trend or pattern of error that conceivably could have changed the outcome of the election had the recount been extended to include all of the ballots cast in the State.

Hence, it is the conclusion of this committee that further analysis and recounting of the ballots cast in the Nevada election would not have changed the outcome, as it has been announced by the secretary of state of Nevada.

PRIMARY ELECTION, FIRST CONGRESSIONAL DISTRICT, WEST VIRGINIA

In a complaint dated July 3, 1952, and signed by Robert L. Ramsay, Member of Congress from the First Congressional District of West Virginia, and by E. H. Hedrick, Member of Congress from the Sixth Congressional District of West Virginia, it was charged that gross frauds were perpetrated in the Democratic primary elections held in West Virginia on May 13, 1952, and that these frauds influenced the nominations of candidates for Governor of West Virginia, and for United States Representative from the First Congressional District of that State.

The charging parts of the complaint of Representatives Ramsay and Hedrick were in the following language:

> We believe the following frauds in said election were committed:
>
> First: That huge funds collected by certain officers by [sic] the State Government from all or most all of the appointive employees were used by the officers of the State administration to influence the voters in said election.
>
> Second: And that all the "beer sellers" of the State who engage in the illicit sale of hard liquor were lined up and coerced to vote as directed.
>
> Third: And that large sums of money out of said funds were distributed to county committees, who in turn appointed all "election officers," whose duty it was to hold said elections and count and return the votes.
>
> Fourth: And that a deal and understanding was made and entered into by various high officers of the State and Federal Government, as to the amounts and purposes of the placing and expending of said funds in the said primary campaign.
>
> This information is made on information and belief, which signers believe to be true.
>
> Therefore, we believe that an investigation of said charges should be made by your Committee to ascertain whether or not fraud was perpetrated, and affected said primary election.

In addition to the above charges contained in his signed complaint of July 3, Representative Ramsay made other charges, both to the press and orally to the general counsel and chief investigator of this committee, as follows:

Fifth: In a news release carried by the Charleston Gazette on June 7, 1952, Representative Ramsay charged that William Lias had joined forces with Governor Okie Patteson and his "flower fund" to bring about his defeat. (Mr. Lias is the President of the Wheeling Downs Race Track, and is at present involved in a $2,000,000 income tax evasion case. The "flower fund" is the fund referred to in the first part of Representative Ramsay's written complaint, i. e., money allegedly collected from State employees for political purposes.)

Sixth: On July 8, 1952, Representative Ramsay told the General Counsel of this Committee that Senator Neely, of West Virginia, whom he termed the "head of a vicious political machine," had falsely informed Democratic leaders that Representative Ramsay was not going to be a candidate for reelection, and that in so doing, the Senator sought support for Robert H. Mollohan, Representative Ramsay's successful opponent in the Democratic primary election for Congress in the First District.

Seventh: Representative Ramsay further alleged to the Committee's representatives that Senator Neely had brought pressure to bear on liquor dealers in Ohio County to support Mr. Mollohan. He also contended that Ohio County had always provided him with a comfortable margin, and that his loss of that County was largely responsible for his defeat in the Democratic primary by Mr. Mollohan.

Eighth: Representative Ramsay charged that huge sums had been expended by Mr. Mollohan for advertisements, posters, and entertainment, particularly in Ohio County.

Action of the Committee

After discussion of the written complaint filed by Representatives Ramsay and Hedrick, quoted above, your committee determined that it established a prima facie case requiring investigation of the Democratic congressional primary campaign in the First District of West Virginia. The committee's jurisdiction, under provisions of House Resolution 558, did not, however, extend to the gubernatorial primary, in which Representative Hedrick was a candidate for the Democratic nomination. The chairman, accordingly, dispatched staff members Gillis W. Long and Walter F. Fitzpatrick, Jr., general counsel and chief investigator of the committee, respectively, to West Virginia, with instructions to investigate the First District Democratic congressional primary only. Shortly after their arrival and first interview with Representative Ramsay, the committee's representatives decided that their investigation might properly include the four additional charges made by Representative Ramsay orally. The report of their investigation, which Mr. Long and Mr. Fitzpatrick subsequently filed with the committee, discussed separately, and in order, the four charges in Representative Ramsay's written complaint, numbered 1 through 4 above, and then the four charges made verbally, summarized above as numbers 5 through 8.

Method of the Investigation

No factual evidence in support of his charges was furnished to the committee by Representative Ramsay with his written complaint. When the general counsel and chief investigator met with him, he stated that Paul Rusen, district director of the United Steel Workers, CIO, and Harry A. Williams, business representative of the International Association of Machinists, at Wheeling, could give the entire story of the primary campaign and the alleged frauds.

Both of these union officials were interviewed, and both had supported Representative Ramsay in the primary. However, neither was able to furnish concrete or specific evidence as to names, places, dates, and acts. Mr. Rusen's testimony is discussed, infra, under investigators' findings as to complaint No. 4. Mr. Williams added nothing but general observations, saying that he had not seen any indication of excessive amounts of money being spent by Mr. Mollohan, or on his behalf, other than numerous signs which had been posted about the district.

Lacking specific charges as to names, places, dates, and acts, the committee's representatives were obliged to approach the investigation from the standpoint of a general survey of the primary, and the campaign which preceded it. Their general objectives were to ascertain (1) whether any or all of Representative Ramsay's charges were true, and (2), if so, whether any Federal or State law had been violated which would affect the qualifications of Mr. Mollohan as a prospective Member of the House of Representatives. The committee's representatives selected as the most practicable method available to them for arriving at the truth, informal interviewing of persons who might have participated in or had knowledge of the alleged frauds and improprieties in the campaign. On the basis of Representative Ramsay's allegation that his loss of Ohio County (Wheeling) resulted in his loss of the nomination, and that his defeat in that county was attributable to excessive expenditures there and to pressures brought to bear on liquor dealers in the area, the investigation was concentrated on that county, as the one most likely to produce evidence of fraud or illegality.

During the investigation 42 persons were interviewed and supporting affidavits were taken from many of them. The persons interviewed represented not only Representative Ramsay's and Mr. Mollohan's supporters in the Democratic congressional primary but also members of the Republican and Democratic Parties not directly interested or involved in that contest. All of the persons interviewed were apprised of the responsibilities of the committee, and that its jurisdiction was limited to those matters having a bearing on the nomination and election of United States Representatives.

Findings of the Committee's Investigators

The committee's representatives, Mr. Long and Mr. Fitzpatrick, gave their findings as to each of Representative Ramsay's eight charges in a report to the committee dated September 8, 1952. These findings, numbered to correspond with the charges as above quoted or summarized, were approved by the committee on October 20, 1952, and were as follows:

1. Representative Ramsay's first charge was, in effect, that funds collected from State employees were used to influence the outcome of the congressional primary election in the First District, in which he was defeated by Mr. Mollohan. According to Representative Ramsay, this fund was commonly referred to as the "flower fund."

An analysis was made of the receipts and expenditures of Robert H. Mollohan and the Committee for Election of Robert H. Mollohan. The financial statements, filed with the secretary of state of West Virginia, showed the following:

Robert H. Mollohan

Receipts	$430.00
Expenditures	844.67

Committee for Election of Robert H. Mollohan

Receipts	$4,425.00
Expenditures	4,389.09

In all, there were 18 contributors to Mr. Mollohan's campaign, and their contributions ranged from $50 to $1,000.[6]

Investigation disclosed that money had been sent into the First Congressional District by the Marland for Governor Committee. William C. Marland was reported to have received the active support of the State administration. However, investigation revealed that this money was sent for use in the Democratic primary campaign of William C. Marland for governor, and none other. Affidavits were submitted by Walter R. Mitchell and Ralph C. Boyles, officers of the Marland for governor headquarters, who distributed the money to county workers in the gubernatorial primary campaign, stating that all money disbursed was given with explicit instructions that it be used for Mr. Marland's campaign only.

Howard Meyers, chairman of the Marland for Governor Committee during the primary campaign, stated that his committee had followed a strict policy of keeping out of all other primary fights as a political necessity, and that none of the Marland workers had been interested so far as the organization was concerned, in the outcome of the Ramsay-Mollohan primary contest.

During the investigation it was alleged that Homer W. Hanna, clerk of the United States District Court, Southern District of West Virginia, and/or Clyde W. Beckner, president of Clyde W. Beckner, Inc., were the individuals who controlled the so-called flower fund.

Mr. Hanna and Mr. Beckner were both interviewed, and denied any knowledge of the State flower fund. Each submitted an affidavit stating that he had not, either as an individual or on behalf of any organization, contributed in any way to the Mollohan primary campaign.

The committee's representatives interviewed Charles L. Ihlenfeld, Ohio County Democratic chairman, who also acted as chairman of the Marland for Governor Committee in that county. Mr. Ihlenfeld submitted an affidavit that the money he received from the Marland headquarters was not used to assist the Mollohan campaign.

None of the literature or advertisements circulated in the First Congressional District by the Marland for Governor Committee supported Mr. Mollohan's candidacy.

Robert Riley, Wheeling attorney and vice chairman of the Ohio County Democratic Committee, stated that he had lent his personal support to Representative Ramsay, and that many of the workers in his precincts who received compensation from the Marland committee, had worked for Representative Ramsay. Affidavits were obtained from several workers for the Marland committee to the effect that no instructions were given to them to support either Mr. Mollo-

[6] The itemized financial reports listing campaign contributions and expenditures in the primary, filed with the secretary of state of West Virginia by Robert H. Mollohan and the Committee for Election of Robert H. Mollohan on June 11, 1952, are reproduced, infra, p. 106, in appendix IV.

han or Representative Ramsay, and that their support of either candidate was based on personal choice.

The investigation failed to uncover evidence that any such "State funds," as alleged, had been used to influence the election in favor of Robert H. Mollohan.

2. Representative Ramsay's second charge was that beer sellers, engaged in the illicit sale of hard liquor, were "lined up and coerced to vote as directed."

Ohio County is the only county in the First Congressional District in which hard liquor is sold over the bar openly. Several of these establishments were visited, and the proprietors interviewed by the committee's representatives. In all cases, the owners stated that they had never been approached for contributions for the Mollohan campaign, nor had they been instructed to vote for Mr. Mollohan.

Melvin G. Wilson, manager of the Steak House, a Wheeling restaurant which is part of a Washington, D. C., chain, stated that he was a Republican and favored Francis J. Love, the Republican nominee, for Congress. He said that he had never been approached during his term as manager for any kind of contribution, nor had he been told to vote for Mr. Mollohan, or any other candidate.

No evidence, in short, was found by the committee's investigators to substantiate the second charge in Representative Ramsay's complaint.

3. The third charge made by Representative Ramsay appears to amplify the first charge concerning the use of funds collected from State employees. When Representative Ramsey was questioned by the chief investigator of this committee, he stated that he did not know of any election frauds at the polls in the First District, but that he felt the pressure of money and the State machine had brought about his defeat.

In an effort to obtain a full picture of the conduct of the polling, the committee's investigators interviewed many persons, who they had reason to believe would be informed on such matters. The testimony of Austin V. Wood, general manager and executive vice president of the Wheeling Intelligencer, a Republican newspaper, is representative. Mr. Wood stated that he had seen no indication of any irregularities at the polls on election day, and that he did not think the amount of money spent for advertising in Mr. Mollohan's campaign, although substantial, could be considered unusual.

As pointed out in this report's discussion of Representative Ramsay's first charge, the investigation failed to disclose any evidence that money secured from the State administration had been used in Mr. Mollohan's behalf. Funds sent to the first district for use in the Marland campaign, by the Marland committee, were sent with explicit instructions that they be used for Mr. Marland only. The committee's investigators made a check of radio stations, printing companies, and newspapers in the district, and were of the opinion that no funds, other than those reported to the secretary of state, were contributed to, or expended in, Mr. Mollohan's primary campaign.

4. Representative Ramsay's fourth charge was that there had been a "deal and understanding" entered into by high officers of the State and Federal Governments, as to the purposes and amounts of expenditures to be made in the primary campaign from the funds alleged to have been collected from State appointive employees.

This charge was amplified by Representative Ramsay in his interview with the committee's representatives. He alleged that at a meeting between Senator Neely and Governor Patteson, it had been agreed that both would support Mr. Mollohan, and that the State administration would send $75,000 into the first district to be used in financing his primary campaign. However, Representative Ramsay was unable to supply the source of this information, or any facts concerning disbursal, or receipt, of the alleged $75,000.

When Senator Neely was interviewed, he stated that he had agreed to support Mr. Mollohan when Representative Ramsay had said that he was not going to run. After Representative Ramsay disclosed his intention to make the race, he added, the Congress of Industrial Organizations made efforts to have Mr. Mollohan withdraw. This pressure, Senator Neely said, resulted in a meeting between himself, Governor Patteson, Representative Ramsay, and Paul Rusen, district director of the United Steelworkers, CIO. At this meeting, Senator Neely and Governor Patteson stated in essence that they had already committed themselves to support Mr. Mollohan, and that they could not back down. Senator Neely denied knowledge of any agreement that the State administration would provide any funds for Mr. Mollohan's campaign.

Mr. Rusen had been mentioned by Representative Ramsay as the man who could give the inside story on the alleged frauds. When questioned, Mr. Rusen stated that he had heard that huge sums of money had been sent into the First District for Mr. Mollohan's campaign, but that he could not prove that 1 cent had actually come in. Mr. Rusen mentioned a figure of $5,000 to $6,000 and said that this might approximate the money spent by Mr. Mollohan.

5. Representative Ramsay withdrew his fifth charge, that William Lias, operator of Wheeling Downs Race Track, had joined forces with Governor Patteson to bring about his defeat. In his interview with the chief investigator of this committee, Representative Ramsay stated that the information he had received regarding Mr. Lias' support of the Mollohan campaign had been erroneous, and that he was convinced that Mr. Lias had not participated in the primary campaign.

Mr. Lias, who was also interviewed, produced a letter he had received from Representative Ramsay, in which the Congressman retracted the charges he had made.

The portions of this charge relating to the flower fund have been fully discussed above.

6. Although there was some doubt in the committee representatives' minds as to the relevancy or materiality of Representative Ramsay's sixth charge, that Senator Neely had falsely informed Democratic leaders that Representative Ramsay would not be a candidate for reelection and had thus enlisted support for his protege, Mr. Mollohan, the charge was fully explored.

Representative Ramsay, himself, informed the committee's representatives that he had seriously considered retiring because of his wife's health, and that he had discussed this possibility with Senator Neely and others. He explained that he was later persuaded to run again by the insistence of his friends.

When this statement was discussed with Senator Neely, he stated that Representative Ramsay had, on two occasions, declared his inten-

tion to retire at the end of his term. On one of these occasions, Senator Neely added, there were other persons present who could swear that Representative Ramsay had made such a statement.

7. Representative Ramsay's charge that Senator Neely had brought pressure to bear on liquor dealers in Ohio County has been discussed earlier, in connection with the second item of the complaint. The investigation failed to uncover any evidence in support of this charge.

8. Representative Ramsey's final charge was that "huge sums" had been spent by Mr. Mollohan for advertisements, posters, and entertainment, particularly in Ohio County. The evidence uncovered by the investigation disclosed that $215.44 had been spent on behalf of Mr. Mollohan for newspaper ads, $930.30 for radio time, $167.50 for book matches, and $3,443.25 for printing.

Representative Ramsay had referred to a particular poster used by Mollohan as especially expensive. The investigation disclosed that this poster was printed by the Ad-Print Screen Process, Inc., of Washington, D. C., and that 1,000 of them had been purchased by the Committee for Election of Robert H. Mollohan, at a cost of $1 per poster. This expense, like all others found, had been reported to the secretary of state of West Virginia, in compliance with State law.

The charge that "huge sums" of money were used by Mr. Mollohan and his supporters in the conduct of his campaign is not born out by the evidence. According to the persons interviewed, the expenditures in the Mollohan campaign were comparable to expenditures in prior campaigns in this area.

Further, there was no evidence that the Mollohan campaign expenditures violated any provision of Federal or State law, nor that they would affect his qualifications as a Member of the House of Representatives.

Subsequent Testimony of Representative Ramsay

Representative Ramsay was provided with a copy of the staff report of September 8, containing the foregoing findings, and was invited to appear before the committee to give his views on the report, which he did at a meeting of the committee, held in Washington on September 23, 1952. At that time he filed an additional written statement with the committee, taking exception to the findings of the committee's investigators. The following is a summary of his objections, and the committee's disposition of or comment on them.

Representative Ramsay's objections (summarized)

1. The investigation of the "huge slush fund known as the flower fund" was inadequate in that it did not ascertain the existence and use of such funds in the congressional primary.

Comments.—The committee's investigation uncovered no evidence, nor was any furnished by Representative Ramsay, to substantiate his charge that any of the money spent on behalf of Mr. Mollohan had come from the alleged "flower fund."

2. In his statement, filed with the committee September 23, 1952, Representative Ramsay claimed that Mr. Mollohan had acted illegally, in that more than $5,000 had been spent in his primary campaign, and that this was a violation of the Federal Corrupt Practices Act provi-

sions contained in title 2, section 248, of the United States Code (1946). This section sets the amount of $2,500, or an amount equal to the product of 3 cents times the number of votes cast in the district, in no case to exceed $5,000, as the maximum which may be expended in his campaign by a candidate for the House of Representatives.

Comment.—The interpretation that Representative Ramsay gives to title 2, section 248, of the United States Code is incorrect. Section 241, of title 2, reads:

> When used in this chapter and section 208 of title 18—
>
> (a) The term "election" includes a general or special election, but *does not include a primary election* or convention of a political party. [Emphasis supplied.]

The election in this case was a primary election to which the Federal law limiting campaign expenditures is made expressly inapplicable.

3. Representative Ramsay urged that Mr. Mollohan's personal campaign expenditures were in violation of chapter 3, article 8, section 190 (11), of the West Virginia Code of 1949, which reads, in pertinent part, as follows:

> No payment shall be made and no liability shall be incurred by or on behalf of any candidate for office in this State to aid in securing his nomination or election, or both, which shall in the aggregate exceed the amounts herein provided for, that is to say: * * * for members of the U. S. House of Representatives, *the sum of seventy-five dollars for each county in the district*, for the primary election, and a like amount for the general election; * * * *Provided that there shall not be included in arriving at the several amounts which may be expended, or liability incurred for items mentioned in subdivisions (b) to (h), both inclusive,* of the next preceding section. [Emphasis supplied.]

The next preceding section, section 189 (10), reads as follows:

> No candidate, financial agent, or treasurer of a political committee shall pay, give, or lend, or agree to pay, give, or lend, either directly or indirectly, any money or other thing of value for any election expenses, except for the following:
>
> (a) For rent, maintenance, and furnishing of offices to be used as political headquarters, and for the payment of necessary clerks, stenographers, typists, janitors, and messengers actually employed therein;
>
> (b) For printing and distributing books, pamphlets, circulars, and other printed matter and radio broadcasting and painting, printing and posting signs, banners, and other advertisements, all relating to political issues and candidates;
>
> (c) For renting and decorating halls for public meetings and political conventions; for advertising public meetings, and for the payment of traveling expenses of speakers and musicians at such meetings;
>
> (d) For the necessary traveling and hotel expenses of candidates, political agents, and committees, and for stationery, postage, telegrams, telephone, express, freight, and public messenger service;
>
> (e) For examining the lists of registered voters, securing copies thereof, investigating the right to vote of the persons listed therein, and conducting proceedings to prevent unlawful registration or voting;
>
> (f) For preparing, circulating, and filing petitions for nomination of candidates;
>
> (g) For conveying voters to and from the polls;
>
> (h) For securing publication in newspapers and by radio broadcasting of documents, articles, speeches, arguments, and any information relating to any political issue, candidate, or question, or proposition submitted to a vote.
>
> Every liability incurred and payment made shall be at a rate and for a total amount which is proper and reasonable and fairly commensurate with the services rendered.

Representative Ramsay's charge, after quoting the above statutes, stated that, in his opinion, the proviso in section 190 (11), excepting certain classes of expenditures enumerated in section 189 (10), did not exclude them from the total limitation set, but meant only that they need not be "accounted for."

Comment.—This committee believes that the language of the proviso at the end of section 190 (11), contrary to Representative Ramsay's opinion, does exclude from the statutory maximum imposed on primary campaign expenditures by the State of West Virginia, all expenditures in the classes described in paragraphs (b) through (h) of section 189 (10). Our interpretation is supported by the reviser's note, following section 190 in the West Virginia Code of 1949 Annotated, and inasmuch as Representative Ramsay has not called to the attention of the committee any decisions of the West Virginia courts sustaining his proffered interpretation, we feel constrained to follow the apparent clear meaning of the statutory language and the reviser's note in the code.

4. In his September 23 statement filed with the committee, Representative Ramsay stated:

> I am attaching a copy of a newspaper report (*Pittsburgh Post-Gazette*, September 13, 1952) showing the findings of a grand jury in Kanawha County, W. Va., of the recent primary election held *throughout West Virginia*. How it squares with the report of the utter lack of fraud contained in the initial report of Mr. Fitzpatrick, Jr., is clearly discernible by he [sic] who wants to read. [Emphasis supplied.]

Comment.—The lead paragraph of the newspaper clipping referred to, reads as follows:

> CHARLESTON, W. VA., September 12 (AP).—D. L. Salisbury, Republican mayor of Dunbar and prominent Charleston attorney, was one of 32 persons indicted today by a special *Kanawha County grand jury*, which reported it found election irregularities in "*almost all sections of the county.*" [Emphasis supplied.]

The findings of the grand jury at Charleston were confined to the primary elections of the Republican and Democratic Parties in Kanawha County, rather than applying to the State as a whole, as Representative Ramsay indicated. This committee's investigation was confined to facts concerning the Democratic congressional primary in the First Congressional District, which includes no part of Kanawha County, and is approximately 150 miles from that county. None of the persons questioned by the committee's investigators gave any evidence of irregularities within the First District of the type mentioned in the Kanawha County grand jury's report (e. g., "False returns were shown for practically all offices from constable to governor"). Representative Ramsay, himself, has never charged that the vote returns in the Democratic congressional primary in the First District were improperly tabulated, or incorrectly reported.

CONCLUSION

The committee is of the opinion that an adequate investigation was made of each of the charges presented by Representative Ramsay. No evidence was uncovered which would affect the qualifications of Mr. Mollohan as a Member of Congress.

THE IMPLEMENTATION OF THE CONGRESSIONAL POWER TO JUDGE THE ELECTIONS, RETURNS, AND QUALIFICATIONS OF MEMBERS

The United States Constitution (art. I, sec. 4, clause 1) provides:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the

Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

Section 5 of the same article provides, in part:

Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members * * *

As these two sections have been uniformly construed by the courts, they make the House of Representatives and the Senate the final arbiters of any contested elections of their Members,[7] and no decision of any State or Federal court with respect to any such contest is conclusive upon either House of the Congress.

Section 4, clause 1 of article I, however, was long ago construed to mean that, in the absence of any congressional regulations, the States may establish the machinery of elections for Congress and certify to the Congress the winners of such elections, subject to the power of Congress to reexamine election proceedings and returns, and make the final decision as to the outcome.[8]

A problem arises when a State declines to make its courts, or other fact-finding agencies, available to defeated candidates for Federal office who wish to contest any phase of the conduct of an election or canvass of the ballots. This committee was confronted with several such cases this year, in the complaints of candidates who filed with us petitions for a recount of ballots, alleging that their respective States provided no machinery available to them for recounts, however small the margin of victory of the winner or however great the possibility of error might have been. One such case, which best serves for illustration, was the complaint of Woodrow Wilson Sayre, who filed with your committee a complaint and petition for recount of the ballots cast in the Democratic congressional primary in the Twenty-fifth District of California. A detailed report of the action of the committee in this matter is made above, pages 6 to 15.

In Mr. Sayre's case, the California Superior Court for Los Angeles County, with the subsequent tacit affirmance of the Supreme Court of California, held that the State could exercise no jurisdiction in a recount proceeding where the office involved was that of Representative in Congress. The fifth section of article I of the Constitution was cited as the primary basis for this decision, and certain California statutes which provided machinery for such a recount were declared inapplicable and inoperative, in view of article I, section 5, of the United States Constitution.

