

SENATOR FROM PENNSYLVANIA

REPORT

OF THE

COMMITTEE ON PRIVILEGES AND ELECTIONS

PURSUANT TO S. RES. 68 AND 310 (70TH CONGRESS)

RESOLUTIONS AUTHORIZING THE COMMITTEE ON PRIVILEGES AND
ELECTIONS TO HEAR AND DETERMINE THE CONTEST BETWEEN
WILLIAM S. VARE AND WILLIAM B. WILSON AS TO MEM-
BERSHIP IN THE UNITED STATES SENATE AS A
SENATOR FROM PENNSYLVANIA

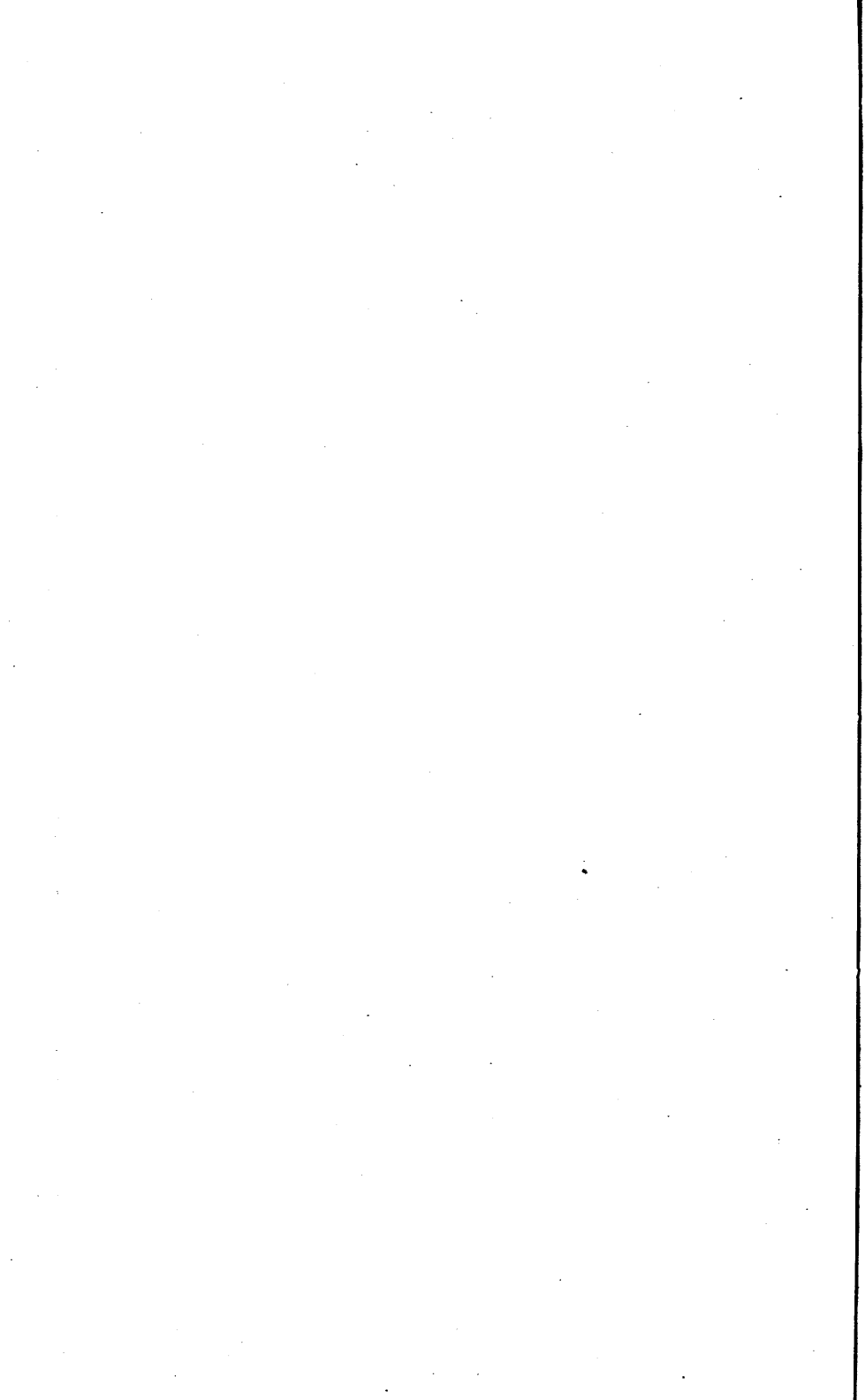
TOGETHER WITH A

SUPPLEMENTAL REPORT



DECEMBER 4 (calendar day, DECEMBER 5), 1929.—Ordered to be printed

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SENATOR FROM PENNSYLVANIA

DECEMBER 4 (calendar day, DECEMBER 5), 1929.

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

REPORT

[Pursuant to S. Res. 68 and 310, 70th Cong.]

Your Committee on Privileges and Elections, to which was referred Senate Resolutions 68 and 310 (Seventieth Congress), the contest of William B. Wilson against William S. Vare, for a seat in the United States Senate from the State of Pennsylvania, with directions to report its findings and conclusions based upon the evidence adduced and the election records of the election held in the State of Pennsylvania for United States Senator on the 2d day of November, 1926, has had the entire matter under consideration and a majority of said committee respectfully reports as follows:

William B. Wilson, a citizen and resident of the State of Pennsylvania, filed his formal complaint or statement of contest with the United States Senate on the 4th day of March, 1927, and thereupon and on that day the Senate referred the contest to the Senate Committee on Privileges and Elections.

Thereafter, and on or about the 16th day of January, 1928, the said Wilson filed with the Senate Committee on Privileges and Elections an amended complaint or statement of contest which superseded the one previously filed.

Thereafter, the contestee Vare, on the 21st day of January, 1928, filed his demurrer and answer to the amended statement of Wilson.

Subsequently and prior to the 26th day of January, 1928, the Committee on Privileges and Elections sustained the contestee's demurrer to the amended statement of contest of Wilson and on the 26th day of January, 1928, contestant Wilson filed an amendment to his amended complaint and statement.

