
SENATOR FROM MICHIGAN.

SEPTEMBER 26 (calendar day, SEPTEMBER 29), 1921.—Ordered to be printed.

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

REPORT.

[Pursuant to S. Res. 11.]

The Committee on Privileges and Elections of the Senate of the United States on the election contest brought by Henry Ford, contestant, against Truman H. Newberry, United States Senator from the State of Michigan, contestee, and on the investigation of the primary and general election of 1918 in the State of Michigan for United States Senator from Michigan report as follows:

The resolution adopted by the Senate on December 3, 1919, under which this investigation has proceeded, reads as follows:

Whereas charges and countercharges of excessive and illegal expenditures of money and of unlawful practices have been made in connection with the primary nomination and election of a Senator from the State of Michigan, which election was held on the 5th day of November, 1918: Therefore be it

Resolved, That the Committee on Privileges and Elections, or any subcommittee thereof, be, and it is hereby, authorized and directed to investigate the said charges and countercharges of excessive and illegal expenditures of money and of unlawful practices in connection with the said election of a Senator from the State of Michigan, including the proceedings for the nomination of candidates at the primary theretofore held, and to take possession of the ballots, poll books, tally sheets, and all other documents and records relating to the said primary nomination and election; and the Sergeant at Arms of the Senate, and his deputies and assistants, be, and they are hereby, instructed to carry out the directions of the said Committee on Privileges and Elections, or any subcommittee thereof in that behalf; and that the said Committee on Privileges and Elections, or any subcommittee thereof, be, and it is hereby, directed to proceed with all convenient speed to take all necessary steps for the preservation of the said ballots, poll books, tally sheets, and other documents, and to recount the said ballots, and to take and preserve all evidence as to the various matters alleged in the said charges and countercharges and any answers hereafter filed, and of any alleged fraud, irregularity, and excessive or illegal expenditures of money, and of any unlawful practices in the said election and primary, and as to the intimidation of voters, or other facts affecting the result of said election.

Resolved further, That the Committee on Privileges and Elections, or any subcommittee thereof, be authorized to sit during the sessions of the Senate and during any

recess of the Senate or of the Congress, and to hold its sessions at such place or places as it shall deem most convenient for the purposes of the investigation; and to have full power to subpoena parties and witnesses, and to require the production of all papers, books, and documents, and other evidence relating to the said investigation, and to employ clerks and other necessary assistants and stenographers at a cost not to exceed \$1 per printed page, to take and make a record of all evidence taken and received by the committee, and to keep a record of its proceedings; and to have such evidence, records, and other matter required by the committee printed.

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

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

The investigation was conducted by a subcommittee, consisting of Senators Watson (chairman), Spencer (acting chairman), Edge, Pomerene, and Wolcott. After the resignation of Senator Wolcott from the Senate, and after the hearings were ended, Senator Ashurst was appointed to the Committee on Privileges and Elections and became also a member of the subcommittee.

The findings and recommendations of the subcommittee were approved by the committee and constitute this report.

CHRONOLOGY.

On August 27, 1918, Truman H. Newberry was a candidate on the Republican ticket in the primary election to select a Republican candidate for United States Senator from the State of Michigan.

Henry Ford was a candidate on the Republican ticket at this primary election for the Republican nomination, and at the same time he was a candidate on the Democratic ticket for the Democratic nomination as candidate for United States Senator.

The primary election resulted in the selection of Truman H. Newberry as the Republican nominee for United States Senator and Henry Ford as the Democratic nominee.

At the general election, held on November 5, 1918, Truman H. Newberry was declared elected United States Senator from the State of Michigan; he presented his credentials in due form to the Senate, took the oath of office as a Senator on May 19, 1919, and entered immediately upon the discharge of the duties of the office to which he had been declared elected.

On January 6, 1919, and again on May 20, 1919, there was filed in the Senate of the United States and referred to the Committee on Privileges and Elections, the petition of Henry Ford, contesting the

election of Truman H. Newberry as a Senator from the State of Michigan, asking—

For a recount of the ballots for the office of United States Senator, cast at the election in Michigan held November 5, 1918, and for other relief.

The contestant asked:

- (a) For a recount of the ballots.
- (b) For—

An investigation of the unlawful uses by said Truman H. Newberry, and in his behalf by his agents and representatives, of large sums of money to influence the primary and election.

Alleged undue influence and intimidation of voters at the said election, and further asked:

That said Truman H. Newberry be declared not elected, and also disqualified, and not entitled to a seat, because of the aforesaid violations of law; and that petitioner (Henry Ford) may be declared elected and entitled to said seat.

Under this action of the Senate, above set out, the committee had to do with—

- (a) The general election of November 5, 1918.
- (b) The primary election of August 27, 1918, and the expenditure of money incident thereto.
- (c) The qualifications of Truman H. Newberry to retain his seat in the Senate.

No countercharges were presented against the contestant for the consideration of your committee.

GENERAL ELECTION.

The contestant (Henry Ford) alleged in regard to the election—

(a) That there are about 2,200 election precincts or districts in Michigan, and that nearly all of the election boards were composed wholly of Republicans, and great numbers of them were wholly composed of intense partisans of Mr. Newberry, and that only in a comparatively few of them were there at the said election any challengers or others acting in behalf of the Democratic candidates, and that every opportunity existed for election officials who were so inclined to miscount the ballots in favor of Mr. Newberry.