In Mr. Sayre's case, this committee undertook a recount of all the ballots cast in the disputed primary election, inasmuch as the complainant duly alleged that he had exhausted his remedies under State law, a prerequisite which your committee deemed essential before any action could be taken. In the recount conducted under the auspices of this committee, Mr. Sayre was found to have obtained a majority of the votes cast. He was subsequently successful in a petition to the California courts for an order to the appropriate State officials to place his name on the ballot as the Democratic nominee for Congress. He was not successful in the general election; but had he been, the Eighty-third Congress might possibly have had to decide (1) whether this com-

[7] See Annotation, 107 A. L. R. 205.
[8] *Ex Parte Siebold* (100 U. S. 383 (1880)).

mittee's action in recounting the primary ballots was within the power of the Eighty-second Congress; (2) whether Mr. Sayre's opponent, Representative Hillings, was in fact elected as a result of the first canvass of the ballots in the primary election, in which Representative Hillings had cross-filed; or (3) whether another committee, acting under authority of the Eighty-third, rather than the Eighty-second Congress, would have to conduct a recount of the primary ballots.

The precise aspect of the matter which this committee most wishes to draw to the attention of the Eighty-third Congress is the possibility that, in the future, the House of Representatives and Senate might be called upon to conduct increasing numbers of recounts in disputed elections, where a substantial possibility of decisive error might exist. We have no question that this authority lies, ultimately and finally, in the House and Senate, under provisions of article I, section 5. But the plain fact is that this House, at least, has no adequate machinery to conduct such recounts in any great number. It is equally true that this House has, in many cases in which recounts have been conducted by the States, seated the winner as ascertained by such recount. In other words, although the final authority as to seating or not seating a Member lies in Congress, there is no reason why the States should not, pursuant to the authority they have to prescribe the "manner of holding elections for Senators and Representatives," establish machinery for recounts in close contests. We believe that recounts conducted by such methods as each State might establish would generally be more satisfactory to the people of the States, and no such State recount machinery would need to abridge the right of a contestant, who felt that he had not received a correct count, to make a further appeal to the House for which he was a candidate, wherein the final authority would still lie.

It is our belief, and this committee accordingly recommends, that the Eighty-third Congress study the possibility of advising the respective States, perhaps by means of a joint resolution expressing the policy of Congress in this regard, to establish machinery for recounting ballots cast in primary and general elections for Representative and Senator, and that the respective Houses of Congress refrain from conducting recounts except in instances where a prima facie case is made out by a contestant that the State machinery has not provided a just and correct count in his particular contest.

PART III

BASIC QUESTIONS AND CONSIDERATIONS INVOLVED IN REMEDIAL LEGISLATION

Introductory

Since its creation last summer your committee has conceived as one of its most important duties a reconsideration of the existing Federal law governing the field of elections for Federal offices, and the recommendation to the next Congress of workable amendments and supplements to this body of the law.

Previous committees of the House and Senate, which were created for the same purpose as this committee, have been unanimous in concluding that the Federal law governing elections and campaign spending is inadequate, is widely disregarded or evaded in spirit if not in letter, and is in need of comprehensive revision and recodification.

It was the hope of the Members serving on this committee that the committee would produce a bill embodying the amendment, supplementation, and recodification of Federal election law that earlier committees have declared to be necessary. To this end a staff study of existing legislation and proposed amendments was undertaken, and public hearings were held. The study and the testimony given at the hearings served to point up further the glaring inconsistencies and loopholes in the present law.

Unfortunately, however, increased familiarity with the subject brought an increased awareness of the fact that solution of the problems is infinitely more difficult than their mere recognition and diagnosis. Eminent and experienced witnesses at the public hearings, held December 1 through 5, 1952—political scientists and practical politicians alike—were virtually unanimous in their dissatisfaction with existing law; but there were almost as many different views as to which provisions most need amendment, and what the amendments should be, as there were witnesses.

In short, the committee felt that it was not qualified to prepare comprehensive legislation in the time available and on the basis of the information amassed, which would effect the thoroughgoing amendment, supplementation, and recodification of the whole body of election law that seems to be necessary.

In our view, this job cannot be done by a committee like this one and its predecessors, which were created only 6 months before the expiration of a Congress, 4 months before the general election, and which had the task of processing individual candidates' complaints, in addition to consideration of legislative enactments. We believe that if the Eighty-third Congress waits until July 1954 to create the next Special Committee To Investigate Campaign Expenditures, that committee will experience the same difficulties we have. It seems to

us imperative that the Eighty-third Congress at once impose the duty upon a standing committee to continue, at the point where this committee must leave off, the task of bringing our Federal election laws up to date. As our contribution to this task, we submit herewith a practical and legal analysis of the major problems, as they have emerged in our staff study and public hearings. In part IV, infra, we present our recommendations of steps which a new committee and new Congress should take immediately to deal with the most urgent shortcomings of present law.

There are certain basic considerations, involving the balancing of conflicting public policy interests, which underlie all laws in this field. These must necessarily be uppermost in the minds of those who would review and revise the laws. Among these considerations are the following:

1. Money should not be allowed to become the determining factor in deciding who our public servants will be. Balanced against this is the right of a free people to express themselves freely with respect to the candidate of their choice—and often the means by which such expression may be made effective is money.

2. The right of the people freely to select the candidate of their own choosing should be secure. But there is a question whether the people's choice is truly "free" if they are subjected to an overwhelming preponderance of the views of one party or candidate to the exclusion of others, through undue concentration of money.

3. Citizens should have the right, irrespective of financial worth, to run for public office. But is there not also a right in a candidate and his supporters, who may happen to have greater financial power, to express their support of his campaign to whatever extent they deem necessary to insure the election of their "best man"?

4. Campaign contributions should be restricted, either as to source or size, or both, to the extent necessary to prevent the placing of our elective processes in the hands of a few people or groups. Balanced against this, however, is the right of a free people to spend their money as they see fit; and, to the extent that restrictions on its use are absolute, they may result in abridgment of freedom of speech to a corresponding extent. Through all these considerations, which are, in fact, only facets of the same question, runs the problem of possible undue regimentation and restriction of a people who cherish their political and economic freedoms above all others.

It was the conclusion of the enactors of the Federal Corrupt Practices Act, after consideration of these conflicting interests, that freedom to spend is not necessarily coextensive with the freedom of speech and press protected by the first amendment. This committee is of the same opinion, as were most of the witnesses who testified before it. It is only when an attempt is made to get specific, to place the exact legislative metes and bounds on campaign spending, that the discussion becomes hazy and controversial. This can best be illustrated by a review of some of the particular questions which were studied and discussed. The remainder of this part of your committee's report is devoted to such a review.

Extension of Coverage to Primaries, Caucuses, and Nominating Conventions

The present law specifically excludes primaries and nominating conventions from its control. However, in many States the real contest, and the major expenditures, take place in the primary election. This is particularly true in those States where one party is overwhelmingly stronger than the other, and in those States where cross-filing is allowed. To be realistic, it is argued, in any attempted extension of control over presidential campaign expenditures, consideration must be given to the preferential primaries, caucuses, and nominating conventions of the political parties. W. Walter Williams, chairman of Citizens for Eisenhower-Nixon, a national political committee, told the committee in its public hearings that $1,200,000 was spent by the National Citizens for Eisenhower, a preconvention group which disbanded shortly after the convention, to be replaced by the Citizens for Eisenhower-Nixon Committee.[1] And, as Mr. Williams noted, this did not include preconvention expenditures of various other national, State, and local groups supporting the candidacy of General Eisenhower. This is not intended to infer that this group exceeded any legal or moral limitations on expenditures. These figures were used because they represent the only estimate of preconvention expenditures revealed in the testimony before the committee at its hearings. It seems safe to assume that other candidates, who announced their candidacy long before General Eisenhower, equaled or exceeded these expenditures in their preconvention campaigns.

However, the question of congressional authority over these portions of the total elective process must be considered. At the time the present Federal Corrupt Practices Act was enacted in 1925, the Congress had to consider the effect of the decision of the United States Supreme Court in *Newberry* v. *United States* (256 U. S. 232), decided May 2, 1921, which held that Congress was without power to control the expenditures of candidates for Senator or Representative in primary elections. The Court held that the word "elections" in section 4 of article I of the Constitution did not embrace the nominative process. However, in *United States* v. *Classic* (313 U. S. 299), decided May 26, 1941, the Court held otherwise, saying, on page 320:

> The words of sections 2 and 4 of article I read in the sense which is plainly permissible and in the light of the constitutional purpose, require us to hold that a primary election which involves a necessary step in the choice of candidates for election as Representatives in Congress, and which in the circumstances of this case controls that choice, is an election within the meaning of the constitutional provision and is subject to congressional regulation as to the manner of holding it. * * *

Although this was a 5-to-3 opinion, the dissent per Mr. Justice Douglas (Justices Black and Murphy concurring) agreed with the majority on the particular point in issue, saying, on page 329:

> I think Congress has ample power to deal with them [elections]. That is to say, I disagree with *Newberry* v. *United States* (256 U. S. 232), to the extent that it holds that Congress has no power to control primary elections. * * *

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[1] P. 111, hearings before Special Committee To Investigate Campaign Expenditures, House of Representatives, 1952, 82d Cong., 2d sess., held December 1–5, 1952.

The case of *Smith* v. *Allwright* (321 U. S. 649) reaffirmed the decision in the Classic case.

It would seem clear that these cases, coupled with the decision of this Court in *Burroughs and Cannon* v. *United States* (290 U. S. 534), upholding congressional authority to control campaign expenditures of candidates for Federal office, establish a sound constitutional basis for congressional action in this field. Assuming the desire of the Congress to legislate with respect to expenditures of candidates for Federal office in the nominative process, there appears to be no constitutional impediment to such an extension of the law.

Extension of Coverage to Expenditures in a Single State for the Purpose of Influencing or Attempting to Influence the Election of Candidates for Federal Office

The present law does not attempt to control expenditures of political committees unless they are active in two or more States, or are branches or subsidiaries of national committees other than duly organized State or local committees of a political party (see 2 U. S. C., sec. 241). Nor does it attempt to control expenditures of individuals unless for the purpose of influencing Federal elections in two or more States.

Yet many of the witnesses before the committee in its public hearings attested to the expenditure of huge sums of money through intrastate activities of such persons or groups. A prominent newspaper,[2] which conducted a Nation-wide survey of political expenditures in the recent campaign, concluded that the total of such expenditures was $32,155,251. The article added:

> This was a rock-bottom figure. On the basis of it the average cost of reaching the eyes and ears of the almost 60,000,000 persons who voted for President was 54 cents.
>
> The figure the survey shows is by no means the total that was spent. That total probably never will be ascertained.
>
> Going into the $32,155,251 figure were only those costs that could be gleaned from officially filed reports, or, in their absence, which was common, from the estimates of competent political fiscal officers or election officials.
>
> In a few cases nothing could be obtained from these sources. And much local spending simply could not be ascertained.

Though the extent of national political spending included in these figures was not disclosed in the article, it would not be unreasonable to assume that local spending outstripped national spending. W. Walter Williams, at the public hearings of this committee, testified that the Citizens for Eisenhower-Nixon national political committee, of which he was chairman, spent approximately $1,400,000 during the recent campaign. Yet, he said, there were probably 16,000 related but autonomous State and local Eisenhower organizations whose expenditures were not included in this figure. He was unable to give the figures for such State or local expenditures, but said that a "wild guess" would be to "take an average of $25,000, double it and multiply by the 48 States."[3] Figures were not available as to the number of similar State or local organizations related to other national political committees. The accuracy of Mr. Williams' estimates is not in issue

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[2] New York Times, December 1, 1952, pp. 1, 16–17. (The full text of this article is reproduced in the committee's hearings, supra, note 1, p. 37, at pp. 37–50.)

[3] Hearings supra, note 1, p. 37, at pp. 109–110.

here, but the point being made is simply that any realistic scheme of laws designed to control the use of money in the elections of candidates for Federal office must comprehend intrastate or local as well as national spending.

There are some who have assumed that the power of the Congress in this connection is dependent upon the interstate commerce clause of the Constitution, therefore prohibiting control of intrastate or local spending. However, it is strongly urged by others that the nature of the office sought by the candidate, i. e., a Federal office, is a sufficient basis for congressional action regulating—

> the times, places, and manner of holding elections for Senators and Representatives * * * (Constitution, art. I, sec. 4).

Many witnesses before the committee cautioned against precipitous congressional action in this connection, however, fearing the possible deleterious effect any regulations involving intrastate or local spending might have in restricting active participation by the electorate in political campaigns.

A complicating factor is that many such State and local expenditures are joint in nature, i. e., two or more Federal candidates, or a local and a Federal candidate are supported by a single expenditure. A requirement of disclosure and publicity of such expenditures may be a possible method of control; but a statute imposing criminal liability on the basis of joint expenditures may be impossible, in view of the inevitably uncertain allocation of the expenditures and the constitutional requirement of certainty in laws imposing penal sanctions.

Extension of Coverage To Include Presidential and Vice Presidential Campaign Expenditures

The present laws attempt to control such expenditures indirectly by setting a limitation on expenditures for the purpose of influencing or attempting to influence in two or more States the election of presidential or vice presidential electors. Yet, since the inception of this Nation it has been the practice for the candidates themselves, rather than the electors, to do the active campaigning, and the expenditures are made in direct support of the candidates themselves. Further, in many States the people vote directly for the candidate, the electors not appearing on the ballot.

The fact that the President and Vice President are not technically elected by the people but by presidential electors chosen by the people, complicates any consideration of control over presidential campaign expenditures. As stated by the Supreme Court in *McPherson* v. *Blacker* (146 U. S. 1), decided October 17, 1892, on page 35:

> * * * It is seen that from the formation of the Government until now the practical construction of the clause has conceded plenary power to the State legislators in the matter of the appointment of electors. * * * In short, the appointment and mode of appointment of electors belong exclusively to the States under the Constitution of the United States.

However, the Supreme Court, in *Burroughs and Cannon* v. *United States* (290 U. S. 534), decided January 8, 1934, sustained congressional authority to regulate the expenditure of money by political committees for the purpose of influencing in two or more States the election of presidential and vice presidential electors.

The Court said, on pages 544 and 545:

> The congressional act under review seeks to preserve the purity of presidential and vice presidential elections. Neither in purpose nor in effect does it interfere with the power of a State to appoint electors or the manner in which their appointment shall be made. It deals with political committees organized for the purpose of influencing elections in two or more States, and with branches or subsidiaries of national committees, and excludes from its operation State or local committees. Its operation, therefore is confined to situations which, if not beyond the power of the State to deal with at all, are beyond its power to deal with adequately. It in no sense invades any exclusive State power. While presidential electors are not officers or agents of the Federal Government (*In re Greene*, 134 U. S. 377, 379), they exercise Federal functions under, and discharge duties in virtue of authority conferred by, the Constitution of the United States.

This decision, though sustaining the power of the Congress in this connection in two or more States, raises serious doubts as to its authority in a single State. However, dicta of the court may indicate its inclination to look through the "fiction" of presidential electors to the "fact" that the people select the President, not the electors. The court said, on page 545:

> * * * The President is vested with the executive power of the Nation. The importance of his election and the vital character of its relationship to and effect upon the welfare and safety of the whole people cannot be too strongly stated. To say that Congress is without power to pass appropriate legislation to safeguard such an election from the improper use of money to influence the result is to deny to the Nation in a vital particular the power of self protection. Congress, undoubtedly, possesses that power, as it possesses every other power essential to preserve the departments and institutions of the General Government from impairment or destruction, whether threatened by force or corruption.

It appears, therefore, that the court might not disapprove legislation extending control over contributions and expenditures received or made in direct support of a presidential candidate, including intrastate expenditures for this purpose. As pointed out previously, the total expenditures by State and local groups supporting presidential candidates are of such size and importance as to warrant serious consideration in any legislative proposal intended to control more adequately the use of money in presidential campaigns.

Limitations on Political Committees

Witnesses before the committee in its hearings, though of different opinions on some issues, were of one mind on the question of the $3,000,000 limitation on political committees. All agreed that it is totally unrealistic in the light of modern campaign methods and costs. Beyond this point they once again diverged into a variety of opinions as to corrective measures. Some felt that it should be abolished outright, others that it should be raised substantially. Some of the witnesses pointed out that the present limit has contributed to, if not caused, a decentralization of responsibility for the collection and distribution of campaign funds, which they believe is undesirable. They point out that it is inefficient and wasteful and has rendered it absolutely impossible to ascertain, or even approximate closely, the forces exerted on our elective processes through the expenditure of money. Other witnesses, however, felt that decentralization has contributed to greater active participation by the electorate in the campaigns of the candidates, a wholesome result which they would foster. They point to the more than 61,000,000 votes in the recent campaign as

indicative of the good which results from such active participation. An additional point, frequently made, was that it is not necessarily the amount of money expended, but the sources from which it is obtained and the uses to which it is put that may bring about the evil forces which must be controlled, an argument supporting centralization of responsibility.

To strike a balance, it was suggested that the limit for national committees be raised substantially with a lower limit for State or local committees which make expenditures for the purpose of influencing the election of Federal candidates. The merit in this compromise is that it would encourage centralization of responsibility by removng the need for setting up numerous committees and at the same time foster active participation of the voters, through committees of their own creation and expenditures of their own choice, in the local area.

Frequently the objections to removal of the limitations were not altogether clear. It may be that some of the advocates of limitation were merely being cautious, or did not wish to assume responsibility for recommending a provision that might bring complete chaos and disorder in an important field in which confusion is already great.

A related question, involved in any scheme of laws designed to control campaign spending, is whether political committees supporting two or more Federal candidates or a mixed group of local and Federal candidates, should be required to separate in their records the expenditures made for each, and, in their reports, indicate separately the amounts expended in behalf of individual Federal candidates. Such a requirement is essential to a really accurate appraisal of the financial support received by an individual candidate; but it is certain that an amendment to this effect would meet strong objections because of the great difficulties of administration and bookkeeping it would entail.

Limitations on Candidates

It may be that much of the confusion which has grown up around this phase of our general campaign expenditures laws is that many people mistakenly believe that the law sets a limit on the aggregate of all expenditures made in support of a candidate for Federal office. Possibly it should—but the fact is that it limits only expenditures made by the candidate.[4] There is the additional limit of $3,000,000 on national political committees, but there is no limit on the number of such committees which may be formed, nor is there any limit, either as to number or amount of expenditures, on State or local committees which make expenditures for the purpose of influencing the election of Federal candidates.

The specific limitation on expenditures of Federal candidates is: For Senator, $10,000, and Representative, Delegate, or Resident Commissioner, $2,500, subject to any lower limit imposed by the laws of his State; or, the amount obtained by multiplying 3 cents by the total number of votes cast at the last general election for all candidates for the office which the candidate seeks, but in no event to exceed $25,000 for a senatorial candidate, or $5,000 if a candidate for Representative, Delegate, or Resident Commissioner.[5]

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[4] Federal Corrupt Practices Act, sec. 309 (a) (2 U. S. C., sec. 248).
[5] Federal Corrupt Practices Act, sec. 309 (b) (2 U. S. C., sec. 248).

Individuals, not aware that these limitations apply only to expenditures made by the candidate, are understandably confused when they hear that an amount exceeding the limitation by several thousands, or hundreds of thousands, of dollars was expended in the campaign of a candidate.

That expenditures outside the pale of the present laws are significant, and that such expenditures far exceed those covered by the law, is illustrated by the afore-mentioned newspaper survey,[6] which reported that one successful candidate for the Senate spent $15,866, while committees on his behalf spent $217,995. His opponent reported spending $11,000, a single committee reportedly spending $58,413 on his behalf. The campaign of still another candidate, in another State, was reported to have cost $147,000, which may be compared with the maximum of $25,000. The vast disparity in size of the respective amounts between those expenditures which are included within the limitation imposed and those which are not (largely State or local expenditures) indicates the importance of considering them in any attempted reevaluation of our campaign expenditures laws.

The suggestion has been made frequently that revisions should include provisions for centering responsibility for campaign expenditures in the candidate, his fiscal agent, or some designated political committee supporting his candidacy. A reasonable limit would be imposed, all campaign expenditures would be charged against it, and it would have to be respected under pain of penal sanctions.

However, there are implicit practical and constitutional considerations which present obstacles for the Congress to hurdle before serious consideration can be given to extending the laws to encompass the aggregate of all expenditures made in support of a candidate for Federal office, including intrastate and local expenditures.

If full financial disclosure and publicity are to be the sole restraint on such expenditures the constitutional objection would not be so great. But if a specific limitation on expenditures is imposed, a more serious constitutional problem arises when the limitation is reached. Should any citizen thereafter wishing to express himself with respect to a candidacy through the expenditure of money be denied his opportunity to do so? Is this a prohibition on his freedom of speech? Should the formation of additional political committees thereafter be prohibited, and thus deny to its members the freedom of assembly? If it be said that the formation of such committees would be allowed, but expenditures would be prohibited, then what about the necessary expenses of even voluntary activities, such as gas and oil in visiting prospective voters, or taking voters to the polls, or hiring meeting places for the committee, and so forth? Would these be expenditures within the meaning of the prohibition?

And, should these questions be answered in the affirmative, how would the law be implemented? Wouldn't it require that prior authorization be given to each person or committee desiring to make an expenditure, so that the candidate, or his agent, could insure that expenditures did not exceed the legal limitations? On what basis would the candidate or his agent be required to issue authorization? Would this be unconstitutional as a prior restraint on free speech? Is it an unconstitutional form of censorship? Would the restrictions

[6] New York Times, December 1, 1952, p. 16.

seriously interfere with the desire of some voters to participate actively in the campaign?

It is not our intention to carp but to bring out the practical and constitutional considerations inherent in any objective evaluation of this approach to the problem of campaign expenditures control.

Another confusing feature in the present law is the requirement that candidates for the Senate or House must report all contributions and expenditures received or made by them or by any person for them with their knowledge or consent.[7] However, amounts expended by others than the candidate are not included in the maximum expenditures allowed a candidate by section 309 of the Corrupt Practices Act. This has caused candidates to inquire of the committee whether certain expenditures made by others could be construed as having been made "with my knowledge or consent, and, if so, won't that make me exceed my limit"?

Also, the provision that, in computing his expenditures in accordance with the limitation imposed, the candidate shall not include qualifying fees, "necessary" personal, traveling, or subsistence expenses,[8] and so forth, has added to the confusion. Just what must be included is left almost entirely to the judgment of the candidate himself. The issue here is not the honesty or dishonesty of any candidate, but the fact that the law places him under such an indefinite restriction and creates within itself the very means for evading its assumed purpose.

A related problem involves the advisability of setting a specific limit on the amount which a candidate may expend in support of his candidacy from personal funds, as distinguished from funds accumulated by contributions from others.

Additionally, it must be recognized that, since under the present laws the bulk of campaign expenditures may not be reported, it would be practically impossible at this time to arrive at any over-all reasonable figure which might be imposed as a limitation on campaign expenditures, especially with inflation and the development of modern campaigning techniques using costly media of communication.

The approach, which for want of a better term is called the "publicity" approach, in opposition to the limitation approach here discussed, follows. It, too, however, is not a cure-all, as will be seen from the discussion.

The Effectiveness of Publicity in Controlling Excessive Campaign Expenditures

Political scientists and other scholars in this field have long advocated that all limitations be removed, that a complete scheme for ascertaining the costs of a political campaign be designed in its place, and that this information be publicized to the electorate. Unreasonable expenditures or extremely disproportionate spending, it is argued, will be so abhorrent in the minds of the voters as to cause the defeat of any candidate guilty thereof. This assumed result has been challenged by many campaigners and others, who feel that its significance will be entirely overlooked by many voters, who will go ahead and

[7] Federal Corrupt Practices Act, sec. 307 (2 U. S. C., sec. 246).
[8] Federal Corrupt Practices Act, sec. 309 (c) (2 U. S. C., sec. 248).

vote for the candidate who has most deeply impressed himself in their minds. Further, it involves many problems not apparent at first blush. For example, it requires that complete and accurate figures be available in time for publication in the area affected, and in time to take effect in the minds of the voters. Even if this period be reduced to 5 days, it is a common and well-recognized fact that the last few days of a campaign are the most expensive.

The suggestion has been made that this obstacle could be surmounted by requiring, with the final preelection report, an estimate of expenditures for the balance of the campaign, or, as one State law (Florida) provides, return of all contributions received in the last 5 days of the campaign.

This publicity approach should not be too lightly considered, for even if it be assumed that it would not be a sufficient deterrent to excessive campaign spending, still it would, if used, give to the Congress a realistic idea of the actual cost of modern political campaigns, which is not possible under the present laws. If, thereafter, specific limitations were deemed necessary, they could be imposed on a sound basis, and not, as now, on a more or less arbitrary basis. Also, it would not present such serious constitutional questions as other avenues, for although it might burden, it would not abridge the freedoms of speech and assembly.