Thereafter, the contestee filed certain pleadings, charging irregularities and frauds in some 30 counties other than the 6 counties challenged by the contestant Wilson and squarely raised an issue on the allegations contained in Wilson's amended statement, as amended, which related exclusively to 6 counties, to wit: Allegheny, Delaware, Lackawanna, Luzerne, Philadelphia, and Schuylkill.

Your committee determined as a matter of procedure, for the time being, to investigate only the charges made by the contestant concerning the election in the six counties last named.

Consequently, this report is limited to an investigation of the election in the six counties challenged by Wilson, while the counties challenged by Vare still remain uninvestigated.

This amended statement, as amended, clearly bottomed the entire contest as did counsel for contestant at the argument on a wide and far-reaching conspiracy to control, corruptly, the results and falsify the returns of the election for United States Senator at the November election, 1926, throughout the six counties challenged, to the end that the ballots in these six counties might all be discredited and thrown out of consideration in determining the election.

In his printed brief filed in connection with the oral argument the contestant stated in connection with the vote of Philadelphia, as follows: "The said contestant herewith protests the entire vote cast in the city of Philadelphia, comprising 1,500 election districts, Commonwealth of Pennsylvania, 2d day of November, 1926, and asks that the same be rejected and thrown out for the following reasons," and then proceeded to assign 39 separately numbered specifications of fraud.

Also, substantially the same statement was made in the brief (p. 10) with reference to the 689 election districts in the city of Pittsburgh.

In view of the contestant's pleadings and the position assumed by the counsel at the argument, in his brief and specifications of fraud, it is clear that the contestant is burdened with the task of proving, not only the conspiracy as laid and every element of it, but also that the conspiracy was so far-reaching and wide in its scope and effect that it contaminated every ballot box and the ballots therein and the election records in every one of the six counties challenged, or enough of such counties to change the result.