(b) That a large number of ballots were unlawfully counted for said Newberry which in fact and in truth were cast for Henry Ford, namely, at least 10,000.

(c) That large numbers of ballots lawfully cast for petitioner were not counted for him, but were unlawfully rejected by the various precinct election boards when making the counts, and they were not returned for petitioner, as in truth they ought to have been, namely, at least 10,000.

(d) That in many election precincts or districts the count by the election officers and boards was illegal, in favor of Newberry, false and fraudulent, and in violation of the election laws governing the count.

(e) Many of the ballots marked and cast for petitioner were counted and returned for the said Truman H. Newberry.

(f) In many precincts (particularly in the Upper Peninsula of Michigan) the provisions of law enacted to protect the sanctity and secrecy of the ballots and to promote a true and honest vote and count were flagrantly violated, and many important and vital irregularities and departures from such provision occurred, thus vitiating under the law the vote of such precincts—as, for instance, the marking of ballots for voters by an unauthorized third person, the exposure of ballots by the voters, the overseeing of the voting by mine bosses and superintendents and the like, all of which were conducted in the interests of said Truman H. Newberry, and the votes of such precincts should be rejected and thrown out.

(g) That many ballots in many precincts duly marked and cast for petitioner were rejected by the respective election boards and not counted at all.

(h) That many ballots bearing unlawful distinguishing marks were illegally and unlawfully counted for the said Truman H. Newberry.

(i) Many ballots duly marked and cast for your petitioner were wholly rejected and thrown out by many election boards on the unlawful and fraudulent pretext that they were not duly and properly marked for the petitioner, whereas in fact they were so marked and cast.

(j) Many ballots duly and properly marked and cast for the petitioner were rejected and thrown out by many election boards on the unlawful and fraudulent pretext that they bore distinguishing marks, whereas in fact they did not bear any unlawful distinguishing marks and ought to have been counted for your petitioner.

(k) Many ballots duly and lawfully marked and cast for petitioner were erroneously thrown out and not counted for petitioner by many of the said election boards under erroneous interpretations of their duties.

(l) Many ballots for said Truman H. Newberry were corruptly and unlawfully procured to be cast and counted for him by the unlawful use of money on his behalf.

(m) Large sums of money were unlawfully expended by and in behalf of said Truman H. Newberry to influence said election and cause votes to be cast for him that otherwise would not have been so cast.

(n) Large numbers of lawful voters were intimidated and prevented from voting at the said election by partisans and supporters of said Newberry who otherwise would have voted at the election and cast their votes for the petitioner, to wit, 5,000 of such voters.

(o) Large numbers of lawful voters, employees of certain large corporations, were intimidated and unlawfully coerced by employers and their representatives into voting for said Newberry against their wills and preferences who otherwise would have cast their ballots for the petitioner.

(p) In a number of the counties the respective boards of county canvassers made and reported their canvasses without having or examining the poll books and tally sheets nor in any way verifying the number of original votes as cast or the number of voters voting at the respective precincts.

(q) That careful investigation by petitioner's direction has been made by reliable men since the election to ascertain, as far as may be, the detailed facts pertaining to the above statements and as to the conduct of counting in said election and from such investigations and from other information reaching the petitioner and his representatives he avers the foregoing statements to be true, and he particularly specifies the following counties and election districts therein as the counties and districts where such irregularities, miscounting, and frauds were more flagrantly committed, namely,

Kent,	Clare,	Isabella,	Newaygo,
Bay,	Dickinson,	Jackson,	Oakland,
Kalamazoo,	Eaton,	Kalkaska,	Oceana,
Wayne,	Emmet,	Keweenaw,	Osceola,
Saginaw,	Genesee,	Lapeer,	Ottawa,
Allegan,	Gladwin,	Lenawee,	Sanilac,
Antrim,	Gogebic,	Macomb,	St. Clair,
Baraga,	Gratiot,	Marquette,	St. Joseph,
Barry,	Hillsdale,	Mason,	Tuscola,
Benzie,	Houghton,	Mecosta,	Van Buren,
Berrien,	Huron,	Midland,	Washtenaw,
Calhoun,	Ingham,	Monroe,	Wexford,
Cass,	Ionia,	Montcalm,	
Charlevoix,	Iosco,	Montmorency,	
Chippewa,	Iron,	Muskegon,	

and that such irregularities and miscounts occurred in a more modified degree in nearly all the other counties of the State, and that mistakes, unfavorable to petitioner and in favor of the said Truman H. Newberry, occurred in all of the counties.

(r) That upon a fair and lawful recount of the ballots cast at said election your petitioner would be decided to be duly and lawfully elected Senator from Michigan.

(s) That upon such a fair and lawful recount, and due allowances being made for such frauds, intimidations, and prevention of votes, petitioner would be decided and declared by your honorable body to have been duly and lawfully elected Senator from Michigan.

RECOUNT OF THE BALLOTS.

The subcommittee caused the ballots cast at the said general election (with the exception of a few precincts where the ballots had been destroyed, in all of which cases by agreement of counsel the State official count was accepted as correct) to be gathered together