However, to be most effective, it would require that responsibility for expenditures be centered in a single person or group, to insure that complete and accurate figures be available within the time allowed. It is said that this could be accomplished, without burdening the candidate, through the use of a fiscal agent, or a single political committee, through whom all expenditures would have to be cleared. What effect would this approach have in dampening the participation of the electorate? Is the restriction imposed by the "channeling" requirement so severe as to render it unconstitutional? How should joint expenditures, i. e., for two or more Federal candidates, or a State or local candidate and a Federal candidate, be allocated or restricted? Any serious consideration of this approach must include answers to these problems.

It is interesting to note that the State of Florida in 1951 enacted a scheme of campaign expenditure laws along this very line. According to Robert A. Gray, secretary of state of Florida, who testified before the committee at its hearings: "On the whole, it operated very well—better than I anticipated."[9] He was unable to determine the new law's deterrent effect in reducing campaign spending, however, pointing out that prior to its enactment it was impossible to compute campaign costs.

The present Federal law employs a combination of both approaches but does not effectively control the problem which it was designed to meet because its publicity features are inadequate, its limitation features are outmoded, and its expenditures-control features fail to comprehend the great bulk of the expenditures which are actually made for the purpose of influencing the election of Federal officers.

It may be that a combination of publicity and specific statutory limitation is the only practical approach; for even if publicity is thought

[9] Hearings, supra, note 1, p. 37, at p. 174.

to be completely sufficient as a control device, some limitation on the expenditures which a candidate may make out of his personal resources may be necessary.

Limitations on Individual Contributions

Title 18, section 608, United States Code, provides:

> Whoever, directly or indirectly, makes contributions in an aggregate amount in excess of $5,000 during any calendar year, or in connection with any campaign for nomination or election, to or on behalf of any candidate for an elective Federal office, including the Offices of President of the United States and Presidential and Vice Presidential electors, or to or on behalf of any committee or other organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party, shall be fined not more than $5,000 or imprisoned not more than 5 years, or both.
>
> This subsection shall not apply to contributions made to or by a State or local committee or other State or local organization or to similar committees or organizations in the District of Columbia or in any Territory or possession of the United States.

The scope and purpose of this section have been the source of much confusion. Some have interpreted it to mean that an individual may only contribute a total of $5,000 in connection with any campaign or election, and that the sum of all contributions to political committees or candidates may not exceed this amount. Others contend that it merely limits contributions of individuals to $5,000 to any single national political committee or candidate, thus allowing separate contributions of $5,000 to each of several candidates or national political committees. (It does not limit contributions to State or local committees.) The latter interpretation is the more generally accepted. This permits astronomical contributions in the aggregate by individuals. If this be the intention of the Congress, then there is no quarrel with the latter interpretation, but the section then becomes practically meaningless. It merely restricts the individual to contributing in increments of $5,000, but sets no limit on the number of political committees which may be set up to support a candidate or the number of relatives or infants through whom contributions may be made to a single candidate by one wealthy man.

If, however, the Congress originally intended this provision to restrict the influence which an individual might have, through the use of money, in electing or defeating a candidate, and thereby minimize the danger of bringing candidates under an obligation to large contributors, the section is hopelessly inadequate for its supposed purpose.

Once the intent of the Congress in the particular aspect here discussed is determined, the following situations should enter into any reevaluation of laws designed to carry out that intent:

(1) The gift tax provision exempting $3,000 gifts has, for all practical purposes, reduced contributions to this level.

(2) Occasionally, individuals exceed the limit by gifts through minor children. The suggestion has been made that only persons of voting age or persons 18 or more years of age be allowed to contribute to political campaigns.

(3) Contributions through relatives and minor children may allow relatively small groups of people to have entirely disproportionate monetary influence in our elective processes.

27005—53——4

(4) There is no limit on the number of National, State, or local political committees which may be set up to support a candidate.

(5) There is no limit on contributions to State or local committees.

(6) Should the limit on individual contributions apply to candidates for Federal office?

The suggestion has been made that a specific limit, possibly $5,000, be set for all contributions, in the aggregate, which an individual can make in connection with a presidential election, whether to one or more political committees or the candidates themselves, and that a lower limit be set for contributions to the senatorial or congressional campaigns of each candidate.

An additional problem involves the provision in the present law requiring persons, other than political committees, who make expenditures aggregating $50 or more in a calendar year, other than by contribution to a political committee, to file a statement of such expenditures with the Clerk of the House of Representatives.[10] The suggestion has been made, in view of modern campaign costs, that this amount should be raised to $100.

Another suggestion is that persons contributing, in the aggregate, more than a certain amount in a calendar year, should be required to file a financial statement listing all of their contributions and expenditures for the calendar year. This suggestion results from the virtual impossibility at the present time of determining how much an individual has contributed or expended for the purpose of influencing the election of a candidate. Until such figures can be derived, consideration of the advisability of setting a limit on such contributions or expenditures will be based largely on conjecture.

Controls on Radio and Television Campaigning

It may never be known what methods of campaigning had the greatest effect in the 1952 elections; but if money outlays are taken as the index, broadcasting can make best claim to the honor.

The largest items of expenditure in this year's campaign budgets of both major political parties, as well as those of the several independent national political committees formed to support General Eisenhower or Governor Stevenson, appear to have been those made for radio and television.

Chairman Stephen A. Mitchell, of the Democratic National Committee, testified that the expenditures of that committee for radio and television amounted to some $400,000,[11] out of total expenditures close to the $3 million limit allowed by law. Mr. Mitchell added that he had heard that the radio-television expenditures of the Stevenson-Sparkman Forum Committee, an independent national political committee, were another "$700,000 or $800,000." [12] Another independent national political committee active in the Democratic campaign, the Volunteers for Stevenson, spent a total of $421,000 for network radio-television campaign programs and an additional $77,000 for spot announcements,[13] according to the testimony of Volunteers' Chairman Hermon Dunlap Smith. This group's expenditures for newspaper

[10] 2 U. S. C., sec. 245.
[11] Hearings, supra, note 1, p. 37, at p. 150.
[12] Ibid.
[13] Id., at p. 29.

advertising were $49,000. Its total expenditures for the campaign were approximately $740,000.[14] The most expensive single program of the Democratic presidential campaign was the hour-long broadcast of the Madison Square Garden rally. Volunteers for Stevenson paid $120,000 for that one program,[15] with approximately 10 percent of this figure representing the cost of newspaper advertising announcing the program in advance of its broadcast.[16]

On the Republican side, one important figure was not yet available: Chairman Arthur E. Summerfield, of the Republican National Committee, was not able to estimate, at the time of his appearance before this committee, what the radio-television outlay of his organization had been. However, Chairman W. Walter Williams, of the Citizens for Eisenhower-Nixon, an independent national political committee, estimated that his group spent $634,000 [17] for this medium, constituting the largest single item in its expenditures total of $1,450,000.[18] This committee financed the most expensive single broadcast of the Republican campaign, the election-eve program, which cost $267,000.[19]

Additional independent committees, National, State, and local, supporting one or the other of the presidential candidates added considerably to the total spent for broadcasting in the presidential campaign. Still further sums were expended in the various congressional campaigns, the total of which no witness before this committee undertook to estimate.

Republican and Democratic witnesses seemed to be unanimous in their belief that the spectacular growth of television in the past 4 years was the major single cause of the vastly increased costs of the 1952 campaign—and the major reason for their recommendation of removing or revising upward substantially the $3 million limitation on campaign expenditures of a national political committee.

Furthermore, the growth of television, and its consequent increasing importance as a factor in campaign costs, is by no means at an end. According to the testimony of Ralph W. Hardy, director of government relations of the National Association of Radio and Television Broadcasters, the Federal Communications Commission has authorized at this time, but not yet licensed, approximately 100 additional stations, which are under construction and may be expected to take the air fairly soon.[20] He stated that it would be physically possible for as many as 2,000 to 2,300 television stations to operate in this country. When it is considered that there were only 116 television stations licensed and operating during the 1952 campaign,[21] that few of the tremendously costly network political telecasts or "simulcasts" (simultaneous television and radio broadcasts of the same program or speech) of that campaign were carried by more than about half of these stations, and that the cost increases with the number of stations utilized, it can be predicted with some confidence that television costs in the 1956 presidential campaign might easily be double or treble those of 1952.

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[14] Hearings, supra, note 1, p. 37, at p. 28.
[15] Ibid.
[16] Hearings, supra, note 1, p. 37, at p. 31.
[17] Id., at p. 110.
[18] Id., at p. 109.
[19] Hearings, supra, note 1, p. 37, at p. 115.
[20] Hearings, supra, note 1, p. 37, at p. 90.
[21] Id., at p. 91.

The cost of radio and television was used by different witnesses both to support and attack continuation of a statutory maximum on campaign spending. Those who would abolish any legal limitation argue that the soaring costs of broadcasting make any figure that might be set a potential restriction on unfettered political discussion in this medium, as rising prices make the limit "unrealistic." On the other hand, it is argued that the tremendous expense of television, and its equally tremendous efficacy as a means of reaching and persuading voters, make a limitation imperative to prevent a party or candidate with unlimited funds from deriving an unfair advantage over a party or candidate unable to purchase all the broadcast time it wants. Present law [22] requires that, if a station sells or gives time to one candidate for a particular public office, it must afford the same opportunity to all other legally qualified candidates for that office; but this guaranty of "equality" is worthless to candidates who cannot afford to buy as much time as was purchased by their opponents. It becomes meaningful to candidates of a minor party, for example, only when a station or network gives free time to a major party candidate for the same office. Then every other candidate, no matter how impecunious, if "legally qualified," becomes entitled to the same amount of free time.

Chairman Smith, of the National Volunteers for Stevenson, who is a proponent of over-all limitations on expenditures made by all persons or groups in behalf of the same candidate, also recommended to this committee that a specific limitation be imposed on expenditures for "the media of mass influence." He included in this category not only radio and television but also newspaper advertising.[23]

It seems clear from the testimony of Mr. Hardy, of the National Association of Radio and Television Broadcasters, however, that his industry would oppose any such law as discriminatory against it (his exact word was "unworkable").[24] Quite possibly the same objection would be raised by newspaper publishers if advertisements in the press were singled out for expenditures limitations.

Another question, not strictly one of campaign expenditures but which logically can be considered in any congressional investigation of this subject, arises from the language of section 315 (a) of the Communications Act, which provides that a broadcast licensee "shall have no power of censorship over the material broadcast under the provisions of this section." (This is the section, above referred to, which also guarantees equal broadcast facilities to all "legally qualified candidates.")

As the Federal Communications Commission has construed this section,[25] it prohibits a radio or television station from editing out of a "legally qualified candidate's" speech material which it believes to be libelous. However, as the section was construed by the United States Court of Appeals for the Third Circuit in *Felix* v. *Westinghouse Radio Stations, Inc.* (186 F. 2d 1, certiorari denied 341 U. S. 909), a station is not precluded from editing out material it believes to be libelous from a speech to be broadcast by a "spokesman for a

[22] Communications Act of 1934, sec. 315 (47 U. S. C., sec. 315).
[23] Hearings, supra, note 1, p. 37, at pp. 25 and 33.
[24] Id., at p. 88.
[25] See testimony of Benedict B. Cottone, general counsel, Federal Communications Commission, hearings, supra, note 1, p. 37, at pp. 129–134.

candidate." Implicit in the Felix decision is the rule, asserted to be the correct rule by the Federal Communications Commission, that a station is relieved of any liability for libel, under State laws, resulting from the utterance of a "legally qualified candidate," which, under section 315 (a) of the Communications Act, it may not censor. The specific holding of the Felix case was that a station is liable, along with the speaker, for libelous utterances of a spokesman for a candidate, since the court held that section 315 (a) does not apply to such speakers, but only to "legally qualified candidates."

The same interpretation applies to the law as it pertains to equal facilities. That is, a station which permits a candidate to use its facilities must afford the same opportunity to other "legally qualified candidates" running for the same office. But a station which sells or gives time to a spokesman for a candidate is not thereby placed under obligation to afford the same opportunity to opposing candidates for the same office, or any spokesman for them. The possibility of a station's evading the purpose of section 315 of the Communications Act by this construction, and "playing favorites" among candidates by the simple device of allowing use of their facilities to spokesmen for one candidate while denying the same opportunity to spokesmen for his opponents, is obvious.

In the words of Chairman Walker of the Federal Communications Commission:

> * * * we have in recent years supported legislation which would extend the coverage of section 315 to at least cover authorized spokesmen for legally qualified candidates. Legislation, introduced by Mr. Horan, of Washington, incorporating this proposal was adopted by the House of Representatives last year as an amendment to S. 658, a bill making a series of amendments to the Communications Act. It was stricken out in conference, however, because the conferees believed further study was required. We believe that such study should be given attention by the new Congress.

A final question arising out of the recent campaign, in connection with radio and television, can also be presented in the words of Chairman Walker's statement to the committee:

> * * * for purposes of applying section 315 of the Communications Act, [is] such time as is made available to some candidates on a commercially sponsored program * * * to be classified as free time because no expenditure on the part of the candidate or his party is involved, or paid time because of the stations carrying the program received compensation from the sponsor [?] The importance of this question results from the fact that, if the time is classified as free, stations will, if a candidate appears on such a program, be under an obligation under the law to afford time, without cost, to legally qualified opposing candidates, whether or not the station can secure a sponsor for the time utilized by the opposing candidate. On the other hand, if the time were to be classified as "paid time" it is clear that a tremendous weapon for political favoritism would be placed in the hands of corporations or unions willing to take advantage of it. * * * After careful consideration of the matter, the Commission determined that such programs must be considered to be time afforded to participating candidates free of charge. * * * We think this determination by the Commission was the only one possible in view of the obvious objective of the act to maintain equality of opportunity among legally qualified candidates.

This committee expresses no opinion on the Commission's interpretation, but we do believe that further consideration of the matter by the next Congress is desirable.

Limitations on Corporations and Labor Unions

Title 18, section 610, United States Code, makes it unlawful

> * * * for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices * * *.

A somewhat broader prohibition is included for national banks and corporations organized by authority of any law of Congress.

This statute has resulted in one of the more serious situations requiring the attention of the Congress in this field. In the first place the constitutionality of the statute has been seriously question.[26] Secondly, many of the activities originally thought to be within its purview have been judicially determined not to be included.[27] Thirdly, evasionary practices have become so widespread as to render it practically useless as a protection against the evils sought to be controlled when the law was enacted.

The first two points grew out of the opinion of the United States Supreme Court in the case of *United States* v. *C. I. O.*,[28] in which the indictment charged a violation of what is now title 18, section 610, United States Code, through publication in the weekly newspaper of the union, the CIO News, of a statement advocating the election of a candidate for Congress from the Third Congressional District of Maryland.

The Court reviewed the legislative history of the statute and concluded that the indictment did not charge acts embraced within its scope, for:

> If section 313 were construed to prohibit the publication by corporations and unions in the regular course of conducting their affairs, of periodicals advising their members, stockholders, or customers of danger or advantage to their interest from the adoption of measures, or the election to office of men espousing such measures, the gravest doubt would arise in our minds as to its constitutionality * * *.[29]

The Court thus avoided passing upon the constitutionality of the statute.

However, four Justices, in a separate opinion by Mr. Justice Rutledge, concurring in the result but not the reasoning of the majority, vigorously asserted the unconstitutionality of the statute, saying:

> We have only the broad and indefinite words "expenditure in connection with any election," and from the literal sweep of "expenditure" and the large area of doubt created by efforts to confine it, what is "in connection with?" What sorts of union activities outside of publishing a newspaper with unsegregated funds would fall under the ban? * * * Vagueness and uncertainty so vast and all-pervasive seeking to restrict or delimit first amendment freedoms are wholly at war with the long-established constitutional principles surrounding their delimitation. They measure up neither to the requirement of narrow drafting to meet the precise evil sought to be curbed nor to the one that conduct proscribed must be defined with sufficient specificity not to blanket large areas of one forbidden conduct with doubt and uncertainty of coverage. * * *[30]

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[26] *U. S.* v. *C. I. O.* (335 U. S. 106).
[27] *Ibid.*; *U. S.* v. *Painters Local Union* (172 Fed. 2d 854); *U. S.* v. *Const. & Gen. Laborers Union* (101 Fed. Supp. 968).
[28] 335 U. S. 106, decided June 21, 1948.
[29] Id. at p. 121.
[30] Id. at pp. 151–153.

Lower Federal courts have extended the principle of this decision to include expenditures for an advertisement advocating the defeat of named candidates and published in a newspaper of general circulation (the defendant being a small union that did not publish its own newspaper);[31] and expenditures for gas and salaries of campaign workers of a candidate (the candidate being the president and business agent of the defendant union).[32]

Recognizing that the CIO decision may establish that the Congress cannot constitutionally proscribe political activities of labor organizations or corporations with respect to their members, stockholders, or customers, it does not seem to follow that they may not be restricted to using media of communication confined to the protected groups. It seems implicit that the court's attempt to delimit the protected groups carries with it a recognition of the power of Congress to prohibit such activities outside these groups. However, as pointed out by the minority, the majority opinion does not clearly meet this issue.[33]

The inclusion of customers of corporations in the protected groups seems questionable, for the basis of such protection is not readily apparent. Does it mean customers in the broad sense, past, present, and prospective? If so, then for many corporations this could encompass the entire Nation and abrogate the presumed regulatory power of the Congress. Does it mean customers with whom the corporation has a direct and established business relation? If so, then why not suppliers? Why should customers receive protection which suppliers do not? Certainly both groups would seem to have an equal interest in candidates or legislation which might adversely or advantageously affect their interests. The Court's statements in this connection are obiter dicta, and it may be that a different result will be reached in the event of a case or controversy raising this question.

This statute was designed to control the political activities of corporations and labor organizations through control of their expenditures in connection with the election of candidates for Federal office. It seems to have been motivated by two considerations: First, the necessity for destroying the influence over such elections which corporations and labor organizations exercised through financial contributions or expenditures; second, the feeling that corporate and union officials had no moral right to use corporate or union funds for supporting candidates for Federal office without the consent of the stockholders or membership, many of whom might disagree with the selection of candidates to be supported.

Yet, restrictions so imposed must be considered in relation to the freedoms set forth in the first amendment to the Constitution. When the right of free speech is exercised through the expenditure of money and in connection with the election of candidates for Federal office, it comes into conflict with the power of Congress to regulate campaign spending. Though the statute does not make a distinction as to the "educational" or "political" character of an expenditure in connection with an election, many organizations, possibly subject to the statute, have made this distinction. They seem to feel that only those expressions which are partisan are political, and subject to the statutory pro-

[31] *U. S.* v. *Painters Local Union* (172 Fed. 2d 854), decided February 8, 1949.
[32] *U. S.* v. *Const. & Gen. Laborers Union* (101 Fed. Supp. 869), decided December 28, 1951.
[33] *U. S.* v. *CIO*, 335 U. S. 106, 132, par. 2.

hibition, while nonpartisan statements are educational, and hence not subject to the statute. As abstract principles of law, these contentions may have some merit, but the assumed distinction loses its significance when "educational" statements in connection with an election of candidates for Federal office are so worded as to leave in the mind of the reader only one conclusion as to the "right" or "wrong" candidate or political party; or, when it promotes social or economic doctrines clearly associated in the public mind with particular candidates or parties; or, when it is followed by a "political" or partisan statement having direct reference to the "educational" statement, interpreting it and giving partisan meaning to it.

The intense desire of corporations and labor organizations to insure the election of candidates whom they believe to be favorable to their interests despite the prohibitions of the statute, has led to the wholesale publication of "educational" literature or advertising having the sole purpose of attempting to influence the election of candidates for Federal office.

As the prohibition of the statute is against the use of union funds, the modern practice is for unions to set up two funds. The "educational" fund is derived from a portion of the dues paid by the members and contributions from member unions. The "political" fund is derived from voluntary contributions of the individual union members. "Educational" material is financed from the union fund and "political" material from the individual contributions fund. The "educational" material discusses social and economic issues, as well as "right" and "wrong" votes in relation thereto, from the point of view of the union. The "political" material discusses political issues and directly and openly advocates support for a particular candidate or candidates of a particular party. The material is not identified on its face as being either "political" or "educational" in character and often it is impossible to make this determination from the text of the article. Further, the funds are administered and the literature is usually prepared, at the same source, under the same name, and by the same people. When "political" funds are used to enable a union to take a public position with respect to a candidate or candidates of a party, how can this position be disassociated by anyone reading an "educational" statement issued by such unions?

On the other hand there is the matter of "institutional" advertising on a large scale by corporations. Such advertisements, though ostensibly "in the public interest" seem more calculated to influence the outcome of an election. To the extent that such expenditures are reported as an advertising or business expense in the income-tax return of such corporations, it gives them a tremendous and inexpensive means of influencing the outcome of elections.

The problem of the Bureau of Internal Revenue in these instances is extremely difficult, for the Bureau must determine whether such expenditures are "ordinary and necessary business expenses." Its political character, though of weight, is not the sole or prime determinant. Further, public interest advertisements have long been recognized as a legitimate form of advertising expense. As Mr. Norman A. Sugarman, Assistant Commissioner, Bureau of Internal Revenue, in his testimony before the committee, put it:

* * * The very fact that the advertisement carries a message rather than the name of a particular product would not prevent it from being a business

expense. We do attempt to watch those situations where advertising will take on a political flavor, but we do not want to be in the position of censoring advertising or telling the businessman how to run his business * * *.[34]

Another device is contributing to or purchasing literature from so-called educational committees, which stanchly deny engaging in political activities, while preparing and distributing literature discussing "issues" in a way calculated to leave the reader only one conclusion as to the "right" or "wrong" party or candidate. In many instances it is nothing more than the opposite view to that of organized labor.

This is not a new problem, for the 1944 counterpart of this committee extensively investigated such activities in connection with the Federal Corrupt Practices Act as amended by the Smith-Connally Act. The following excerpt from the report of this committee will serve to illustrate this point:[35]

> As a result not only labor organizations but corporations as well have taken the position that they may engage in activities more or less verging on the political, during as well as between political campaigns, so long as they operate indirectly through organizations and programs which they regard as educational. But this "education," as we have seen, very often takes the form of promoting in a "nonpartisan" manner social and economic doctrines clearly associated in the public mind with one major political party or the other; and of publications and comment on the records of Members of Congress who will be candidates in the not-too-distant future. The commercial sponsorship of news broadcasts by commentators with a definite political slant, under the guise of mere advertising of a product, is a familiar device; and the bulk purchase of literature from pseudo-educational organizations which employ the profit from those sales to distribute more political propaganda, is still another device encountered more than once in the course of the committee's investigation.

It may be that, as some have said, the bars should be let down on both sides, and allow corporations and labor organizations to make expenditures for political purposes, as freely as they wish. Or, it may be, that expenditures for partisan political activities in connection with the election of candidates for Federal office should be prohibited, except with respect to the constitutionally protected groups, with a companion provision for complete financial disclosure of "educational" exenditures in this connection. Careful consideration must be given to such a proposal, for, if nothing more, such activities generate interest in the minds of the voters in the elective process. Whether this is a healthy or unhealthy influence is for Congress alone to decide. Any consideration of the influence of money in our elective processes must include these important and sizable expenditures.

Before leaving this general problem, attention should be called to the position of some labor organizations, which object to being included with corporations in this statute. They feel that the fact that corporations are organized for profit, while labor unions are organized for the purpose of seeking the social and economic betterment of their members distinguishes the two. Historically, they aver, unions have given advice and information concerning political issues and candidates for public office. They feel that such activities should be recognized and protected by the Congress, not restricted.

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[34] Hearings, supra, note 1, p. 37, at p. 201.
[35] Report of the Committee To Investigate Campaign Expenditures, House of Representatives, 78th Cong., 2d sess., 1944, at p. 9.

Limitations on "Educational" Committees

Evaluation of the influence of money in our elective processes must include the activities of the so-called educational committees, financed by contributions, gifts, or bulk purchases of its educational literature, by individuals and corporations.

Such committees vehemently deny that they are "political" committees within the meaning of the Federal Corrupt Practices Act, and therefore they do not file any financial statement of their contributions or expenditures in this connection. They picture themselves as entitled to the same protection of the freedom of press in the first amendment as the regularly constituted publishing houses or newspapers. Yet, many of them register in accordance with the Lobbying Act of 1946.

One of the bases for their contention that they are not political committees within the meaning of section 302 (c) of the Federal Corrupt Practices Act, is that they do not engage in the open advocacy and active support of candidates, activities usually associated with political committees.

However, a cursory reading of their literature in many instances will reveal that the primary purpose of these committees is to influence the election of candidates for Federal office. The fact that the literature does not state by name a preference for a candidate or party is no true test of its impartial character, for its partisan interest is inescapable.

This is not intended as an attack on legitimate educational committees, but rather those which would usurp the name as a cover for their activities, ostensibly educational, but in fact an effort by devious means to influence the election of candidates for Federal office.

The influence which such organizations have in our elective processes and the insidious nature of their literature has been recognized by former President Herbert Hoover in a letter to Senator Guy M. Gillette, chairman of the Senate Subcommittee on Privileges and Elections, on September 28, 1951. The pertinent portion of this letter reads:

> The proper control of expenditures of the regular political parties is not so difficult a problem as the expenditures of organizations, clubs, etc., under the heading "education," "information," etc. Yet very large sums are being used in such fashion to promote candidates or influence the trend of elections. These bodies can confuse the public and can defeat the control features of existing law. While the way must never be closed for our people to work in association for a particular candidate, for a political party, or for political ideas, there is no reason why these activities should not be required to identify themselves clearly, to report the source of their finances and the nature of their expenditures, and have the same published by public agencies, State or Federal, during a time period in which the force of public opinion could become effective.

It may be that, if the Congress deems it advisable to expose their operations to public scrutiny, a new and less restrictive provision for financial disclosure could be devised for "educational" committees which prepare and distribute "nonpartisan" literature for the purpose of influencing the election of candidates for Federal office.

Subsidization of Campaign Expenses

From time to time there have been heard recommendations that this or that portion of the expense of running for Federal office be

subsidized by the Federal Government. The hearings conducted by your committee were no exception. Further, in preappearance conferences with the staff, they were occasionally uttered by witnesses who did not wish to go on record as publicly supporting them.

One that has made its appearance many times in the past involves extending the franking privilege to all candidates during the course of the campaign. The number of pieces of campaign literature which it is suggested should be allowed to be "franked" varies from advocate to advocate, usually two or three. The basis of this recommendation seems to lie in the realization that it is impossible for most candidates to send even one piece of literature to every prospective voter in his district or State, within the limitation imposed on his expenditures by the present law.

Another suggestion is based on the practical problem of getting a campaign "rolling." It is pointed out that one of the objections to shortening the campaign period is that it takes fully as much time as is now allowed to set in motion the machinery for collecting campaign funds, and since political committees cannot work effectively on credit, much of the campaigning must await the collection of adequate funds. It is said that maybe the Government might "start each party off with some sort of bounty."

A similar suggestion is that the Government provide all or a portion of the campaign expenses of candidates for its elective offices, or the costs of using the mass media of communication—radio, television, and newspaper advertising. The immediate objection that this suggestion might lead to a confusing multiplicity of candidates or parties, many of which might be merely ostensible candidates or parties, is met with the suggestion that participants be required to show that they received 2 percent of the votes in the last preceding election or post bond sufficient to repay the cost, in the event they fail to do so.

However, objections to any such approach to the problems in this field can be expected to be vigorous and widespread, for it must be accompanied by further encroachments upon individual freedoms and initiative. As a practical matter, its serious consideration as a solution is dependent upon the rejection of other, less objectionable, approaches.

Creation of Joint Committee or Impartial Commission To Supervise Election Practices; Scurrilous and Scandalous Literature

Many students of election laws and practical politicians have suggested that any comprehensive revision of the existing laws must provide for constant review of the election laws in operation, to insure fairness and freedom from corruption of the elective process. Some advocate a joint standing committee of both Houses of Congress while others advocate an impartial commission composed of eminent citizens, in either instance, with a full-time staff. Such a suggestion appears to have considerable merit, for ready attention could be given to violations or evasionary practices, to which this field is so conducive, and remedial legislation could be quickly prepared by competent persons always aware of the problems.

While the establishment of such a citizen's commission or joint committee should be seriously studied in connection with compre-

hensive remedial legislation in this field, it would appear that a minimum requirement for continued surveillance and supervision of these laws might be achieved through a standing committee or subcommittee of both Houses of Congress acting independently.

An additional suggestion, tying in with the creation of either body, is that it could be used to remedy another situation which raises problems in this field—the use of scandalous and libelous material. Even assuming the adequacy of the civil and criminal protection of the general laws governing libel and slander, it is questionable whether such laws offer sufficient protection to candidates for public office. For, any aid occasioned by such laws must come, if at all, long after the campaign in which the offensive statements were uttered and may have become effective.

The suggestion is that complaints of this type be referred to the suggested joint committee or impartial commission, which would investigate the complaint and impartially publicize the true facts. It is said that despite the possibility that scurrilous statements might be held back until the final days of the campaign, in the event of the adoption of the suggestion, it would still have the effect of limiting the time within which such statements could become effective in defeating a candidate. Further, in the case of statements made in the final days of a campaign, and victory by the guilty candidate, the investigation could serve as a basis for a recommendation to the Senate or House, as the case may be, that the candidate be denied his seat.

PART IV

RECOMMENDATIONS

It is the unanimous opinion of the members of your committee that a thorough revision of the existing Federal election laws is imperative. We, therefore, strongly recommend that the House of Representatives take the necessary steps to give this project the immediate and thorough attention that the importance of the subject warrants.

However, it is also the unanimous opinion of this committee that it is impossible, on the basis of the inadequate information now available on the costs of conducting a modern campaign, and the tremendous practical and constitutional problems which arise in attempts to regulate campaign activities and expenditures, to prepare at this time any comprehensive plan for revision of the existing laws.

The committee unanimously believes that the duties of conducting the study, drafting the comprehensive legislation required, and supervising the elections of the Members of the House should be placed on a standing committee, thereby doing away with the need for special committees, such as this one, for this purpose. The tremendous and widespread responsibilities imposed upon such special committees are not commensurate with the short life and small budgets granted them.

The committee is also unanimously of the opinion that the Congress should recommend to the respective States that action be taken by the States to provide uniform laws relating to the campaigns and elections of candidates for Federal office, containing a provision guaranteeing such candidates a right to a recount of the votes cast, upon a reasonable showing of fraud or error.

A majority of the committee believes that steps may now be taken which will make available the information upon which a comprehensive program can be realistically based. Further, it appears to a majority of the committee that there are certain related phases of the general problem which can be treated now along definite and well-recognized lines. Accordingly, the majority makes the following recommendations:

1. That the Federal election laws be made applicable to the nominating process, including primaries and nominating conventions.

2. That the financial reporting requirements now applying to political committees be extended to include all organizations which accept contributions and make expenditures for the purpose of influencing or attempting to influence the election of candidates for Federal office.

3. That the financial reporting requirements of existing law, now applicable only to activities and expenditures in two or more States, be extended to include activities and expenditures in a single State, if for the purpose of influencing or attempting to influence the election of candidates for Federal office.

4. That the existing limitation of $3,000,000 for national political committees be substantially raised, and a lower limit be established

for political committees active in only one State, in accordance with recommendation 3.

5. That the existing limitations on candidates for the Senate and House of Representatives of $25,000 and $5,000, respectively, be raised substantially, and that the law be clarified to indicate what expenditures are to be included in determining compliance.

6. That the financial reports required to be filed by candidates, political committees, and others, be so revised as to indicate how much was spent by, or in aid or support of, each candidate for a Federal office.

7. That the depository office receiving the financial reports be given the responsibility of insuring that they have been filed according to law, and of making them available for public inspection.

8. That the present provision setting a limit of $5,000 on individual contributions be revised to reflect more clearly the intention of the Congress. This provision, as presently written, is subject to a variety of interpretations, many of which constitute evasions of the spirit, if not the letter, of the law.

HALE BOGGS.
JOHN J. ROONEY.
FRANK M. KARSTEN.

ADDITIONAL VIEWS OF MR. KEATING AND MR. McCULLOCH

The undersigned members of the Special Committee To Investigate Campaign Expenditures, 1952, believe that the provisions of any legislation to be recommended to Congress should be left to the appropriate standing committee for drafting. The basic recommendation of this committee, in which we join, is that the entire subject receive detailed study by one of the standing committees of the House of Representatives. It impresses us as somewhat presumptuous to suggest to that committee what its answers should be to the questions raised regarding the present state of the law on the subject of political contributions and expenditures. We do not necessarily disagree, nor agree, with the specific recommendations made by the majority of the committee. Rather, we feel that the study by our committee has been necessarily so limited and its hearings so brief that no opportunity has been afforded to form definitive ideas on this subject.

KENNETH B. KEATING.
WILLIAM M. McCULLOCH.

APPENDIXES

Appendix I

Committee Print of August 1952

Special Committee To Investigate Campaign Expenditures, 1952, United States House of Representatives

INFORMATION OF IMPORTANCE TO CANDIDATES FOR OFFICE OF UNITED STATES REPRESENTATIVE IN THE EIGHTY-THIRD CONGRESS

Statement

As has been the practice in past years when an election of its Members is held, the House of Representatives has this year created a Special Committee to Investigate Campaign Expenditures. This committee is directed to investigate and report to the House concerning campaign expenditures and other matters pertaining to the election of Members of the House. In addition, the committee is empowered to look into such other matters relating to the election of Members of the House, and the campaigns of the candidates therewith, which it deems to be of public interest and which in its opinion will aid the House in enacting remedial legislation or in deciding any contests that may be instituted involving the right to a seat in the House of Representatives.

This committee felt that its first duty was to attempt to inform all interested persons as to the laws and regulations which have been enacted to govern the election of Members of the House of Representatives. The committee therefore requested the American Law Section, Legislative Reference Service of the Library of Congress, to compile the texts of certain provisions of the United States Constitution and Federal Statutes concerning the election of Representatives in and Delegates to the Congress. Brief explanatory summaries and portions of the texts of the provisions of the United States Constitution, the Hatch Act, the Federal Corrupt Practices Act, the Pendleton Act, the Powers Act, and other provisions of the United States Code pertaining to elections are included in this print. The texts of these provisions are presented as they appear in the Constitution and United States Code, 1946 edition, and supplement V. The explanatory summaries were prepared by the American Law Section.

A summary of the soldier-voting law and pertinent sections of the postal laws and regulations and the laws regulating elections in Territories and insular possessions are also included.

Each candidate is cautioned to familiarize himself with the pertinent State law of his particular State. It is impossible in a publication of this nature to present the laws of the various States, but since each State does have laws governing offenses at elections, violations of these

laws could result in criminal prosecution or denial of a seat in the House.

While all of the information contained in this print is of importance to persons in any way connected with the campaign and election of Members of the House of Representatives, there are particular provisions of the Federal law which should be specifically noted by all concerned. These are:

Reports to be filed.—Candidates, political committees, and in some cases individuals making political contributions, are required to file a statement with the Clerk of the House of Representatives as to contributions and expenditures. A form for this purpose will be furnished each candidate by the Clerk of the House. Reports required under the Federal law are distinct and are not to be confused with reports which may be required under State law or reports which may be required by the appropriate congressional committees.

An informative digest of the reports required by Federal law can be found on page 16 of this print. The State law should be consulted as to reports required by individual States.

Limitations on contributions and expenditures.—The limitations imposed by Federal legislation upon the amount that may be contributed or expended is discussed under the heading "Federal Regulation of the Use of Money at Elections," beginning on page 12 of this print. Candidates are cautioned to consult the laws of their respective States concerning State-imposed limitations.

Publication of unsigned advertisements and circulars.—The Powers Act prohibits the publication or distribution of political literature which does not contain the name of the person or persons responsible for its publication. It should be noted that this prohibition is not limited to general elections. The text of this act can be found on page 18 of this print.

Political activity by Federal employees.—The Hatch Act restricts the political activity of Federal employees with certain exceptions. Pertinent sections of the text of this act can be found beginning on page 26 of this print and an informative digest begins on page 9. Additional information can be secured from the Civil Service Commission, Washington 25, D. C.

Political contributions by persons receiving salary or compensation from or in the service of the United States.—Title 18 of the United States Code, commonly referred to as the Pendleton Act, prohibits any Member of, or candidate for, Congress from soliciting or receiving contributions from any person receiving any salary or compensation from the Treasury of the United States. It also prohibits any person in the service of the United States from giving

> any money or other valuable thing on account of or to be applied to the promotion of any political object—

to any other person in the service of the United States, including Members of Congress. This statute is very important to all candidates for Representative and *is of particular importance to Members of Congress.* It should be pointed out that, contrary to the Hatch Act, *legislative employees are included in this prohibition.* The text of this statute can be found on page 11 of this print.

Contributions by firms or individuals contracting with the Federal Government.—It is illegal for any person or firm entering into a contract

with the United States or any department or agency thereof *to make or promise any political contribution* of money or anything of value during the negotiation for, or performance under such contract. The text of this provision can be found on page 17.

AUTHORITY, MEMBERSHIP, AND JURISDICTION OF COMMITTEE

On March 6, 1952, following custom, the majority leader, Mr. McCormack, introduced House Resolution 558, the text of which is set forth on pages 21 and 22, infra. The resolution was referred to the Committee on Rules and reported to the House on March 20, 1952 (H. Rept. 1603, 82d Cong., 2d sess.). The resolution was considered and agreed to on May 12, 1952.

On June 16, 1952, House Resolution 691, providing funds for the expenses of conducting the investigation authorized by House Resolution 558, was introduced in the House and referred to the Committee on House Administration. The resolution as reported, authorizing the Special Committee To Investigate Campaign Expenditures, 1952, to incur expenses not exceeding $30,000, was agreed to July 2, 1952 (H. Rept. 2433, 82d Cong., 2d sess.).

The Speaker of the House on June 16, 1952, appointed the following members to the committee:

Hale Boggs, Louisiana (Second District).
John J. Rooney, New York (Twelfth District).
Frank M. Karsten, Missouri (Thirteenth District).
Kenneth B. Keating, New York (Fortieth District).
William M. McCulloch, Ohio (Fourth District).

The resolution creating the committee directs it to investigate and report to the House not later than January 3, 1953, with respect to the following:

1. The nature and extent of expenditures made by all candidates for the House of Representatives in connection with their campaign for nomination and election to such office;

2. The amounts subscribed, contributed, or expended by individuals or groups of individuals on behalf of each candidate in connection with such campaigns;

3. The use of any other means or influence for the purpose of aiding or influencing the nomination or election of such candidates;

4. Any violations of United States statutes pertaining to elections;

5. Any violations of other United States or State statutes which would affect the qualification of a candidate for membership in the House of Representatives within the meaning of article I, section 5, of the Constitution of the United States;

6. Such other matters in connection with the campaign which the committee deems to be in the public interest, and which in its opinion would aid the House of Representatives in enacting remedial legislation or in deciding any contests involving the right to a seat in the House of Representatives.

The committee is authorized to institute investigations on complaints or upon its own initiative, to hold hearings, subpena witnesses, and refer any violations found of United States or State statutes to the United States Attorney General for such official action as he deems proper.

POLICY OF THE COMMITTEE

In order to avoid the useless expenditure of funds and the loss of time by the committee and the staff, it was decided by the committee to conduct investigations of particular campaigns only upon receipt of a complaint signed by a candidate containing sufficient and definite allegations of fact to establish a prima facie case requiring investigation by the committee. However, the committee reserves the right to act upon its own motion in any matter which it believes will better enable it to carry out the duties imposed by House Resolution 558.

Information which will be of interest to the committee or which will assist the committee in carrying out these duties will be received gladly. All correspondence should be addressed to the committee at Room 162, Old House Office Building, Washington 25, D. C.

HALE BOGGS,
Chairman, Special Committee To Investigate
Campaign Expenditures, 1952.

INFORMATION OF IMPORTANCE TO CANDIDATES FOR OFFICE OF UNITED STATES REPRESENTATIVE IN THE EIGHTY-THIRD CONGRESS

I. Explanatory Digest of Federal Constitutional and Statutory Provisions Concerning Election of Representatives in and Delegates to the Congress

A. QUALIFICATIONS OF REPRESENTATIVES

The Constitution fixes the qualifications of Representatives in Congress:

> No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen (Constitution, art. I, sec. 2, clause 2).

Representatives are bound by, oath or affirmation, to support the United States Constitution but no religious test shall ever be required as a qualification for the office (Constitution, art. VI, clause 3).

The Constitution provides that—

> no * * * Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office (Constitution, art. I, sec. 6, clause 2).

The fourteenth amendment to the Constitution provides that no person shall be a Representative who having previously taken an oath as a Federal or State officer to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. The Congress may, by a vote of two-thirds of each House, remove such disability. This portion of the amendment which was ratified July 28, 1868, though not since superseded, obviously dealt with a situation created during the Civil War.

B. NUMBER OF REPRESENTATIVES CHOSEN

The Constitution vests the legislative powers in the Congress, consisting of the Senate and the House of Representatives (Constitution, art. I, sec. 1). Representatives are apportioned among the several States according to the whole number of persons in each State as ascertained under the Seventeenth or 1950 Decennial Census of Population. Since by statute the number of Members of the House is fixed at 435, each State will be entitled, commencing in the Eighty-third Congress, to the number of Members indicated in the table below (Constitution, art. I, sec. 2, clause 3; amendment XIV; 2 U. S. C. secs. 2a–2b).

Apportionment of 435 Representatives according to 1950 population

State	Number	State	Number
Alabama	9	Nebraska	4
Arizona	2	Nevada	1
Arkansas	6	New Hampshire	2
California	30	New Jersey	14
Colorado	4	New Mexico	2
Connecticut	6	New York	43
Delaware	1	North Carolina	12
District of Columbia	0	North Dakota	2
Florida	8	Ohio	23
Georgia	10	Oklahoma	6
Idaho	2	Oregon	4
Illinois	25	Pennsylvania	30
Indiana	11	Rhode Island	2
Iowa	8	South Carolina	6
Kansas	6	South Dakota	2
Kentucky	8	Tennessee	9
Louisiana	8	Texas	22
Maine	3	Utah	2
Maryland	7	Vermont	1
Massachusetts	14	Virginia	10
Michigan	18	Washington	7
Minnesota	9	West Virginia	6
Mississippi	6	Wisconsin	10
Missouri	11	Wyoming	1
Montana	2		

C. "TIMES, PLACES AND MANNER" OF ELECTION OF REPRESENTATIVES

The United States Constitution (art. I, sec. 4, clause 1) provides:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

Congress has by statute fixed the date for holding congressional elections as the Tuesday next after the first Monday in November in every even-numbered year. The only exception is in Maine, where Representatives are elected on the date of the biennial election for State officers (2 U. S. C. sec. 7). A Federal statute also specifies that all votes for Representative in Congress must be by written or printed ballot or voting machine, the use of which has been duly authorized by State law. Votes received or recorded contrary to this statute shall be of no effect (2 U. S. C. sec. 9).

D. FILLING OF VACANCIES IN OFFICE OF REPRESENTATIVE IN CONGRESS

The United States Constitution (art. I, sec. 2, clause 4) provides:

> When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

Congress has provided by statute that the time for holding elections in any State, district, or Territory for a Representative or Delegate to fill a vacancy, whether such vacancy is caused by a failure to elect at the time prescribed by law, or by the death, resignation, or incapacity of a person elected, may be prescribed by the laws of the several States and Territories respectively (2 U. S. C., sec. 8).

E. INVESTIGATIONS AND CONTESTS

The House of Representatives is the judge of the elections, returns and qualifications of its own members (Constitution, art. I, sec. 5, clause 1.)

1. INVESTIGATIONS—SPECIAL COMMITTEE TO INVESTIGATE CAMPAIGN EXPENDITURES FOR THE HOUSE OF REPRESENTATIVES, 1952, PURSUANT TO HOUSE RESOLUTION 558, EIGHTY-SECOND CONGRESS

By resolution the House has created a special campaign expenditures committee. This committee is directed to investigate and report to the House not later than January 3, 1953, violations of the Federal Corrupt Practices Act as amended, the Hatch Political Activities Act as amended, and any statute or legislative act of the United States or of any State within which a candidate is seeking nomination or reelection to the House of Representatives, the violation of which Federal or State statute, or statutes, would affect the qualification of a Member of the House of Representatives within the meaning of article I, section 5 of the Constitution of the United States. May 12, 1952, H. Res. 558, Eighty-second Congress, second session.

2. ELECTION CONTESTS—COMMITTEE ON HOUSE ADMINISTRATION, SUBCOMMITTEE ON ELECTIONS

A standing committee of the House of Representatives, the Committee on House Administration, consisting of 25 members has jurisdiction over the following under rule XI of the Rules of the House of Representatives:

> Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.

A subcommittee on elections of the Committee on House Administration reports to the full Committee on House Administration and the full committee reports to the House which has final determination of election contests.

Congress has passed a statute providing a manner for contesting an election of any Member of the House of Representatives of the United States. The statutory procedure to be followed in such a contest is set forth in sections 201–226 of title 2, United States Code, the text of which is given on page 22.

F. CORRUPT PRACTICES AND POLITICAL ACTIVITIES

1. FEDERAL CORRUPT PRACTICES ACT

The Federal Corrupt Practices Act, 1925, as amended, now appears in part in title 2 and in part in title 18 of the United States Code, 1946 edition and supplement V. To locate texts (reproduced herein) of the various sections as they now appear under these titles in the

United States Code and supplement, reference is made to the following transfer table:

Corrupt Practices Act	Present citation U. S. Code 1946 ed., and supp. V	Corrupt Practices Act	Present citation U. S. Code 1946 ed., and supp. V
Sec. 301	Title 2, sec. 256.	Sec. 312	Title 18, sec. 602.
Sec. 302	Title 2, sec. 241.	Sec. 313	Title 18, sec. 610.
Sec. 303	Title 2, sec. 242.	Sec. 314	Title 2, sec. 252.
Sec. 304	Title 2, sec. 243.	Sec. 315	Title 2, sec. 253.
Sec. 305	Title 2, sec. 244.	Sec. 316	Title 2, sec. 254.
Sec. 306	Title 2, sec. 245.	Sec. 317	Title 2, sec. 255.
Sec. 307	Title 2, sec. 246.	Sec. 318	43 Stat. 1074. Repealing clauses not codified.
Sec. 308	Title 2, sec. 247.	Sec. 319	43 Stat. 1074. Effective date only and not codified.
Sec. 309	Title 2, sec. 248.		
Sec. 310	Title 18, sec. 599.		
Sec. 311	Title 18, sec. 597.		

The definitions of election do not include primaries and conventions of a political party. A candidate is an individual whose name is presented at an election (2 U. S. C., sec. 241) or for election (18 U. S. C., sec. 591) as Representative in or Delegate to the Congress. A political committee includes any group which receives or expends money in connection with an election, in two or more States, or as a branch of a national committee. Duly organized State and local committees are excepted. Contributions and expenditures cover promises, contracts and agreements as well as money or "anything of value." Person includes an individual partnership, committee, association, corporation, and any other organization or group of persons (2 U. S. C., sec. 241; 18 U. S. C., supp. V, sec. 591).

Every candidate for Representative or Delegate shall file with the Clerk of the House of Representatives of the United States not less than 10 nor more than 15 days before, and within 30 days after, the day of the general congressional election of November 4, 1952, campaign expense statements (2 U. S. C., sec. 246). For discussion as of filing of statements and limitations on expenditures, see infra page 12, Federal Regulation of the Use of Money at Elections.

A candidate who promises an appointment to a public or private position in exchange for political support shall be fined $1,000 or imprisoned not more than 1 year, or both, and if the violation is willful shall be fined $10,000 and imprisoned not more than 2 years, or both (18 U. S. C., sec. 599).

A Representative in, or Delegate to, or a candidate for Congress, or individual elected as Representative or Delegate, or any officer or employee of the United States Government may not directly or indirectly solicit, receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any other such officer, employee, or person. Penalty for violation may be a fine of up to $5,000 or imprisonment for up to 3 years or both (18 U. S. C., supp. V, sec. 602). This section together with section 607 of title 18, United States Code, supplement V, constituted a part of the original Pendleton Act. Section 607 makes it a crime for an officer, clerk, or other person in Federal service to directly or indirectly give or hand over to any other officer, clerk, or person in the Federal service, or to any Member of or Delegate to the Congress any money or other valuable thing on cacount of or to be applied to the promotion of any political object.

Penalty for violation may be a fine of up to $5,000 or imprisonment for up to 3 years or both (18 U. S. C., supp. V, sec. 607).

It is unlawful for (1) national banks and corporations organized by authority of Congress to make contributions in connection with any caucus, convention, or election; (2) labor organizations to make contributions in connection with the selection or election of a Representative; (3) any candidate, political committee, or other person to accept or receive the above prohibited contributions (18 U. S. C., supp. V, sec. 610).

2. THE HATCH ACT

The Hatch Political Activities Act, 1939, as amended, or an act to prevent pernicious political activities now appears in part in title 5 and in part in title 18 of the United States Code, 1946 edition and supplement V. To locate texts (reproduced herein) of the various sections as they now appear under these titles in the United States Code and supplement, reference is made to the following transfer table:

Hatch Act	Present citation in United States Code, 1946 ed., and supp. V	Hatch Act	Present citation in United States Code, 1946 ed., and supp. V
Sec. 1	Title 18, sec. 594.	Sec. 13	Title 18, sec. 608.
Sec. 2	Title 18, sec. 595.	Sec. 14	Title 18, sec. 595.
Sec. 3	Title 18, sec. 600.	Sec. 15	Title 5, sec. 118l.
Sec. 4	Title 18, sec. 601.	Sec. 16	Title 5, sec. 118m.
Sec. 5	Title 18, sec. 604.	Sec. 17	Temporary and omitted.
Sec. 6	Title 18, sec. 605	Sec. 18	Title 5, sec. 118n.
Sec. 7	Title 18, sec. 598.	Sec. 19	Title 18, sec. 595.
Sec. 8	Title 18, secs. 594–595, 598, 600–601, 604–605.	Sec. 20	Title 18, sec. 609 and title 5, sec. 118k–2.
Sec. 9	Title 5, sec. 118i.	Sec. 21	Title 5, sec. 118k–1.
Sec. 9A	Title 5, sec. 118j.	Sec. 22	Temporary and omitted.
Sec. 10	Repealed, 62 Stat. 867, 868.	Sec. 23	Do.
Sec. 11	Repealed, 62 Stat. 867.	Sec. 24	Do.
Sec. 12	Title 5, sec. 118k.	Sec. 25	Do.

The law regulates, by criminal process, the use of money in Federal election campaigns and provides for administrative regulation of political activities of the executive branch of the Federal Government and of State and local government agencies whose principal employment is in connection with an activity financed in whole or in part by loans or grants of the United States.

The intimidation or coercion of persons in Federal elections (18 U. S. C., supp. V, sec. 594), the use of official authority, by administrative officers of the Federal Government, the District of Columbia or of federally financed projects of States and municipalities, to interfere with a Federal election (18 U. S. C., supp. V, sec. 595); the promising by any person of Federal employment or other benefit from Federal funds in return for political activities or support (18 U. S. C., supp. V, sec. 600); the depriving of or the threatening to deprive anyone of employment or other benefit derived from Federal relief or work relief funds on account of race, creed, color, or political activity (18 U. S. C., supp. V, sec. 601); the soliciting of contributions for political purposes from anyone receiving Federal relief or work relief (18 U. S. C., supp. V, sec. 604); the disclosure, for political purposes, of names of persons on Federal relief (18 U. S. C., supp. V, sec. 605); the use by anyone of Federal relief funds or public works appropriations so as to interfere with or coerce any individual in his right to vote (18 U. S. C., supp. V, sec. 598) are prohibited.

Federal employees in the executive branch are prohibited from using their official authority or influence for the purpose of interfering with an election or affecting the results thereof, and from taking an active part in political management or in political campaigns. Excluded from these prohibitions are the President, Vice President, Executive Office personnel, heads and assistant heads of executive departments, appointive officers, and policy-making officers. These prohibitions do not deny officers and employees covered the right to vote as they choose and to express their opinions on all political subjects and candidates. The penalty for violation is immediate removal from office and, thereafter, no part of funds appropriated for such office shall be used to pay the compensation of such persons. The Civil Service Commission has limited discretion in the imposition of penalties under this section. The 1950 amendment (64 Stat. 475) fixed the minimum penalty for suspension at not less than 90 days. It also permits the Commission, at the request of the individual concerned, to reopen the records of persons previously removed under the act. Annual reports to Congress of all actions taken, with a statement of the facts upon which such action was taken and the penalty imposed, are required (5 U. S. C., supp. V, sec. 118i). The political activities prohibited are defined as being the same political activities theretofore determined by the Civil Service Commission as being prohibited to classified employees (5 U. S. C., supp. V, sec. 118l). The United States Supreme Court, in *United Public Workers* v. *Mitchell* (1947) (330 U. S. 75), held that these provisions were not unconstitutional.

All alleged violations by officers and employees of State and local agencies financed with Federal funds shall be reported to the Civil Service Commission for investigation. After a hearing, the Commission, upon the determination of a violation, may request the removal of the guilty person. If the request is not carried out within 30 days the Commission may order that Federal funds equivalent to 2 years' salary of the violator be withheld. A person found guilty by the Commission may petition the district court of the United States for a review of his case.

The Commission is authorized to adopt such rules and regulations necessary to execute its functions and is given the power to subpena witnesses and require the production of documentary evidence (5 U. S. C., supp. V, sec. 118k). (See also Civil Service Commission Rules, ch. III.)

Contributions of more than $5,000 by a person or partnership to a candidate or national committee in connection with any campaign for nomination or election are prohibited. There is no restriction on amounts contributed to or by a State or local committee. Purchases of goods, advertising, etc., which inure to the benefit of a candidate are also prohibited (18 U. S. C., supp. V, sec. 608).

Where the majority of the voters of certain municipalities or political subdivisions are employees of the Federal Government, the Commission may promulgate regulations permitting such voters to take an active part in local political management and political campaigns to the extent it deems to be in the domestic interest of such voters (5 U. S. C., supp. V, sec. 118m). Political activity which is of a strictly local character, or in connection with constitutional

amendments, referendums, approval of municipal ordinances, and others of a similar character, is permitted by employees of the Federal Government (5 U. S. C., supp. V, sec. 118n).

Contributions or expenditures by a political committee are limited to the aggregate of $3,000,000 (18 U. S. C., supp. V, sec. 609).

The prohibitions in title 5 United States Code, supplement V, sections 118i (a), (b), and 118k, are not applicable to the activities of employees of educational and research institutions and the like.

The United States Civil Service Commission, Washington, D. C., has issued a comprehensive pamphlet (No. 20) explanatory of the Hatch Act, entitled "Political Activity of Federal Officers and Employees."

3. THE PENDLETON ACT

This act, also called the Civil Service Act, was originally enacted during the second session of the Forty-seventh Congress and became effective January 16, 1883. Five sections of the original act either related to Representatives in, and Delegates to, the Congress or related to campaign funds and elections (secs. 10–15, ch. 27, 22 Stat. 403, 406–407).

These original sections of the Pendleton Act, some of which have been amended, now appear in the following titles and sections of the United States Code, 1946 edition, and supplement V.

The Pendleton Act	Present citation U. S. C., 1946, and supp. V
Sec. 10	Title 5, sec. 642.
Sec. 11	Title 18, sec. 602.
Sec. 12	Title 18, sec. 603.
Sec. 13	Title 18, sec. 606.
Sec. 14	Title 18, sec. 607.
Sec. 15 (providing a penalty for violation of secs. 11–14).	The punishment provision has now been incorporated in the appropriate sections: 602, 603, 606, 607.

Section 11 of the Pendleton Act was amended in 1925 by the Corrupt Practices Act and became section 312 of that act. The texts of those sections (secs. 10–14) of the original Pendleton Act as they now appear in amended or revised form in the United States Code, 1946 edition, and supplement V are as follows:

Section 10 now codified as title 5, section 642:

§ 642. Recommendations by Senators or Representatives.

No recommendation of any person who shall apply for office or place under the provisions of sections 632, 633, 635, 637, 638, and 640–642 of this title which may be given by any Senator or Member of the House of Representatives, except as to the character or residence of the applicant, shall be received or considered by any person concerned in making any examination or appointment under said sections.

Section 11 now codified as title 18, section 602:

§ 602. Solicitation of political contributions.

Whoever, being a Senator or Representative in, or Delegate or Resident Commissioner to, or a candidate for, Congress, or individual elected as Senator, Representative, Delegate, or Resident Commissioner, or an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, directly or indirectly solicits, receives, or is in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any other such officer, employee, or

person, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

Section 12 now codified as title 18, section 603:

§ 603. Place of solicitation.

Whoever, in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort, or arsenal, solicits or receives any contribution of money or other thing of value for any political purpose, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

Section 13 now codified as title 18, section 606:

§ 606. Intimidation to secure political contributions.

Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title, discharges, or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

Section 14 now codified as title 18, section 607:

§ 607. Making political contributions.

Whoever, being an officer, clerk, or other person in the service of the United States or any department or agency thereof, directly or indirectly gives or hands over to any other officer, clerk, or person in the service of the United States, or to any Senator or Member of or Delegate to Congress, or Resident Commissioner, any money or other valuable thing on account of or to be applied to the promotion of any political object, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

4. FEDERAL REGULATION OF THE USE OF MONEY AT ELECTIONS

The principal Federal laws designed to regulate use of money at elections are contained in the acts popularly known as (1) Federal Corrupt Practices Act; (2) the Hatch Political Activities Act; (3) the Pendleton Act; and (4) an act prohibiting contributions from persons or firms negotiating for or performing Government contracts.

(*a*) *Limitations on individual candidates*

The term "candidate" is defined to mean—

an individual whose name is presented at an election for election as Senator or Representative in, or Delegate to, the Congress of the United States, whether or not such person is elected.

Limitations on expenditures are applicable to general and special elections but do not apply to primaries or conventions. There is no limitation on the amount a candidate may receive but receipts must be reported. The limitation imposed by Federal law is subject to any lower limit established by the candidate's own State (secs. 301, 309, Corrupt Practices Act).

United States Representatives (including Delegates).—By Federal law a candidate for Representative in Congress may spend a maximum of either $2,500 or a sum equal to $0.03 multiplied by the total number of votes cast at the last general election for Representative in the particular district, or from the State at large in case of a Representative at large. In either event if his State imposes a lower limitation, he may not spend more than the State imposed limitation. That is, the Federal Corrupt Practices Act adopts any lower State-imposed limitation. The limitation is on expenditures and not on contributions or receipts. The limitation applies to the candidate's campaign

for election at a general or special election but does not apply to a campaign for nomination at a primary or political party convention. For instance, no expenditures made prior to the nominating convention or primary need be reported by a candidate; and presumably no contributions or receipts for the purpose of promoting the candidate's campaign for nomination at the primary or at a convention need be reported. Contributions made prior to the primary or convention but spent after the primary or convention in promoting the candidate's success at the general election must be reported as expenditures (sec. 309, Corrupt Practices Act).

(*b*) *Limitations on political committees*

The term "political committee" is defined to include—

> any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of candidates (Senator, Representative, or Delegate) or presidential and vice presidential electors (1) in two or more States, or (2) whether or not in more than one State if such committee, association, or organization (other than a duly organized State or local committee of a political party) is a branch or subsidiary of a national committee, association, or organization (18 U. S. C., sec. 591)—

defining "political committee" for the purpose of section 20 of the Hatch Act (18 U. S. C., sec. 609), which fixes the maximum contributions to and expenditures by political committees. The same definition of "political committee" is given in section 302 of the Corrupt Practices Act in defining which committees must file expense statements.

This law is obviously designed to include the national committees of the various political parties and such adjuncts of the national committees as the congressional and senatorial campaign committees. Excluded from coverage under the statute are the various duly organized State and local committees. But covered by the statute are all branches or subsidiaries of a national committee, association, or organization whether or not the branch or subsidiary operates in more than one State.

The limitation placed on political committees appears in section 20 of the Hatch Act (18 U. S. C., sec. 609), and not in the Corrupt Practices Act as is the case of individual candidates. The maximum limitations imposed embrace both expenditures and contributions rather than expenditures only as is the case of individual candidates. Further, the period of coverage is the entire calendar year rather than the period of the general election campaign as in the case of individual candidates.

Maximum contributions to and expenditures.—No political committee shall receive contributions aggregating more than $3,000,000, or make expenditures aggregating more than $3,000,000, during any calendar year. It is specifically provided that any contributions received and any expenditures made on behalf of any political committee with the knowledge and consent of the chairman or treasurer of such committee shall be deemed to be received or made by such committee (sec. 20, Hatch Act; 18 U. S. C., sec. 609).

(*c*) *Limitations on individuals*

Under section 306 of the Corrupt Practices Act every person (other than a political committee) who makes an expenditure of $50 or more within the calendar year, other than a contribution to a political committee, for the purpose of influencing in two or more States the

election of candidates for the office of United States Senator or Representative in Congress, must file an expense statement with the Clerk of the House of Representatives in the same manner as required of the treasurer of a political committee. The term "person" is defined to include an individual, partnership, committee (other than a political committee), association, corporation, and any other organization or association.

The limitation placed on the individual is $5,000 and appears as section 13 of the Hatch Act (18 U. S. C., sec. 608). The limitation does not apply to contributions made to or by a State or local committee or other State or local organization or to similar committees or organizations in the District of Columbia or in any Territory or possession of the United States. Subsection (a) of section 608 reads as follows:

(a) Whoever, directly or indirectly, makes contributions in an aggregate amount in excess of $5,000 during any calendar year, or in connection with any campaign for nomination or election, to or on behalf of any candidate for an elective Federal office, including the offices of President of the United States and Presidential and Vice Presidential electors, or to or on behalf of any committee or other organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

(*d*) *Limitations on corporations and labor unions*

Under section 313 of the Corrupt Practices Act (18 U. S. C., sec. 610), it is unlawful for any corporation whatever, or any labor organization to make a *contribution* or *expenditure* in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative (including Delegate) in Congress are to be voted for, or in connection with any *primary election or political convention or caucus held to select candidates for any of the foregoing offices.* Also under section 313 it is unlawful for any candidate for any political office, or for any political committee, or other person to accept or receive any such prohibited contribution. Further, under section 313 it is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office.

Labor organization defined.—The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work (sec. 313 of Corrupt Practices Act, codified as 18 U. S. C. sec. 610).

Contribution defined.—The term "contribution" is defined to include a gift, subscription, loan, advance, or deposit, of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution (sec. 302 (d), Corrupt Practices Act; 2 U. S. C. sec. 241).

Expenditure defined.—The term "expenditure" includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

Section 313 of the Federal Corrupt Practices Act has been construed in *U. S.* v. *Congress of Industrial Organizations* (1947) (77 Fed. Supp. 355, affirmed 335 U. S. 106), not to prohibit the "publication, by corporations and unions in the regular course of conducting their affairs, of periodicals advising their members, stockholders, or customers of danger or advantage to their interests from the adoption of measures or the election to office of men espousing such measures." This case involved a special election for Representatives in Congress in the Third Congressional District of Maryland on July 15, 1947. The president of CIO had written an editorial favoring one of the candidates and opposing the other, and caused it to be published in the CIO News which was circulated in the Third Congressional District. In the painters local union case, involving union expenditures in Connecticut, the United States Circuit Court of Appeals, Second Circuit, ruled on February 8, 1949, in construing section 313 of the Federal Act, that the expenditure by a small labor organization of $111.14 to pay cost of political advertisement in daily newspaper of general circulation and of $32.50 to pay cost of political broadcast over commercial radio station advocating rejection of a candidate for Republican nomination for President and his defeat in Presidential election of 1948, if nominated, and rejection of six incumbent Congressmen as candidates for reelection and their defeat in 1948 Congressional election, if nominated, did not violate the Federal Corrupt Practices Act. *U. S.* v. *Painters Local Union No. 481* (1949) (172 Fed. 2d 854, reversing 79 Fed. Supp. 516).

Section 313 of the Corrupt Practices Act, as amended, was repealed by Public Law 772, June 25, 1948, but was reenacted without change and codified into positive law as section 610 of title 18 of the United States Code entitled "Crimes and Criminal Procedure." (See 80th Cong., 2d sess., S. Rept. 1620 on H. R. 3190.) This section passed February 28, 1925, as section 313 of title III of "an act reclassifying the salaries of the postal service, etc." (43 Stat. 1053, 1070–1074; ch. 368, sec. 313 [H. R. 11444]; Public Law No. 506). The War Labor Disputes Act, known also as the Smith-Connally Anti-Strike Act, made the original section applicable to contributions by labor organizations and added the last sentence (57 Stat. 167, June 25, 1943; ch. 144, sec. 9 [S. 796], Public Law No. 89, being U. S. C. title 50, app. sec. 1509). That amendment was temporary, however, and expired at the end of 6 months following the termination of hostilities of World War II which was proclaimed at 12 o'clock noon of December 31, 1946, by Proclamation No. 2714. The section was further amended and made permanent legislation in the form given now in the text by the Labor-Management Relations Act of 1947. This act extends the prohibition against contributions, both in the case of corporations and labor unions, to include expenditures as well as contributions, and includes primary elections and political conventions within the prohibitions (61 Stat. 159, June 23, 1947; ch. 120, title III, sec. 304 (H. R. 3020), Public Law No. 101). For views of the United States Attorney General (Francis Biddle, 1944) on just what constitutes a labor union see Department of Justice releases, April 7, 1944 (letter to Congressman Howard W. Smith) and September 25, 1944 (letter to United States Senator E. M. Moore).

(e) *Statements required*

(1) *Individual candidates.*—Candidates for office of Representative in Congress (including Delegate) must file statements of expenditures not less than 10 nor more than 15 days before and again within 30 days after the general or a special election. Candidates file with the Clerk of the House. No expenditures made prior to the nominating convention or primary need be reported by a candidate; and presumably no contributions or receipts for the purpose of promoting the candidate's campaign for nomination at the primary or at a convention need be reported. Contributions made prior to the primary or convention but spent after the primary or convention in promoting the candidate's success at the general election must be reported as expenditures.

Statements must be verified by oath or affirmation and must meet the following requirements (secs. 307–308, Corrupt Practices Act, 2 U. S. C. secs. 246–247):

* * * * * * *

(1) A correct and itemized account of each contribution received by him or by any person for him with his knowledge or consent, from any source, in aid or support of his candidacy for election, or for the purpose of influencing the result of the election, together with the name of the person who has made such contribution;

(2) A correct and itemized account of each expenditure made by him or by any person for him with his knowledge or consent, in aid or support of his candidacy for election, or for the purpose of influencing the result of the election, together with the name of the person to whom such expenditure was made; except that only the total sum of expenditures for items specified in subdivision (c) of section 309 need be stated;

(3) A statement of every promise or pledge made by him or by any person for him with his consent, prior to the closing of the polls on the day of the election, relative to the appointment or recommendation for appointment of any person to any public or private position or employment for the purpose of procuring support in his candidacy, and the name, address, and occupation of every person to whom any such promise or pledge has been made, together with the description of any such position. If no such promise or pledge has been made, that fact shall be specifically stated.

(b) The statements required to be filed by subdivision (a) shall be cumulative, but where there has been no change in an item reported in a previous statement only the amount need be carried forward.

(c) Every candidate shall enclose with his first statement a report, based upon the records of the proper State official, stating the total number of votes cast for all candidates for the office which the candidate seeks, at the general election next preceding the election at which he is a candidate.

The fact that the statute does not require statements in connection with a primary does not preclude the appropriate elections committees of the Senate and House from exacting primary statements of candidates. During certain Congresses such statements have been required of candidates concerning expenditures at the primary.

(2) *Political committees.*—The limitation placed on contributions ($3,000,000) to and expenditures ($3,000,000) by a political committee embraces the entire calendar year (sec. 20, Hatch Act; 18 U. S. C. sec. 609). The treasurer of a political committee is required to file a statement with the Clerk of the House between the 1st and 10th days of March, June, and September, in each year, and also between the 10th and 15th days, and on the 5th day, next preceding the date on which a general election is to be held, at which candidates are to be elected

in two or more States, and also on the 1st day of January (sec. 305, Corrupt Practices Act; 2 U. S. C. sec. 244).

Statements must be verified by oath or affirmation and must meet the following requirements (secs. 305, 308, Corrupt Practices Act; 2 U. S. C. secs. 244, 247):

* * * * * * *

(1) The name and address of each person who has made a contribution to or for such committee in one or more items of the aggregate amount or value, within the calendar year, of $100 or more, together with the amount and date of such contribution;

(2) The total sum of the contributions made to or for such committee during the calendar year and not stated under paragraph (1);

(3) The total sum of all contributions made to or for such committee during the calendar year;

(4) The name and address of each person to whom an expenditure in one or more items of the aggregate amount or value, within the calendar year, of $10 or more has been made by or on behalf of such committee, and the amount, date, and purpose of such expenditure;

(5) The total sum of all expenditures made by or on behalf of such committee during the calendar year and not stated under paragraph (4);

(6) The total sum of expenditures made by or on behalf of such committee during the calendar year.

(b) The statements required to be filed by subdivision (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous statement only the amount need be carried forward.

(c) The statement filed on the 1st day of January shall cover the preceding calendar year.

(3) *Individuals.*—Every person (other than a political committee) who makes an expenditure in one or more items, other than by contribution to a political committee, aggregating $50 or more within a calendar year for the purpose of influencing in two or more States the election of candidates, shall file with the Clerk an itemized detailed statement of such expenditure in the same manner as required of the treasurer of a political committee (sec. 306, Corrupt Practices Act; 2 U. S. C. sec. 245).

(*f*) *Contributions by firms or individuals contracting with the United States*

This law prohibits any person or firm entering into a contract with the United States, department or agency, or performing any work or services for the United States or any department or agency thereof, or furnishing any material, supplies, or equipment to the United States or any department or agency thereof, or selling any land or building to the United States or department or agency, if payment is to be made in whole or part from funds appropriated by Congress, during the period of negotiation therefor or the doing thereof, from making any contribution of money or thing of value, or promise to make such contribution to a political party, committee or candidate for public office or to any person for any political purpose whatever. The prohibitions are applicable to contracts for personal services. This law also prohibits any person from knowingly soliciting any such contribution from any such person or firm for such purpose during such period. Penalty may be a fine of as much as $5,000 or imprisonment for as many as 5 years (18 U. S. C. sec. 611; H. Rept. No. 2376, 76th Cong., at p. 12).

5. THE POWERS ACT OR AN ACT PROHIBITING THE PUBLICATION AND DISTRIBUTION OF ELECTION CAMPAIGN STATEMENTS NOT CONTAINING NAMES OF PERSONS RESPONSIBLE THEREFOR AND M'CARTHY AMENDMENT

The purpose of this act is to make it a criminal offense punishable by imprisonment for a term of not more than 1 year or a fine of not more than $1,000, or both, for any person, association, organization, committee, or corporation to publish or distribute or cause to be published or distributed, or for the purpose of publishing or distributing the same, to knowingly deposit for mailing or delivery or cause to be deposited for mailing or delivery, any political statement relating to a candidate for election to any Federal office unless such statement contains the names of the persons responsible for its publication. The act prohibits the publication or distribution and the causing of the publication or distribution of pamphlets, circulars, cards, dodgers, posters, advertisements, writings or other statements relating to or concerning a candidate for Federal office unless there is contained the name or names of the persons, associations, committees, or corporations responsible for the publication or distribution. If an association, committee, or corporation is responsible for the publication or distribution there is required to be attached the names of the officers of such association, committee or corporation. There is an exception to take care of cases where employees of the Post Office Department are performing official duties in handling mail possibly subject to this act (18 U. S. C. sec. 612; see H. Rept. 935 and S. Rept. 1390, 78th Cong). (The McCarthy amendment, sec. 2 of Public Law 772, 81st Cong., was inserted in the Senate January 19, 1950. Congressional Record vol. 96, pp. 622–626.)

Cross reference.—See section 25.4 of Postal Laws and Regulations, 1948 edition, prohibiting use of post office walls or bulletin boards for posting of pictures, cartoons, or other documents of a political character, or concerning any election, or designed to influence an election in favor of any candidate.

6. FEDERAL REGULATION GOVERNING RADIO BROADCASTING BY CANDIDATES

Broadcasting stations allowing time to a candidate for public office must afford other candidates for the same office an equal amount of time. Such stations shall have no power of censorship over material broadcast by candidates. The charges made for the use of any broadcasting station by candidates may not exceed the charges made for comparable use of such station for other purposes (47 U. S. C. sec. 315; amended sec. 11, ch. 879, 66 Stat. 717, Public Law 554, 82d Cong., 2d sess., July 16, 1952).

G. DELEGATES TO CONGRESS

Both Alaska and Hawaii are represented in the House of Representatives of the United States by a Delegate who does not have voting privileges. These Delegates are elected for the same terms as Members of the House and are chosen at the general election held every 2 years. The Federal statutes regulating the campaigns and elections of Members of the House apply as well to the campaigns and elections of the Delegates from Alaska and Hawaii.

27005—53——6

The Delegate from Alaska shall at the time of his election have been a citizen for 7 years of the United States, and shall be an inhabitant and qualified voter of the District of Alaska, and shall not be less than 25 years of age.

The Delegate from Hawaii shall possess the qualifications necessary for membership of the Senate of the Legislature of Hawaii. In order to be eligible to election as a senator, a person shall (1) be a citizen of the United States, (2) have attained the age of 30 years, (3) and have resided in the Hawaiian Islands not less than 3 years and be qualified to vote for senators in the district from which he or she is elected.

H. FEDERAL SOLDIERS VOTING LAW

Right to vote

In time of war, every member of the Armed Forces, absent from his place of residence, who was eligible to register and is qualified to vote under the laws of his State, shall be entitled to vote in elections for President, Vice President, United States Senators, and Representatives in Congress (50 U. S. C., sec. 301).

Registration

Registration in time of war is not required, notwithstanding any provision of State law relating to the registration of qualified voters (50 U. S. C., sec. 301).

Obtaining the ballot

Application for a ballot shall be made by post card of a designated form to be printed under the direction of the Secretaries of the Army, Navy, and Treasury, and the Chairman of the Federal Maritime Board.

These above-mentioned officers shall cause such post cards to be delivered in hand to each member of the Armed Forces who is absent from his place of residence, cards to be delivered outside the United States to be available not later than August 15 prior to the election, and cards to be delivered within the United States to be available not later than September 15 prior to the election (50 U. S. C., sec. 329 (a)).

Affidavit

Upon one side of such post card shall be printed a form of affidavit showing qualification of the voter. This should be filled out and executed before a commissioned or warrant officer, noncommissioned officer not below the rank of sergeant or petty officer, or other persons authorized to administer oaths (50 U. S. C., sec. 329 (b)).

Return of ballot

Wherever practicable and compatible with military or merchant-marine operations, it shall be the duty of the Secretaries of the Army, Navy, and Treasury, the Postmaster General, and the Chairman of the Federal Maritime Board to cooperate with State officers in transmitting ballots to and from electors (50 U. S. C., sec. 330).

Poll taxes

No person in military service in time of war shall be required to pay a poll tax or any other tax as a condition of voting in a Federal election (50 U. S. C., sec. 302).

Voting in accordance with State law

The right of any member of the Armed Forces to vote in accordance with the law of his home State shall not be restricted by this act (50 U. S. C., sec. 303).

Recommendation to the States

Congress recommended that the several States enact legislation to provide for (1) absentee voting by members of the Armed Forces and of the merchant marine or civilians outside the United States serving with the Armed Forces, in Federal, State, and local elections and primaries (50 U. S. C., sec. 321); (2) use of post cards as applications for ballots (50 U. S. C., sec. 322 (a)); (3) waiver of registration (50 U. S. C., sec. 322 (b), (c)); (4) cooperation in handling post-card applications and distribution of absentee ballots (50 U. S. C., sec. 323); (5) distinctive markings, weight, and size of envelopes and balloting units (50 U. S. C., sec. 324); (6) printed forms for establishing legal voting rights (50 U. S. C., sec. 325); (7) simple instructions for marking of ballots (50 U. S. C., sec. 326); (8) changes in State laws, where needed, to provide ample time for mailing ballots.

Cooperation of Federal Government with the States

The Secretaries of the Army, Navy, and the Treasury, and the Administrator of the War Shipping Administration (now Chairman of the Federal Maritime Board) are required to have printed an adequate number of post-card applications, and to make them available to those persons to whom the act is applicable outside the United States prior to August 15, and inside the United States prior to September 15, in each year in which a general Federal election is held; and, when compatible with military and merchant-marine operations, to make them available at appropriate times in other general elections, and in primary and special elections (50 U. S. C., sec. 329). They are further required to cooperate with the States in transmitting absentee ballots and in the distribution of information concerning forthcoming elections (50 U. S. C., secs. 328, 330, 331).

Voting safeguards

The act directs that necessary steps be taken to prevent fraud, to protect the voters against coercion, and to safeguard the secrecy of ballots cast. Such acts by officers as attempting to influence members of the Armed Forces in voting and requiring marching to the polls, are declared unlawful, but the free discussion of political issues or candidates is not prohibited (50 U. S. C., sec. 341).

Free postage

Official post cards, ballots, instructions, etc., shall be transmitted free of postage, including air-mail postage (50 U. S. C., sec. 352).

Administration

Responsibility for administering the above provisions is placed with (1) the Secretaries of the Army and Navy with respect to members of the Armed Forces and civilians serving with those forces outside the United States, (2) the Secretary of the Treasury with respect to the Coast Guard and civilians connected therewith, and (3) the Chairman of the Federal Maritime Board with respect to members of the merchant marine (50 U. S. C., sec. 353).

Selective-service inductees

Any person, inducted into the Armed Forces for training and service under the Selective Service Act, who is qualified to vote under the laws of his State of residence, shall, during the period of such service, be permitted to vote in person or by absentee ballot in any general, special, or primary election occurring in his State, and shall not be required to pay a poll tax or any other tax for the privilege of voting in a Federal election. Such person shall not be entitled to a furlough of more than 1 day for the purpose of voting (50 App. U. S. C., sec. 459 (i)).

Polling members of Armed Forces

Polling members of the Armed Forces either before or after election with reference to their vote or choice of any candidate, is forbidden, and a penalty of $1,000 or imprisonment for 1 year is set for the offense (18 U. S. C., sec. 596).

II. Text of Resolutions Creating Special Committee To Investigate Campaign Expenditures, House of Representatives, 1952, and Authorizing Expenditures

A. HOUSE RESOLUTION 558, EIGHTY-SECOND CONGRESS, SECOND SESSION

Resolved, That a special committee of five Members be appointed by the Speaker of the House of Representatives to investigate and report to the House not later than January 3, 1953, with respect to the following matters:

1. The extent and nature of expenditures made by all candidates for the House of Representatives in connection with their campaign for nomination and election to such office.

2. The amounts subscribed, contributed, or expended, and the value of services rendered, and facilities made available (including personal services, use of advertising space, radio and television time, office space, moving-picture films, and automobile and other transportation facilities) by any individual, individuals, or group of individuals, committee, partnership, corporation, or labor union, to or on behalf of each such candidate in connection with any such campaign or for the purpose of influencing the votes cast or to be cast at any convention or election held in 1952 to which a candidate for the House of Representatives is to be nominated or elected.

3. The use of any other means or influence (including the promise or use of patronage) for the purpose of aiding or influencing the nomination or election of any such candidates.

4. The amounts, if any, raised, contributed, and expended by any individual, individuals, or group of individuals, committee, partnership, corporation, or labor union, including any political committee thereof, in connection with any such election, and the amounts received by any political committee from any corporation, labor union, individual, individuals, or group of individuals, committee, or partnership.

5. The violations, if any, of the following statutes of the United States:

(a) The Federal Corrupt Practices Act.

(b) The Act of August 2, 1939, as amended, relating to pernicious political activities, commonly referred to as the Hatch Act.

(c) The provisions of section 304, Public Law 101, Eightieth Congress, chapter 120, first session, referred to as the Labor-Management Relations Act, 1947.

(d) Any statute or legislative Act of the United States, or of the State within which a candidate is seeking nomination or reelection to the House of Representatives, the violation of which Federal or State statute, or statutes, would affect the qualification of a Member of the House of Representatives within the meaning of article I, section 5, of the Constitution of the United States.

6. Such other matters relating to the election of Members of the House of Representatives in 1952, and the compaigns of candidates in connection therewith, as the committee deems to be of public interest, and which in its opinion

will aid the House of Representatives in enacting remedial legislation, or in deciding any contests that may be instituted involving the right to a seat in the House of Representatives.

7. The committee is authorized to act upon its own motion and upon such information as in its judgment may be reasonable or reliable. Upon complaint being made to the committee under oath, by any person, candidate, or political committee, setting forth allegations as to facts which, under this resolution, it would be the duty of said committee to investigate, the committee shall investigate such charges as fully as though it were acting upon its own motion, unless, after a hearing upon such complaint, the committee shall find that the allegations in such complaint are immaterial or untrue. All hearings before the committee, and before any duly authorized subcommittee thereof shall be public, and all orders and decisions of the committee, and of any such subcommittee shall be public.

For the purpose of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to hold such public hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Eighty-second Congress, to employ such attorneys, experts, clerical, and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by such chairman, and may be served by any person designated by any such chairman or member.

8. The committee is authorized and directed to report promptly any and all violations of any Federal or State statutes in connection with the matters and things mentioned herein to the Attorney General of the United States in order that he may take such official action as may be proper.

9. Every person who, having been summoned as a witness by authority of said committee or any subcommittee thereof, willfully makes default, or who having appeared, refuses to answer any question pertinent to the investigation heretofore authorized, shall be held to the penalties prescribed by law.

That said committee is authorized and directed to file interim reports whenever in the judgment of the majority of the committee, or of a subcommittee conducting portions of said investigation, the public interest will be best served by the filing of said interim reports, and in no event shall the final report of said committee be filed later than January 3, 1953, as hereinabove provided.

B. HOUSE RESOLUTION 691, EIGHTY-SECOND CONGRESS, SECOND SESSION

Resolved, That the expenses of conducting the investigation authorized by H. Res. 558, considered and agreed to on May 12, 1952, incurred by the Special Committee To Investigate Campaign Expenditures, 1952, acting as a whole or by subcommittee, not to exceed $30,000, including expenditures for employment of such experts, special counsel, and such clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by said committee and signed by the chairman of the committee, and approved by the Committee on House Administration.

SEC. 2. The official stenographers to committees may be used at all hearings held in the District of Columbia, if not otherwise engaged.

III. TEXT OF FEDERAL STATUTES GOVERNING ELECTION OF REPRESENTATIVES IN CONGRESS, APPEARING IN UNITED STATES CODE, 1946 EDITION, AND SUPPLEMENT V TO JANUARY 7, 1952

[NOTE.—The texts of sections 2a–9 and 201–226 of title 2 relating to election of Representatives and contested elections are omitted, but presented herewith are the texts of those provisions (secs. 241–256) of title 2 relating to Federal Corrupt Practices. Also quoted here are those provisions of the Hatch Act which appear in title 5 of the United States Code. All provisions of the Federal Criminal Code relating to elections including those sections of the Corrupt Practices Act not in title 2 and those provisions of the Hatch Act not in title 5, are quoted as they appear in revised title 18 of the United States Code, supplement V. The provision (sec. 315) of title 47 of the United States Code, relating to equal facilities to candidates for broadcasting, is also quoted herein from the text.]

A. ELECTION OF REPRESENTATIVES AND CONTESTED ELECTIONS

There are several sections appearing in chapter 1 of title 2, United States Code, relating to the reapportionment of Representatives (sec. 2a), nominations for Representatives at large (sec. 5), reduction of representation (sec. 6), date of congressional elections (sec. 7), filling of vacancies (sec. 8), and the type of ballots to be used in voting for Representatives (sec. 9). Chapter 7 of title 2 relates to contested elections and established a statutory procedure which must be followed in contested election cases presented to the Committee on House Administration (secs. 201–226). (See supra, 2. Election contests—Committee on House Administration, Subcommittee on Elections under E. Investigation and contests at p. 7.)

B. FEDERAL CORRUPT PRACTICES

[United States Code, 1946 ed., and supplement V to January 7, 1952]

CHAPTER 8. FEDERAL CORRUPT PRACTICES

Sec. 241. Definitions.

When used in this chapter and section 208 of Title 18—

(a) The term "election" includes a general or special election, but does not include a primary election or convention of a political party;

(b) The term "candidate" means an individual whose name is presented at an election for election as Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, whether or not such individual is elected;

(c) The term "political committee" includes any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of candidates or presidential and vice presidential electors (1) in two or more States, or (2) whether or not in more than one State if such committee, association, or organization (other than a duly organized State or local committee of a political party) is a branch or subsidiary of a national committee, association, or organization;

(d) The term "contribution" includes a gift, subscription, loan, advance, or deposit, of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable to make a contribution;

(e) The term "expenditure" includes a payment, distribution, loan, advance, deposit, or gift, of money, or any thing of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure;

(f) The term "person" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons;

(g) The term "Clerk" means the Clerk of the House of Representatives of the United States;

(h) The term "Secretary" means the Secretary of the Senate of the United States;

(i) The term "State" includes Territory and possession of the United States.

Sec. 242. Chairman and treasurer of political committee; duties as to contributions; accounts and receipts.

(a) Every political committee shall have a chairman and a treasurer. No contribution shall be accepted, and no expenditure made, by or on behalf of a political committee for the purpose of influencing an election until such chairman and treasurer have been chosen.

(b) It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of—

(1) All contributions made to or for such committee;

(2) The name and address of every person making any such contribution, and the date thereof;

(3) All expenditures made by or on behalf of such committee; and

(4) The name and address of every person to whom any such expenditure is made, and the date thereof.

(c) It shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure by or on behalf of a political committee exceeding $10 in amount. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for a period of at least two years from the date of the filing of the statement containing such items.

Sec. 243. Accounts of contributions received.

Every person who receives a contribution for a political committee shall, on demand of the treasurer, and in any event within five days after the receipt of such contribution, render to the treasurer a detailed account thereof, including the name and address of the person making such contribution, and the date on which received.

Sec. 244. Statements by treasurer filed with Clerk of House of Representatives.

(a) The treasurer of a political committee shall file with the Clerk between the 1st and 10th days of March, June, and September, in each year, and also between the 10th and 15th days, and on the 5th day, next preceding the date on which a general election is to be held, at which candidates are to be elected in two or more States, and also on the 1st day of January, a statement containing, complete as of the day next preceding the date of filing—

(1) The name and address of each person who has made a contribution to or for such committee in one or more items of the aggregate amount or value, within the calendar year, or $100 or more, together with the amount and date of such contribution;

(2) The total sum of the contributions made to or for such committee during the calendar year and not stated under paragraph (1);

(3) The total sum of all contributions made to or for such committee during the calendar year;

(4) The name and address of each person to whom an expenditure in one or more items of the aggregate amount or value, within the calendar year, of $10 or more has been made by or on behalf of such committee, and the amount, date, and purpose of such expenditure;

(5) The total sum of all expenditures made by or on behalf of such committee during the calendar year and not stated under paragraph (4);

(6) The total sum of expenditures made by or on behalf of such committee during the calendar year.

(b) The statements required to be filed by subdivision (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous statement only the amount need be carried forward.

(c) The statement filed on the 1st day of January shall cover the preceding calendar year.

Sec. 245. Statements by others than political committee filed with Clerk of House of Representatives.

Every person (other than a political committee) who makes an expenditure in one or more items, other than by contribution to a political committee, aggregating $50 or more within a calendar year for the purpose of influencing in two or more States the election of candidates, shall file with the Clerk an itemized detailed statement of such expenditure in the same manner as required of the treasurer of a political committee by section 244 of this title.

Sec. 246. Statements by candidates for Senator, Representative, Delegate, or Resident Commissioner filed with Secretary of Senate and Clerk of House of Representatives.

(a) Every candidate for Senator shall file with the Secretary and every candidate for Representative, Delegate, or Resident Commissioner shall file with the Clerk not less than ten nor more than fifteen days before, and also within thirty days after, the date on which an election is to be held, a statement containing, complete as of the day next preceding the date of filing—

(1) A correct and itemized account of each contribution received by him or by any person for him with his knowledge or consent, from any source, in aid or support of his candidacy for election, or for the purpose of influencing the result of the election, together with the name of the person who has made such contribution;

(2) A correct and itemized account of each expenditure made by him or by any person for him with his knowledge or consent, in aid or support of his candidacy for election, or for the purpose of influencing the result of the

election, together with the name of the person to whom such expenditure was made; except that only the total sum of expenditures for items specified in subdivision (c) of section 248 of this title need be stated;

(3) A statement of every promise or pledge made by him or by any person for him with his consent, prior to the closing of the polls on the day of the election, relative to the appointment or recommendation for appointment of any person to any public or private position or employment for the purpose of procuring support in his candidacy, and the name, address, and occupation of every person to whom any such promise or pledge has been made, together with the description of any such position. If no such promise or pledge has been made, that fact shall be specifically stated.

(b) The statements required to be filed by subdivision (a) shall be cumulative, but where there has been no change in an item reported in a previous statement only the amount need be carried forward.

(c) Every candidate shall inclose with his first statement a report, based upon the records of the proper State official, stating the total number of votes cast for all candidates for the office which the candidate seeks, at the general election next preceding the election at which he is a candidate.

Sec. 247. Statements; verification; filing; preservation; inspection.

A statement required by this chapter to be filed by a candidate or treasurer of a political committee or other person with the Clerk or Secretary, as the case may be—

(a) Shall be verified by the oath or affirmation of the person filing such statement, taken before any officer authorized to administer oaths;

(b) Shall be deemed properly filed when deposited in an established post office within the prescribed time, duly stamped, registered, and directed to the Clerk or Secretary at Washington, District of Columbia, but in the event it is not received, a duplicate of such statement shall be promptly filed upon notice by the Clerk or Secretary of its nonreceipt;

(c) Shall be preserved by the Clerk or Secretary for a period of two years from the date of filing, shall constitute a part of the public records of his office, and shall be open to public inspection.

Sec. 248. Limitation upon amount of expenditures by candidate.

(a) A candidate, in his campaign for election, shall not make expenditures in excess of the amount which he may lawfully make under the laws of the State in which he is a candidate, nor in excess of the amount which he may lawfully make under the provisions of this chapter and section 208 of Title 18.

(b) Unless the laws of his State prescribe a less amount as the maximum limit of campaign expenditures, a candidate may make expenditures up to—

(1) The sum of $10,000 if a candidate for Senator, or the sum of $2,500 if a candidate for Representative, Delegate, or Resident Commissioner; or

(2) An amount equal to the amount obtained by multiplying three cents by the total number of votes cast at the last general election for all candidates for the office which the candidate seeks, but in no event exceeding $25,000 if a candidate for Senator or $5,000 if a candidate for Representative, Delegate, or Resident Commissioner.

(c) Money expended by a candidate to meet and discharge any assessment, fee, or charge made or levied upon candidates by the laws of the State in which he resides, or expended for his necessary personal, traveling, or subsistence expenses, or for stationery, postage, writing, or printing (other than for use on billboards or in newspapers), for distributing letters, circulars, or posters, or for telegraph or telephone service, shall not be included in determining whether his expenditures have exceeded the sum fixed by paragraph (1) or (2) of subdivision (b) as the limit of campaign expenses of a candidate.

Sec. 252. General penalties for violations.

(a) Any person who violates any of the foregoing provisions of this chapter, except those for which a specific penalty is imposed by section 208 of Title 18, and section 251 of this title, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(b) Any person who willfully violates any of the foregoing provisions of this chapter, except those for which a specific penalty is imposed by section 208 of Title 18, and section 251 of this title, shall be fined not more than $10,000 and imprisoned not more than two years.

Sec. 253. Expenses of election contests.

This chapter and section 208 of Title 18 shall not limit or affect the right of any person to make expenditures for proper legal expenses in contesting the results of an election.

Sec. 254. State laws not affected.

This chapter and section 208 of Title 18 shall not be construed to annul the laws of any State relating to the nomination or election of candidates, unless directly inconsistent with the provisions of this chapter and section 208 of Title 18, or to exempt any candidate from complying with such State laws.

Sec. 255. Partial invalidity.

If any provision of this chapter and section 208 of Title 18, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of said chapter and section and of the application of such provision to other persons and circumstances shall not be affected thereby.

Sec. 256. Citation.

This chapter and section 208 of Title 18 may be cited as the "Federal Corrupt Practices Act."

C. THE HATCH ACT

(U. S. C., 1946 edition, and supplement V to January 7, 1952)

TITLE 5. EXECUTIVE DEPARTMENTS AND GOVERNMENT OFFICERS AND EMPLOYEES

CHAPTER 1. PROVISIONS APPLICABLE TO DEPARTMENTS AND OFFICERS GENERALLY

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Sec. 118i. Executive employees, use of official authority; political activity; penalites; reports to Congress.

(a) It shall be unlawful for any person employed in the executive branch of the Federal Government, or any agency or department thereof, to use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No officer or employee in the executive branch of the Federal Government, or any agency or department thereof, except a part-time officer or part-time employee without compensation or with nominal compensation serving in connection with the existing World War II effort, other than in any capacity relating to the procurement or manufacture of war material shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. For the purposes of this section the term "officer" or "employee" shall not be construed to include (1) the President and Vice President of the United States; (2) persons whose compensation is paid from the appropriation for the office of the President; (3) heads and assistant heads of executive departments; (4) officers who are appointed by the President, by and with the advice and consent of the Senate, and who determine policies to be pursued by the United States in its relations with foreign powers or in the Nation-wide administration of Federal Laws. The provisions of the second sentence of this subsection shall not apply to the employees of The Alaska Railroad, residing in municipalities on the line of the railroad, in respect to activities involving the municipality in which they reside.

(b) Any person violating the provisions of this section shall be removed immediately from the position or office held by him, and thereafter no part of the funds appropriated by any Act of Congress for such position or office shall be used to pay the compensation of such person: *Provided, however,* That the United States Civil Service Commission finds by unanimous vote that the violation does not warrant removal, a lesser penalty shall be imposed by direction of the Commission: *Provided further,* That in no case shall the penalty be less than ninety days' suspension without pay: *And provided further,* That in the case of any person who has heretofore been removed from the service under the provisions of this section, the Commission shall upon request of said person reopen and reconsider the record in such case. If it shall find by a unanimous vote that the acts committed were such as to warrant a penalty of less than removal it shall issue an order revoking the restriction against reemployment in the position from which removed, or in any other position for which he may be qualified, but no such

revocation shall become effective until at least ninety days have elapsed following the date of the removal of such person from office.

(c) At the end of each fiscal year the Commission shall report to the President for transmittal to the Congress the names, addresses, and nature of employment of all persons with respect to whom action has been taken by the Commission under the terms of this section, with a statement of the facts upon which action was taken, and the penalty imposed.

Sec. 118j. Federal employees; membership in political parties; penalties.

(1) It shall be unlawful for any person employed in any capacity by any agency of the Federal Government, whose compensation, or any part thereof, is paid from funds authorized or appropriated by any Act of Congress, to have membership in any political party or organization which advocates the overthrow of our constitutional form of government in the United States.

(2) Any person violating the provisions of this section shall be immediately removed from the position or office held by him, and thereafter no part of the funds appropriated by any Act of Congress for such position or office shall be used to pay the compensation of such persons.

Sec. 118k. Employees of State or local agencies financed by loans or grants from United States—

(a) Influencing elections; officer or employee defined.

No officer or employee of any State or local agency whose principal employment is in connection with any activity which is financed in whole or in part by loans or grants made by the United States or by any Federal agency shall (1) use his official authority or influence for the purpose of interfering with an election or a nomination for office, or affecting the result thereof, or (2) directly or indirectly coerce, attempt to coerce, command, or advise any other such officer or employee to pay, lend, or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes. No such officer or employee shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. For the purposes of the second sentence of this subsection, the term "officer or employee" shall not be construed to include (1) the Governor or the Lieutenant Governor of any State or any person who is authorized by law to act as Governor, or the mayor of any city; (2) duly elected heads of executive departments of any State or municipality who are not classified under a State or municipal merit or civil-service system; (3) officers holding elective offices.

(b) Investigations by Civil Service Commission; removal of employees; withholding grants from States.

If any Federal agency charged with the duty of making any loan or grant of funds of the United States for use in any activity by any officer or employee to whom the provisions of subsection (a) of this section are applicable has reason to believe that any such officer or employee has violated the provisions of such subsection, it shall make a report with respect thereto to the United States Civil Service Commission (hereinafter referred to as the "Commission"). Upon the receipt of any such report, or upon the receipt of any other information which seems to the Commission to warrant an investigation, the Commission shall fix a time and place for a hearing, and shall by registered mail send to the officer or employee charged with the violation and to the State or local agency employing such officer or employee a notice setting forth a summary of the alleged violation and the time and place of such hearing. At such hearing (which shall be not earlier than ten days after the mailing of such notice) either the officer or employee or the State or local agency, or both, may appear with counsel and be heard. After such hearing, the Commission shall determine whether any violation of such subsection has occurred and whether such violation, if any, warrants the removal of the officer or employee by whom it was committed from his office or employment, and shall by registered mail notify such officer or employee and the appropriate State or local agency of such determination. If in any case the Commission finds that such officer or employee has not been removed from his office or employment within thirty days after notice of a determination by the Commission that such violation warrants his removal, or that he has been so removed and has subsequently (within a period of eighteen months) been appointed to any office or employment in any State or local agency in such State, the Commission shall make and certify to the appropriate Federal agency an order requiring it to

withhold from its loans or grants to the State or local agency to which such notification was given an amount equal to two years' compensation at the rate such officer or employee was receiving at the time of such violation; except that in any case of such a subsequent appointment to a position in another State or local agency which receives loans or grants from any Federal agency, such order shall require the withholding of such amount from such other State or local agency: *Provided*, That in no event shall the Commission require any amount to be withheld from any loan or grant pledged by a State or local agency as security for its bonds or notes if the withholding of such amount would jeopardize the payment of the principal or interest on such bonds or notes. Notice of any such order shall be sent by registered mail to the State or local agency from which such amount is ordered to be withheld. The Federal agency to which such order is certified shall, after such order becomes final, withhold such amount in accordance with the terms of such order. Except as provided in subsection (c) of this section, any determination or order of the Commission shall become final upon the expiration of thirty days after the mailing of notice of such determination or order.

(c) Court review of determination of Commission.

Any party aggrieved by any determination or order of the Commission under subsection (b) of this section may, within thirty days after the mailing of notice of such determination or order, institute proceedings for the review thereof by filing a written petition in the district court of the United States for the district in which such officer or employee resides; but the commencement of such proceedings shall not operate as a stay of such determination or order unless (1) it is specifically so ordered by the court, and (2) such officer or employee is suspended from his office or employment during the pendency of such proceedings. A copy of such petition shall forthwith be served upon the Commission, and thereupon the Commission shall certify and file in the court a transcript of the record upon which the determination or the order complained of was made. The review by the court shall be on the record entire, including all of the evidence taken on the hearing, and shall extend to questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission, the court may direct such additional evidence to be taken before the Commission in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings of fact or its determination or order by reason of the additional evidence so taken and shall file with the court such modified findings, determination, or order, and any such modified findings of fact, if supported by substantial evidence, shall be conclusive. The court shall affirm the Commission's determination or order, or its modified determination or order, if the court determines that the same is in accordance with law. If the court determines that any such determination or order, or modified determination or order, is not in accordance with law, the court shall remand the proceeding to the Commission with directions either to make such determination or order as the court shall determine to be in accordance with law or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court shall be final, subject to review by the appropriate circuit court of appeals as in other cases, and the judgment and decree of such circuit court of appeals shall be final, subject to review by the Supreme Court of the United States on certiorari or certification as provided in section 1254 of title 28. If any provision of this subsection is held to be invalid as applied to any party with respect to any determination or order of the Commission, such determination or order shall thereupon become final and effective as to such party in the same manner as if such provision had not been enacted.

(d) Rules and regulations; subpena of witness and documentary evidence; depositions.

The Commission is authorized to adopt such reasonable procedure and rules and regulations as it deems necessary to execute its functions under this section. The Civil Service Commission shall have power to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to any matter pending, as a result of this Act, before the Commission. Any member of the Commission may sign subpenas, and members of the Commission and its examiners when authorized by the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance

of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. In case of disobedience to a subpena, the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The Commission may order testimony to be taken by deposition in any proceeding or investigation, which as a result of said sections, is pending before the Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Commission as hereinbefore provided. No person shall be excused from attending and testifying or from producing documentary evidence or in obedience to a subpena on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise, before the Commission in obedience to a subpena issued by it: *Provided*, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

(e) Employees of agencies not financed by United States as exempt.

The provisions of the first two sentences of subsection (a) of this section shall not apply to any officer or employee who exercises no functions in connection with any activity of a State or local agency which is financed in whole or in part by loans or grants made by the United States or by any Federal agency.

(f) Definitions.

For the purposes of this section—

(1) The term "State or local agency" means the executive branch of any State or of any municipality or other political subdivision of such State, or any agency or department thereof.

(2) The term "Federal agency" includes any executive department, independent establishment, or other agency of the United States (except a member bank of the Federal Reserve System).

Sec. 118k–1. Activities of employees of educational and research institutions, etc.

Nothing in sections 118i (a) or 118i (b), or 118k of this title shall be deemed to prohibit or to make unlawful the doing of any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any State or political subdivision thereof, or by the District of Columbia or by any Territory or Territorial possession of the United States; or by any recognized religious, philanthropic, or cultural organization.

Sec. 118k–2. State defined.

As used in sections 118i–118n of this title, the term "State" means any State, Territory, or possession of the United States.

Sec. 118l. Activities prohibited on part of civil-service employees as prohibited on part of other Government and State employees.

The provisions of this Act which prohibit persons to whom such provisions apply from taking any active part in political management or in political campaigns shall be deemed to prohibit the same activities on the part of such persons as the United States Civil Service Commission has heretofore determined are at the time this section takes effect prohibited on the part of employees in the classified civil service of the United States by the provisions of the civil-service rules prohibiting such employees from taking any active part in political management or in political campaigns.

Sec. 118m. Political campaigns in localities where majority of voters are Government employees.

Whenever the United States Civil Service Commission determines that, by reason of special or unusual circumstances which exist in any municipality or other political subdivision, in the immediate vicinity of the National Capital in the States of Maryland and Virginia or in municipalities the majority of whose voters are employed by the Government of the United States, it is in the domestic interest of persons to whom the provisions of this act are applicable, and who reside in such municipality or political subdivision, to permit such persons to take an active part in political management or in political campaigns involving such municipality or political subdivision, the Commission is authorized to promulgate regulations permitting such persons to take an active part in such political management and political campaigns to the extent the Commission deems to be in the domestic interest of such persons.

Sec. 118n. Elections not specifically identified with National or State issues or political parties.

Nothing in the second sentence of section 118i (a) of this title or in the second sentence of section 118k (a) of this title shall be construed to prevent or prohibit any person subject to the provisions of this Act from engaging in any political activity (1) in connection with any election and the preceding campaign if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected, or (2) in connection with any question which is not specifically identified with any National or State political party. For the purposes of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, shall not be deemed to be specifically identified with any National or State political party.

Sec. 118o. Removal from office for soliciting or accepting political contributions.

Any executive officer or employee of the United States not appointed by the President, with the advice and consent of the Senate, who shall request, give to, or receive from, any other officer or employee of the Government any money or property or other thing of value for political purposes shall be at once discharged from the service of the United States.

D. CRIMINAL CODE PROVISIONS RELATING TO ELECTIONS AND POLITICAL ACTIVITIES

[U. S. C. 1946 edition, and Supplement V to January 7, 1952]

Title 18. Crimes and Criminal Procedure

CHAPTER 29. ELECTIONS AND POLITICAL ACTIVITIES

§ 591. Definitions.

When used in sections 597, 599, 602, 609, and 610 of this title—

The term "election" includes a general or special election, but does not include a primary election or convention of a political party;

The term "candidate" means an individual whose name is presented for election as Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, whether or not such individual is elected;

The term "political committee" includes any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of candidates or presidential and vice presidential electors (1) in two or more States, or (2) whether or not in more than one State if such committee, association, or organization (other than a duly organized State or local committee of a political party) is a branch or subsidiary of a national committee, association, or organization;

The term "contribution" includes a gift, subscription, loan, advance, or deposit, of money, or anything of value, and includes a contract, promise, or agreement to make a contribution, whether or not legally enforceable;

The term "expenditure" includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable;

The term "person" or the term "whoever" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons;

The term "State" includes Territory and possession of the United States.

§ 592. Troops at polls.

Whoever, being an officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000 or imprisoned not more than five years, or both; and be disqualified from holding any office of honor, profit, or trust under the United States.

This section shall not prevent any officer or member of the armed forces of the United States from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote.

§ 593. Interference by armed forces.

Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State; or

Whoever, being such officer or member, prevents or attempts to prevent by force, threat, intimidation, advice, or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election; or

Whoever, being such officer or member, orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote; or

Whoever, being such officer or member, imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or

Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties—

Shall be fined not more than $5,000 or imprisoned not more than five years, or both; and disqualified from holding any office of honor, profit, or trust under the United States.

This section shall not prevent any officer or member of the Armed Forces from exercising the right of suffrage in any district to which he may belong, if otherwise qualified according to the laws of the State of such district.

§ 594. Intimidation of voters.

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and Possessions, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

§ 595. Interference by administrative employees of Federal, State, or Territorial Governments.

Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, Presi-

dential elector, Member of the Senate, Member of the House of Representatives, or Delegate or Resident Commissioner from any Territory or Possession, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic or cultural organization.

§ 596. Polling armed forces.

Whoever, within or without the Armed Forces of the United States, polls any member of such forces, either within or without the United States, either before or after he executes any ballot under any Federal or State law, with reference to his choice of or his vote for any candidate, or states, publishes, or releases any result of any purported poll taken from or among the members of the Armed Forces of the United States or including within it the statement of choice for such candidate or of such votes cast by any member of the Armed Forces of the United States shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

The word "poll" means any request for information, verbal or written, which by its language or form of expression requires or implies the necessity of an answer, where the request is made with the intent of compiling the result of the answers obtained, either for the personal use of the person making the request, or for the purpose of reporting the same to any other person, persons, political party, unincorporated association or corporation, or for the purpose of publishing the same orally, by radio, or in written or printed form.

§ 597. Expenditures to influence voting.

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote—

Shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than $10,000 or imprisoned not more than two years, or both.

§ 598. Coercion by means of relief appropriations.

Whoever uses any part of any appropriation made by Congress for work relief, relief, or for increasing employment by providing loans and grants for public-works projects, or exercises or administers any authority conferred by any Appropriation Act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote at any election, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

§ 599. Promise of appointment by candidate.

Whoever, being a candidate, directly or indirectly promises or pledges the appointment, or the use of his influence or support for the appointment of any person to any public or private position or employment, for the purpose of procuring support in his candidacy shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than $10,000 or imprisoned not more than two years, or both.

§ 600. Promise of employment or other benefit for political activity.

Whoever, directly or indirectly, promises any employment, position, work, compensation, or other benefit, provided for or made possible in whole or in part by any Act of Congress, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in any election, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

§ 601. Deprivation of employment or other benefit for political activity.

Whoever, except as required by law, directly or indirectly, deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work compensation, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, on account of race, creed, color, or any political activity, support of, or opposition to any candidate or any political party in any election, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

§ 602. Solicitation of political contributions.

Whoever, being a Senator or Representative in, or Delegate or Resident Commissioner to, or a candidate for Congress, or individual elected as, Senator, Representative, Delegate, or Resident Commissioner, or an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, directly or indirectly solicits, receives, or is in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any other such officer, employee, or person, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

§ 603. Place of solicitation.

Whoever, in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort, or arsenal, solicits or receives any contribution of money or other thing of value for any political purpose, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

§ 604. Solicitation from persons on relief.

Whoever solicits or receives or is in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose from any person known by him to be entitled to, or receiving compensation, employment, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

§ 605. Disclosure of names of persons on relief.

Whoever, for political purposes, furnishes or discloses any list or names of persons receiving compensation, employment or benefits provided for or made possible by any Act of Congress appropriating, or authorizing the appropriation of funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager; and

Whoever receives any such list or names for political purposes—

Shall be fined not more than $1,000 or imprisoned not more than one year, or both.

§ 606. Intimidation to secure political contributions.

Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title discharges, or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

§ 607. Making political contributions.

Whoever, being an officer, clerk, or other person in the service of the United States or any department or agency thereof, directly or indirectly gives or hands over to any other officer, clerk, or person in the service of the United States, or to any Senator or Member of or Delegate to Congress, or Resident Commissioner, any money or other valuable thing on account of or to be applied to the promotion of any political object, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

§ 608. Limitations on political contributions and purchases.

(a) Whoever, directly or indirectly, makes contributions in an aggregate amount in excess of $5,000 during any calendar year, or in connection with any campaign for nomination or election, to or on behalf of any candidate for an elective Federal office, including the offices of President of the United States and Presidential and Vice Presidential electors, or to or on behalf of any committee or other organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

This subsection shall not apply to contributions made to or by a State or local committee or other State or local organization or to similar committees or organi-

zations in the District of Columbia or in any Territory or Possession of the United States.

(b) Whoever purchases or buys any goods, commodities, advertising, or articles of any kind or description, the proceeds of which, or any portion thereof, directly or indirectly inures to the benefit of or for any candidate for an elective Federal office including the offices of President of the United States, and Presidential and Vice Presidential electors or any political committee or other political organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

This subsection shall not interfere with the usual and known business, trade, or profession of any candidate.

(c) In all cases of violations of this section by a partnership, committee, association, corporation, or other organization or group of persons, the officers, directors, or managing heads thereof who knowingly and willfully participate in such violation, shall be punished as herein provided.

(d) The term "contribution," as used in this section, shall have the same meaning prescribed by section 591 of this title.

§ 609. Maximum contributions and expenditures.

No political committee shall receive contributions aggregating more than $3,000,000, or make expenditures aggregating more than $3,000,000, during any calendar year.

For the purposes of this section, any contributions received and any expenditures made on behalf of any political committee with the knowledge and consent of the chairman or treasurer of such committee shall be deemed to be received or made by such committee.

Any violation of this section by any political committee shall be deemed also to be a violation by the chairman and the treasurer of such committee and by any other person responsible for such violation and shall be punishable by a fine of not more than $1,000 or imprisonment of not more than one year, or both; and, if the violation was willful, by a fine of not more than $10,000 or imprisonment of not more than two years, or both.

§ 610. Contributions or expenditures by national banks, corporations, or labor organizations.

It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditures in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section.

Every corporation or labor organization which makes any contribution or expenditure in violation of this section shall be fined not more than $5,000; and every officer or director of any corporation, or officer of any labor organization, who consents to any contribution or expenditure by the corporation or labor organization, as the case may be, and any person who accepts or receives any contribution, in violation of this section shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than $10,000 or imprisoned not more than two years, or both.

For the purposes of this section "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

§ 611. Contributions by firms or individuals contracting with the United States.

Whoever, entering into any contract with the United States or any department or agency thereof, either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof, or selling any land or building to the United States or any depart-

ment or agency thereof, if payment for the performance of such contract or payment for such material supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, during the period of negotiation for, or performance under such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly makes any contribution of money or any other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

Whoever knowingly solicits any such contribution from any such person or firm, for any such purpose during any such period—

Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

§ 612. Publication or distribution of political statements.

Whoever willfully publishes or distributes or causes to be published or distributed, or for the purpose of publishing or distributing the same, knowingly deposits for mailing or delivery or causes to be deposited for mailing or delivery, or except in cases of employees of the Post Office Department in the official discharge of their duties, knowingly transports or causes to be transported in interstate commerce any card, pamphlet, circular, poster, dodger, advertisement, writing, or other statement relating to or concerning any person who has publicly declared his intention to seek the office of President, or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to Congress, in a primary, general, or special election, or convention of a political party, or has caused or permitted his intention to do so to be publicly declared, which does not contain the names of the persons, associations, committees, or corporations responsible for the publication or distribution of the same, and the names of the officers of each such association, committee, or corporation, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

E. POSTAL LAWS AND REGULATIONS

(U. S. C. 1946 edition)

Title 39. The Postal Service

CHAPTER 8. THE FRANKING PRIVILEGE

§ 325. Congressional Record under frank of Members of Congress.

The Congressional Record, or any part thereof, or speeches or reports therein contained, shall, under the frank of a Member of Congress, or Delegate, or Resident Commissioner from Puerto Rico, written by himself, be carried in the mail free of postage, under such regulations as the Postmaster General may prescribe. (Cross reference: Your attention is directed to secs. 37.1, 37.2, 37.4, and 37.6, Postal Laws and Regulations, 1948 Edition, as amended.)

§ 326. Public documents sent and received by Vice President, Delegates, Resident Commissioner, and Members of Congress.

The Vice President of the United States, and Senators, Representatives, Delegates, and Resident Commissioner in Congress, the Secretary of the Senate, and Clerk of the House of Representatives may send and receive through the mail all public documents printed by order of Congress; and the name of the Vice President, Senator, Representative, Delegate, Resident Commissioner, Secretary of the Senate, and Clerk of the House shall be written thereon, with the proper designation of the office he holds; and the provisions of this section shall apply to each of the persons named herein until the 30th day of June following the expiration of their respective terms of office.

§ 327. Official correspondence of Vice President and Members of Congress.

The Vice President, Members and Members-elect of, Delegates and Delegates-elect to Congress, and the Resident Commissioner from Puerto Rico, shall have the privilege of sending free through the mails, and under their frank, any mail matter to any Government official or to any person, correspondence, not exceeding four ounces in weight, upon official or departmental business.

* * * * * * *

§ 335. Lending or permitting use of frank unlawful.

It shall be unlawful for any person entitled under the law to the use of a frank to lend said frank or permit its use by any committee, organization, or association

or permit its use by any person for the benefit or use of any committee, organization, or association. This provision shall not apply to any committee composed of Members of Congress.

F. EQUAL BROADCASTING FACILITIES FOR CANDIDATE

(U. S. C., 1946 edition, and Supplement V to January 7, 1952)

TITLE 47. TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS

CHAPTER 4. RADIO ACT OF 1927

SUBCHAPTER III. SPECIAL PROVISIONS RELATING TO RADIO

§ 315. (a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate.

(b) The charges made for the use of any broadcasting station for any of the purposes set forth in this section shall not exceed the charges made for comparable use of such station for other purposes.

(c) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section (47 U. S. C. § 315; amended §11, ch. 879, 66 Stat. 717, Public Law 554, 82d Cong., 2d sess., July 16, 1952).

G. DELEGATES TO THE CONGRESS

(U. S. C., 1946 edition, and Supplement V to January 7, 1952)

TITLE 48. TERRITORIES AND INSULAR POSSESSIONS

DELEGATES TO THE CONGRESS

The texts of the Federal statutes governing election of Delegates to the Congress from Alaska (secs. 51–58, 131–149) and from Hawaii (secs. 611–651) have been excluded, but see G. Delegates to the Congress at page 18.

H. VOTING BY MEMBERS OF ARMED FORCES

(U. S. C., 1946 edition, and Supplement V to January 7, 1952)

TITLE 50. WAR AND NATIONAL DEFENSE

WARTIME VOTING BY LAND AND NAVAL FORCES

The texts of the Federal statutes governing voting by members of the Armed Forces have been excluded. For a summary of these provisions see H. Federal Soldiers Voting Law at page 19.

APPENDIX II

EXHIBITS TO ACCOMPANY REPORT ON THE COMMITTEE'S INVESTIGATION OF THE PRIMARY ELECTION, TWENTY-FIFTH DISTRICT, CALIFORNIA

EXHIBIT 1, COURT'S OPINION IN SAYRE *v.* JORDAN, ET AL.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF LOS ANGELES

No. Pomo C 1779

Woodrow Wilson Sayre, Plaintiff, v. *Frank Jordan, Secretary of State of the State of California, et al., Defendants*

OPINION

This is a proceeding under sections 2900 and 3716 of the California Elections Code to compel Frank Jordan as Secretary of State of the State of California and Benjamin Hite, as Registrar of Voters of Los Angeles County to correct an alleged error that they are, and each of them is, about to make, said error being the certification of Patrick J. Hillings as the Democratic nominee for Congress in the Twenty-Fifth District of California and the printing of his name on the ballot for the General Election of November 4, 1952, as such Democratic nominee. It is stipulated that in the absence of a Court order to the contrary said respondents and each of them will so act. It is further stipulated that the true and accurate vote at the Primary Election held June 3, 1952, for the purpose of nominating the candidate of the Democratic Party for Congressman from said Twenty-Fifth District was:

Woodrow Wilson Sayre 30,234 votes
Patrick J. Hillings 30,204 votes.

It thus appears that in truth and fact Woodrow Wilson Sayre is the nominee of the Democratic Party for said office (Elections Code, Sec. 2740). Due to error in counting, tabulating, and certifying the vote cast to the Secretary of State he is about to issue a certificate of nomination to Patrick J. Hillings who, because of the stipulation of Facts entered into as to the true vote cast, must for all purposes of these proceedings be deemed to be the person actually receiving the lesser not the greater vote. In turn the Secretary of State as required by Section 2751 of the Elections Code is about to certify said Patrick J. Hillings to the Registrar of Voters as the person who received the Democratic Party nomination for said office. Both of said officers have no discretion or jurisdiction save to act upon the face of the certificates before them. Their duties are ministerial and they can exercise no discretion in determining facts outside the record. (*Boggs* v. *Jordan*, 204 Cal. 207; *Wheeler* v. *Hall*, 188 Cal. 49.)

The Court, however, has a broader jurisdiction and may order those officers to act in accordance with the true facts. (*Felt* v. *Waughop*, 193 Cal. 498; *Bordwell* v. *Williams*, 173 Cal. 283.)

It is well settled that this Court and no Court has jurisdiction to determine the election, returns, or qualifications of a member of Congress. (Note 107 ALR 205 and numerous cases cited therein; *Sayre* v. *Hillings*, Superior Court No. 601,177.) But this Court is not being asked so to do. Counsel for Respondent Hillings so concedes. For what it may be worth a Congressional Committee by making the recount certified to in Exhibits 1 and 2 on file herein has at least in fact done so. Whether it has in fact done so or whether Mr. Hillings was elected to Congress in the Primary Election of June 3, 1952, can only be determined by the Eighty-third Congress which will convene next January.

What is important here is that, because of the stipulated correctness of said recount binding upon this Court for all purposes of these proceedings, the Secretary of State and the Registrar of Voters are about to violate Section 2740 of the California Elections Code and certify as the nominee one who is not the nominee as defined by said Section. While it is true that Congress is the final judge of the qualifications of its own members it remains the duty of the Court to require the public officers of the State to comply with the State's laws. (*People* v. *Board of Supervisors*, 216 N. Y. 732, 110 N. E. 776; *Territory ex rel. Sulzer* v. *Canvassing Board*, 5 Alaska 602. See also *State ex rel. Smith* v. *Marsh*, 232 N. W. 99.) This Court should and will order the appropriate State officers to desist from committing the apparent error that they are about to

commit and to certify as Democratic Party nominee for Congress in the Twenty-Fifth District the person who, based upon the only facts before the Court and the concessions of the Respondent Hillings, is in fact said nominee under Section 2740 of the Elections Code. Whether in so doing the election is or is not in any way legally effected can only be finally determined by Congress.

Demurrers of the Respondents Frank Jordan as Secretary of State of the State of California and Benjamin Hite as Registrar of Voters will be overruled and pursuant to stipulation Orders will be issued in accordance with this opinion without first allowing time to answer. Counsel for Petitioner to prepare the necessary orders.

JAMES G. WHYTE, *Judge.*

EXHIBIT 2. ORDER OF COURT IN SAYRE *v.* JORDAN ET AL.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF LOS ANGELES

No. Pomo C–1779

Woodrow Wilson Sayre, Petitioner, vs. *Frank Jordan, Secretary of State of the State of California, Benjamin Hite, Registrar of Voters of the County of Los Angeles, Patrick J. Hillings, a Real Party in Interest, Respondents*

ORDER

The above matter came on regularly for hearing before the above-entitled court, the Honorable James G. Whyte, judge, presiding, on the 30th day of September 1952, at 1 p. m. in Department Pomo "A" of said Court, respondent Frank Jordan, Secretary of State of the State of California being represented by Leonard M. Friedman, Deputy Attorney General, of the State of California; respondent Benjamin Hite, Registrar of Voters of the County of Los Angeles, being represented by Clarence H. Langstaff, Deputy County counsel of the County of Los Angeles; respondent Patrick J. Hillings, Real Party in Interest, being represented by his attorney, Spencer E. Van Dyke, and petitioner, Woodrow Wilson Sayre, being represented by his attorneys, Winston Fick and Stephen I. Zetterberg, and the Court having examined Petitioner's application and considered the evidence, and having heretofore written and filed the opinion of the Court holding that Woodrow Wilson Sayre is in truth and fact the Democratic Party nominee for Congress in the Twenty-Fifth California Congressional District, elected at the June 3, 1952, primaries, and is entitled to appear as such nominee on the official ballots for the general election to be held November 4, 1952, now therefore the Court makes its order as follows:

It is hereby ordered as follows:

1. That Woodrow Wilson Sayre is the Democratic nominee for Congress, Twenty-Fifth California Congressional District, and entitled to appear as such on the official ballots for said District in the General Election of November 1952.

2. That Patrick J. Hillings is not the Democratic nominee in said district, and is not entitled to appear as such Democratic nominee on the ballots in said election.

3. That Respondent Frank Jordan, Secretary of State, is hereby ordered to certify to the Registrar of Voters of Los Angeles County, pursuant to Election Code 2751, et seq., and to such other persons as may be necessary, the name of Woodrow Wilson Sayre as Democratic nominee for member of congress in the Twenty-Fifth California Congressional District as a person entitled to receive votes within said County at the general election to be held in November 1952.

4. That Respondents Registrar of Voters and Secretary of State shall each correct their respective records to show the true vote in the Democratic Primary, June 3, 1952, for Member of Congress, Twenty-Fifth California District to be as follows:

Woodrow Wilson Sayre	30,234 votes
Patrick J. Hillings	30,204 votes

so that the official Statement of Result required by Elections Code 7933, 7966 and related sections, shall conform to this true vote; so that the returns re-

quired by Elections Code 7970 shall conform to this true vote; and so that the official returns compiled by the Secretary of State under Elections Code 7971 shall conform to this true vote; and, further, that all pertinent records and certificates of each said Respondent whether specifically hereinabove mentioned or not, are hereby ordered to be corrected to conform to this true result.

5. The Secretary of State is hereby ordered to issue certificate of nomination to Woodrow Wilson Sayre, as Democratic nominee for Congress from said District.

6. The Respondents, Secretary of State and Registrar of Voters are each ordered forthwith to place on the official ballots (including sample ballots) for the November 1952 California General Election, and according to the applicable laws relating to the preparation of said ballots, the name of Woodrow Wilson Sayre, Democrat, Educator, as Democratic nominee for Member of Congress, Twenty-Fifth California Congressional District; and said Respondents are each ordered to desist from printing and placing on said ballots the name of Respondent Patrick J. Hillings as such Democratic nominee; provided that this Order shall not affect any rights of said Respondent Hillings to appear on said ballots as Republican nominee for said office.

7. Respondents, and each of them, are hereby ordered to take all necessary steps to effectuate recognition and acceptance of Woodrow Wilson Sayre as said Democratic nominee.

Dated: October 1, 1952.

JAMES G. WHYTE,
Judge of the Superior Court.

APPENDIX III

EXHIBITS TO ACCOMPANY REPORT ON THE COMMITTEE'S INVESTIGATION OF THE GENERAL ELECTION FOR REPRESENTATIVE-AT-LARGE, NEVADA

EXHIBIT 1. COMPLAINT AND SUPPORTING DOCUMENT FILED BY THE HONORABLE WALTER S. BARING

HOUSE OF REPRESENTATIVES,
Washington, D. C., November 26, 1952.

Hon. HALE BOGGS,
Chairman, Special Committee to Investigate Campaign Expenditures, House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: Unofficial reports of the November 4 general election returns indicated that I had lost the race for reelection to Congress by approximately 1,300 votes. Since the unofficial but complete returns were first brought to my attention, a number of errors in computation, transposition, and errors in actual count have been corrected, reducing the margin of votes by which I lost the election to 973 votes. The official count for the congressional office was 80,797 with my opponent's total vote amounting to 40,885 and my own vote amounting to 39,912.

The Democratic Congressional Committee has been reviewing election returns of Nevada by county and precinct, and has discovered numerous discrepancies in addition to the ones which have been corrected in the State. These discrepancies appear to be in three general categories: (1) Instances where there were more votes cast then the actual number of voters, indicating error either in the counting of ballots, or transposition of figures; (2) figures indicating unusual and unprecedented drop-off in the total number of votes cast for the congressional contest from the total number of votes cast for the Presidential contest; and (3) irregularities in vote pattern which would indicate error in favor of or against my own election.

Errors amounting to a total of 200 votes have already been discovered by the Democratic Congressional Committee in two precincts in Clark County. These errors are now in the process of being corrected and will result in reducing my margin to only 773 votes. To date we have been unable to obtain the number of voters by precinct for Washoe County and consequently have been unable to evaluate the possible error for that county, which has the largest population in the State.

Nevertheless, the corrected error in counties other than Washoe County has already amounted to a large percent of the total number of votes by which I lost the election according to early count. There is a strong possibility that a recount or investigation would disclose considerable error in addition to that already noted above. For this reason I am requesting, if you are in agreement with my conclusions, that a representative of your committee be assigned to investigate the election returns in the State of Nevada, and suggest that the investigation be started preferably in Clark County, where a number of discrepancies appear, and then carried forward to the extent necessary to prove or disprove the results of the election.

It is my understanding that there is no provision in the Nevada law to accomplish a recount of votes in the general election for a Federal office. I wish to make it perfectly clear that I am not charging fraud or other types of irregularity in this request. I believe only that it is to the interest of the State that an accurate count be made, and that there is sufficient evidence of honest error present to warrant an investigation. Since this cannot be accomplished under State law, I respectfully request your serious consideration of this matter.

I would appreciate it if you will notify me immediately when your committee reaches a decision so that I may seek a writ of prohibition in the State to prevent the issuance of a certificate of election, pending your investigation.

Attached hereto is a statement prepared by the Democratic Congressional Committee, together with supplemental exhibits which are incorporated in and made a part of this request.

I have authorized my executive secretary to affix my signature to this letter.

Sincerely yours,

WALTER S. BARING,
Per M. L. B.
Congressman from Nevada.

This study of Nevada election returns is based on returns from official sources, unofficial election returns, and on newspaper reports. Official certification of election will take place on December 3, 1952. Complete information, giving the total number of voters in each precinct, was available only for Clark County. Because of the incompleteness of the material studied and limitations of time, it is entirely possible that many obvious errors or discrepancies in the election returns have not been discovered, particularly in Washoe County, which has the largest population in the State.

1. The abstract of the vote of Clark County (exhibits A and B) gives the following precinct returns:

(*a*) In precinct 31 the total number of voters is given as 402. Votes for the office of Representative in Congress total 494.

(*b*) In precinct 36 the total number of voters is given as 204. Votes for Representative total 210.

(*c*) In precinct 43 the total number of voters is given as 218. Votes for Representative total 226.

(*d*) In precinct Paradise B the total number of voters is given as 515. Votes for Representative total 574.

(*e*) In precinct 5, North Las Vegas, the total number of voters is given as 442. Votes for Senator total 446.

Since it is obviously impossible that there could be more votes for any office than there were voters, it is apparent that errors were made either in counting ballots or transposing totals in at least five precincts in Clark County, alone. Total votes involved in these precincts, where they show on their face that they cannot be correct, amounted to 1,950. This figure is more than twice the margin of votes between the candidates for Congress. A report from Nevada indicates that the discrepancies in precincts 31 and Paradise B, when called to the attention of the county clerk, were discovered to be errors in transposition, giving the Republican candidate an excess of 100 votes in each precinct. In precinct 31 the Republican candidate's vote was given as 278, when the correct figure should have been 178. In Paradise B, the figure was given as 345, when the correct total was 245. The clerk of Clark County has reportedly sent official notice of these errors to the board of canvassers.

2. Relatively minor changes from newspaper reports to official returns are not unusual in elections; however, in Nevada the discrepancies between newspaper reports and returns from official sources are both large and numerous. In at least one Clark County precinct (No. 31), mentioned previously, the unofficial figure of 178 votes for the Republican candidate (exhibit C) appears

to be correct, while the later report of 278 from official sources was in error. A few of the other discrepancies are as follows:

(*a*) On November 6, United Press reported results in the congressional race to be 41,209 for the Republican candidate and 40,011 for the Democratic candidate, a difference of 1,198 votes (exhibit D). Later reports show figures of 40,885 to 39,912 (exhibit E), a difference of 973.

(*b*) In Clark County unofficial figures (exhibit C) give the Republican candidate 10,556 votes; later returns show his total to be 10,226 (exhibit B), a loss of 340 votes. At the same time, the Republican candidate's total in precinct 22 was reduced from 177 to 117. The Democratic candidate has an unofficial total of 177 in precinct 42, with a later figure of 127.

(*c*) Unofficial returns from Panaca precinct in Lincoln County gave the Democratic candidate 167 votes (exhibit F), which were later reduced to 107 (exhibit G).

3. There was a great deal of controversy in Nevada over voting results on a referendum measure which was on the same ballot with the congressional candidates. A number of self-explanatory newspaper reports are attached (exhibit I).

4. In Lincoln County, according to published figures of the secretary of state (exhibit J), 2,322 persons registered to vote in the 1952 general election. The 1950 United States Census of Population reported that there were only 2,180 persons 21 years of age or over in Lincoln County at that time. Since the population of Lincoln County declined 7.1 percent from 1940 to 1950, these figures indicate that the trend must have sharply reversed itself, or that there is some error in either the census or registration figures.

5. According to a story in the Las Vegas Sun on November 7, 1952 (exhibit K), 26,504 voters cast ballots in Clark County. Returns from official sources show the total vote of the county was 25,647.

6. (*a*) Figures for the entire State (exhibit L) indicate that 82,190 persons voted for President, but only 80,797 persons voted for either candidates for Congress, a decline of 1,393. Normally it would be expected that such a trend—a gradual decline in the number of votes cast from the higher office to the lower—would be spread more or less evenly throughout the State. However, if the Nevada figures are to be taken at face value, such was not the case. Lincoln and Nye Counties actually reported an increase in the vote for Congress over that for President. Seven other counties reported decreases ranging from 0 to 13 (exhibit G). Washoe County, with almost 28,000 votes cast for President, had 242 less for Congress (exhibit H). In Clark County, which has less than one-third of the registered voters of the State, 25,188 votes were cast for President and 24,336 for Congress (exhibits A and B), a decline of 852. (This total is even more startling when it is increased by 200 to compensate for corrections to be made in precinct 31 and Paradise B.)

(*b*) The decrease in votes from President to Congress in Clark County is proportionately more than four times greater than it is in Washoe County. The loss would be about 11 or 12 votes per precinct if spread out evenly among Clark County's 94 precincts. This is not the case. A few precincts report an increase. Others have such sharp decreases as to strongly indicate that errors were made. Precinct 11 reports 319 votes for President and 272 for Representative, a decline of 47. Precinct 23 drops 77, from 330 to 253, a figure greater than the combined total decline of 11 of Nevada's other 16 counties. A number of other precincts have vote losses ranging from 30 to more than 50, including precincts 9, 30, 32, East Charleston and Wherry. Although the Democratic candidate for Congress got more than 2,000 more votes than the Democratic candidate for President in Clark County, he got far fewer votes than the Democratic candidate for President in almost all the precincts where the vote decline was abnormally large.

(*c*) McGill Precinct No. 1 (White Pine County) returns showed 461 votes for President, and 523 for Congress. If these figures are correct, it means that at least 62 persons did not vote for President but did vote for Congressman, a trend contrary to voting habits of practically every other precinct in Nevada.

7. The voting figures, as recorded, show remarkable changes in the relative popularity of candidates in two adjoining counties. The Democratic candidate for President received 31,688 votes in Nevada, while the candidates for Senator and Congress had 39,194 and 39,912, respectively. The Democratic candidate for President lost Clark County. The Democratic candidate for Congress had a majority of 3,884 votes and the candidate for Senator had a majority of 5,746 votes, a difference of 1,862. In Lincoln County, directly adjoining Clark County, the Democratic candidate for President carried the county, and the Democratic

candidate for Congress won by a vote of 1,057 to 800. Yet the Democratic candidate for Senator lost by 1,224 to 648.

After making as thorough a study of Nevada returns as was possible with the material available, I reached the following conclusions:

1. Returns from official sources show conclusively the existence of a number of errors, which are apparent on the face of the returns.

2. A study of the returns strongly indicates the existence of a large number of additional errors.

3. It would be impossible to determine whether or not such errors were sufficient to change the result of the election without a further investigation at the source.

Submitted by:

JAMES R. NAUGHTON.

EXHIBIT 2. STATEMENT OF THE COUNTY CLERK, CLARK COUNTY, NEV.

COUNTY OF CLARK,
OFFICE OF THE CLERK,
Las Vegas, Nev.

STATE OF NEVADA,
County of Clark, ss:

I, Helen Scott Reed, duly elected, qualified, and acting clerk of Clark County, State of Nevada, do hereby certify that in my opinion the seals on the envelopes containing the election returns for the general election, held November 4, 1952, in Clark County were broken through handling as they were transported from the polling places to the county clerk's office and when later removed to the storage place near the county barns and held under lock and key until subpenaed by Walter L. Fitzpatrick, Jr., of the Special Committee To Investigate Campaign Expenditures, 1952, at which time they were turned over to him.

Witness my hand and seal this 16th day of December 1952.

[SEAL] HELEN SCOTT REED, *County Clerk.*

EXHIBIT 3. TABULATION OF VOTES CAST IN CONGRESSIONAL ELECTION, CLARK COUNTY, NEV., NOV. 4, 1952, COMPARING OFFICIAL RETURNS WITH RETURNS OBTAINED IN RECOUNT CONDUCTED BY THE COMMITTEE

Precinct	Baring						Young						Total vote for Congress	Rejected by judges	Failed to vote congressional contest	Total votes cast by precinct
	Original count	Recount			Gain	Loss	Original count	Recount			Gain	Loss				
		First call	By judges	Total				First call	By judges	Total						
North Las Vegas, No. 1	200	196	1	197		3	89	89		89			286	3	12	301
North Las Vegas, No. 2	152	152		152			66	63		63		3	215	2	12	229
North Las Vegas, No. 3	263	260		260		3	120	118	2	120			380	4	16	400
North Las Vegas, No. 4	142	143		143	1		99	97		97		2	240		10	250
North Las Vegas, No. 5	283	283		283			146	143		143		3	426	3	30	459
North Las Vegas, No. 6	169	168		168		1	70	68		68		2	236	6	7	249
Boulder City, No. 1	202	201		201		1	181	180		180		1	381	2	14	397
Boulder City, No. 2	181	183		183	2		191	191		191			374	1	9	384
Boulder City, No. 3	137	136		136		1	130	129	1	130			266	4	2	272
Boulder City, No. 4	151	151		151			104	104		104			255		8	263
Boulder City, No. 5	124	125		125	1		139	139		139			264		8	272
Boulder City, No. 6	142	142	1	143	1		137	135		135		2	278	1	13	292
Boulder City, No. 7	82	82		82			68	68		68			150		8	158
Boulder City, No. 8	109	108		108		1	96	96		96			204	1	5	210
Henderson, No. 1	161	160		160		1	87	87		87			247	1	3	251
Henderson, No. 2	115	119		119	4		54	56		56	2		175		4	179
Henderson, No. 3	159	158		158		1	107	105		105		2	163	2	12	277
Henderson, No. 4	195	192		192		3	107	108		108	1		300	3	4	307
Henderson, No. 5	166	166	1	167	1		83	82		82		1	249		5	254
Henderson, No. 6	164	163		163		1	116	116		116			279	2	8	289
Henderson, No. 7	111	111		111			55	53		53		2	164	2	4	170
Henderson, No. 8	139	138		138		1	58	58		58			196	1	7	204
Arden	17	17		17			6	6		6			23			23
Blue Diamond	66	66		66			32	32		32			98		3	101
Bunkerville	46	47		47	1		52	52		52			99	1	5	105
Carver Park	196	196		196			85	83		83		2	279	1	21	301
East Charleston	311	308		308		3	179	176		176		3	384	6	66	556
East College	174	175		175	1		99	99		99			274	3	18	295
Eastland Heights	121	122		122	1		148	151		151	3		273	1	10	284
Goodsprings	43	43		43			29	29		29			72	3	3	78
Indian Springs	81	81		81			31	30		30		1	111		7	118
Logandale	49	49		49			68	67		67		1	116		2	118
Mesquite	127	127		127			72	71		71		1	198	1	5	204
Moapa	24	24		24			32	32		32			56		3	59
Nelson	13	13		13			17	17		17			30		1	31

Overton	135	134		134		1	146	144		144		2	278	3	14	295
Paradise A	65	65		65			49	49		49			114		8	122
Paradise B	229	235		235	6		245	245		245			480	11	22	513
Pittman	124	123		123		1	57	57		57			180	1	11	192
Searchlight	55	56		56	1		53	54		54	1		110		13	123
Sloan	30	30		30			7	7		7			37		1	38
Sunrise Acres	185	185		185			78	78		78			263	2	9	274
Vegas Heights	282	280		280		2	121	117		117		4	397	6	19	422
Victory Village	289	280		280		9	156	157		157	1		337	7	23	467
Wherry	133	130		130		3	159	159		159			289	5	33	327
Whitney	122	119		119		3	67	68		68	1		187	3	11	201
Total, p. 1		6,442	3	6,445	20	39		4,265	3	4,268	9	32	10,713	91	509	11,314
Las Vegas No. 1	129	124		124		5	83	79		79		4	203	6	30	239
Las Vegas No. 2	110	107		107		3	85	84		84		1	191	3	13	207
Las Vegas No. 3	143	143		143			105	106		106	1		249	11	12	272
Las Vegas No. 4	191	188		188		3	95	93		93		2	281	5	9	295
Las Vegas No. 5	148	148		148			80	80		80			228	4	8	240
Las Vegas No. 6	168	168		168			130	131		131	1		299	2	12	313
Las Vegas No. 7	145	145		145			131	131		131			276	4	11	291
Las Vegas No. 8	191	190	1	191			144	144		144			235	8	14	357
Las Vegas No. 9	202	201		201		1	70	72		72	2		273	3	37	313
Las Vegas No. 10	179	179		179			128	128		128			307		7	314
Las Vegas No. 11	226	215		215		11	46	55		55	9		270	8	51	329
Las Vegas No. 12	170	168		168		2	238	236		236		2	404	7	6	417
Las Vegas No. 13	217	221		221	4		180	181		181	1		402	7	21	430
Las Vegas No. 14	205	203		203		2	154	155		155	1		358	3	18	379
Las Vegas No. 15	161	159		159		2	174	172		172		2	331	4	11	346
Las Vegas No. 16	237	237		237			133	132		132		1	369	2	17	388
Las Vegas No. 17	163	160		160		3	180	178		178		2	338	4	9	351
Las Vegas No. 18	188	187		187		1	185	184	1	185			372	6	9	387
Las Vegas No. 19	126	126		126			103	102		102		1	228	2	6	236
Las Vegas No. 20	163	160	1	161		2	92	90		90		2	251	6	12	269
Las Vegas No. 21	133	130		130		3	122	121	1	122			252	6	14	272
Las Vegas No. 22	172	172		172			117	117		117			289	1	18	308
Las Vegas No. 23	227	225		225		2	26	26		26			251	5	105	361
Las Vegas No. 24	154	153		153		1	150	151		151	1		304	3	23	330
Las Vegas No. 25	165	166		166	1		130	130		130			296		15	311
Las Vegas No. 26	215	214		214		1	149	148		148		1	362		14	376
Las Vegas No. 27	148	148		148			166	166		166			314	2	8	324
Las Vegas No. 28	221	218		218		3	172	171		171		1	389	5	7	401
Las Vegas No. 29	308	310		310	2		180	177		177		3	487	5	11	503
Las Vegas No. 30	182	181		181		1	22	21		21		1	202	11	63	276
Las Vegas No. 31	216	219		219	3		178	179		179	1		398	8	16	422
Las Vegas No. 32	151	152		152	1		36	35		35		1	187	4	60	251
Las Vegas No. 33	152	152		152			177	175		175		2	327	2	11	340
Las Vegas No. 34	188	188		188			179	179		179			367	5	17	389
Las Vegas No. 35	287	299		299	12		157	157		157			456		15	471
Las Vegas No. 36	108	108		108			102	103		103	1		211	3	5	219
Las Vegas No. 37	187	184		184		3	286	284		284		2	468	3	16	487

EXHIBIT 3. TABULATION OF VOTES CAST IN CONGRESSIONAL ELECTION, CLARK COUNTY, NEV., NOV. 4, 1952, COMPARING OFFICIAL RETURNS WITH RETURNS OBTAINED IN RECOUNT CONDUCTED BY THE COMMITTEE—continued

Precinct	Baring						Young						Total vote for Congress	Rejected by judges	Failed to vote congressional contest	Total votes cast by precinct
	Original count	Recount			Gain	Loss	Original count	Recount			Gain	Loss				
		First call	By judges	Total				First call	By judges	Total						
Las Vegas No. 38	214	215	1	216	2	------	148	147	1	148	------	------	364	11	11	386
Las Vegas No. 39	99	98	1	99	------	------	71	71	--------	71	------	------	170	----------	8	178
Las Vegas No. 40	278	281	--------	281	3	------	242	241	--------	241	------	1	522	12	20	554
Las Vegas No. 41	133	134	--------	134	1	------	158	151	--------	151	------	7	285	5	6	296
Las Vegas No. 42	127	124	--------	124	------	3	122	120	--------	120	------	2	244	6	10	260
Las Vegas No. 43	119	119	--------	119	------	------	107	103	--------	103	------	4	222	4	6	232
Total, p. 2	--------	7,619	4	7,623	29	52	--------	5,706	3	5,709	18	42	13,332	196	792	14,320
Total, p. 1	--------	6,442	3	6,445	20	39	--------	4,265	3	4,268	9	32	10,713	91	509	11,314
Grand total	--------	14,061	--------	14,068	49	91	--------	9,971	6	9,977	27	74	24,045	288	1,301	25,634

EXHIBIT 4. ACCOUNTING FOR BALLOTS REJECTED BY JUDGES IN THE COMMITTEE'S RECOUNT OF BALLOTS CAST FOR REPRESENTATIVE, CLARK COUNTY, NEV., NOV. 4, 1952

Reason for rejection	*Number*
Ballot marked with pen or pencil instead of with rubber stamp	229
Voter indicated choice on ballot by marking with side of rubber stamp	6
Voter indicated choice with finger blot	15
Voter made erasures on ballot with finger	3
Voter wrote on ballot	2
Cross was not made in box opposite name	5
Voter voted for both candidates	28
Total rejected ballots	288

EXHIBIT 5. TABULATION OF VOTES CAST IN 15 PRECINCTS IN CONGRESSIONAL ELECTION, WASHOE COUNTY, NEV., NOV. 4, 1952, COMPARING OFFICIAL RETURNS WITH RETURNS OBTAINED IN RECOUNT CONDUCTED BY THE COMMITTEE

Precinct	Baring				Young				Total vote for Congress	Rejected by judges	Failed to vote for Congress	Total vote cast by precinct
	Original count	Recount	Gain	Loss	Original count	Recount	Gain	Loss				
Reno, No. 4	81	84	3		271	268		3	352	4	4	360
Reno, No. 5	100	99		1	249	248		1	347	4	4	355
Reno, No. 12A	63	62		1	200	199		1	261	3	3	267
Reno, No. 13A	171	170		1	386	386			556	4	3	563
Reno, No. 27	233	232		1	297	297			529	14	7	550
Reno, No. 27A	226	211		15	276	275		1	486	22	5	513
Reno, No. 35	67	67			100	99		1	166	1	3	170
Reno, No. 47A	195	197	2		208	208			405	4	2	411
Reno, No. 51	133	132		1	129	130	1		262	4	9	275
Reno, No. 56A	121	120		1	188	190	2		310	5	2	317
Sparks, No. 5A	106	105		1	187	187			292	7	3	302
Sparks, No. 8	100	101	1		135	137	2		238	2	9	249
Sparks, No. 10	138	142	4		170	174	4		316	2	5	323
Sparks, No. 11A	161	161			181	180		1	341	1	5	347
Sparks, No. 12	147	147			115	118	3		265	5	8	278
Total		2,030	10	22		3,096	12	8	5,126	82	72	5,280

NOTE.—Contested ballots were awarded or rejected by the judges as the questions arose and no separate record was kept of the judges' decisions

APPENDIX IV

EXHIBITS TO ACCOMPANY REPORT ON THE COMMITTEE'S INVESTIGATION OF THE PRIMARY ELECTION, FIRST DISTRICT, WEST VIRGINIA

EXHIBIT 1. CAMPAIGN REPORT, ROBERT H. MOLLOHAN (PERSONAL) FILED WITH SECRETARY OF STATE, WEST VIRGINIA

Contributions:	
H. C. Toothman	$100.00
W. L. Hart	280.00
E. Hirsch	50.00
Total	430.00
Expenses:	
Secretary of State	125.00
Feltz Printing Co	200.00
Mercury Match	167.50
Travel	352.17
Total	844.67

Filed: June 11, 1952.

(Signed) ROBERT H. MOLLOHAN.

EXHIBIT 2. CAMPAIGN REPORT, COMMITTEE FOR ELECTION OF ROBERT H. MOLLOHAN FILED WITH SECRETARY OF STATE, WEST VIRGINIA

Contributions:	
George Vogel	$150.00
John Gill	400.00
Abe Reitman	500.00
Harry Kaufman	1,000.00
Henry E. Mulligan	50.00
Alfred Neely	500.00
T. Morris	100.00
M. Shott	100.00
W. P. Gulledge	300.00
Paul Pitrolo	400.00
Elizabeth Kaufman	300.00
L. Dilligatti	200.00
Jake Feingold	250.00
George Plesco	75.00
C. R. James	100.00
Total	4,425.00
Expenses:	
Ad-Print Screen Process, Inc	1,000.00
Ahern Advertising Co	1,230.00
National Republic	612.00
W. M. M. M	394.65
W. H. L. L	370.00
Feltz Printing	401.25
Grafton News	29.44
Moundsville Echo	31.08
Wheeling News Publishing Co	73.92
Grafton Sentinel	36.00
Wetzel Republican	27.00
Wetzel Democrat	18.00
W. E. S. R	165.75
Total	4,389.09

Filed: June 11, 1952.

(Signed) ABE REITMAN.

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