In other words, it must be found, not beyond a reasonable doubt, perhaps, but it must be the conviction of reasonable men, at least, that the proof sustained the charges of conspiracy affecting the election machinery and ballots of these six counties or enough of them to overcome the majority for Vare appearing on the face of the official election returns, whose majority in the State was 173,507.

It is to be borne in mind that the contestant does not, on the face of the record or pleadings, charge the registration commissioners of the city of Philadelphia or the city of Pittsburgh with any connection whatever with the alleged conspiracy or frauds.

All the commissioners on the registration boards, in both cities named, were appointed by Governor Pinchot and they served as such commissioners throughout the entire period embraced by this controversy.

After the issues had been raised on the pleadings, all of the ballot boxes, election records, and paraphernalia, which had been gathered by the special committee, of which Senator Reed of Missouri was chairman, and brought to Washington and there retained in the custody of the special committee, were turned over by the special committee to your committee for investigation under the authority of Senate Resolution 68 of the Seventieth Congress. As soon as arrangements could be made, your committee proceeded with its examination of these ballot boxes, records, and paraphernalia, in the

presence of authorized representatives of the contestant and contestee, under the direction of representatives selected by your committee.

As the ballot boxes were opened and the ballots checked and re-counted, each party to this controversy was permitted to make a record of protests against any record, any ballot, or any ballot box which he desired to challenge. Consequently, a great many ballots were segregated under protest and laid aside.

Thereafter, the representatives of the contesting parties, under the direction of and in the presence of representatives of your committee, reexamined the ballots so protested and agreed between themselves upon the good ballots contained among the ballots so protested, with the final result that in the city of Philadelphia Mr. Wilson finally protested 3,000 ballots, these protests being based upon some 42 different grounds.

Mr. Vare, after this agreement, protested ballots in the city of Philadelphia upon certain specified grounds of less number than those assigned by the contestant.

Representatives chosen by the respective contesting parties were always permitted to be present during all the proceedings of your committee in relation to this entire investigation and recount, save only when this committee came to consider the charge that votes were cast by persons who were not, in fact, registered. This examination of records, only, which were in evidence was conducted by your committee in executive session.

At the final argument before the committee, the election in Delaware, Lackawanna, Luzerne, and Schuylkill Counties was not discussed or more than incidentally referred to.

As a matter of fact, the examination of the ballot boxes, ballots, and other election paraphernalia in these last-named counties did not disclose anything of sufficient importance to be further considered.

After the committee had assumed that the taking of testimony was closed and about the month of December, 1928, the parties, contestant and contestee, were requested to provide the committee with a condensed statement or abstract of all the oral testimony which had preceded.

An abstract of such testimony was prepared by the contestant and submitted and a supplement thereto was submitted by the contestee, and while these abstracts are not binding upon either party they may be considered as a fair statement of the parties, and in fact have been so considered by both parties and the committee, although in the event of controversy about what the evidence actually is the official testimony itself is open to examination at the instance of any party or the committee.

After the condensed form or abstract of evidence was filed with the committee the contestant was requested to specify in detail the precise fraudulent acts which he claimed tended, in any way, to support his contest.

Thereafter, and on the 21st day of January, 1929, the contestant did file rather voluminous, so-called, specifications of fraud relating exclusively to the contest of Allegheny and Philadelphia Counties, and thereby inferentially, at least, abandoned all charges of conspiracy and fraud concerning the election in the counties of Delaware, Lackawanna, Luzerne, and Schuylkill.

Each of these specifications of fraud was general in its terms, broad in scope, and roving in character, so that your committee was compelled to recheck and review its preceding examination of all election records except the ballots themselves, which it did in executive session, and prepared two reports upon the charges made—one a voluminous general report and the other a condensed report of the general report. A copy of this condensed report was placed in the hands of each party to the contest a considerable time prior to the final oral argument of the case.

Oral arguments were had on the 23d, 24th, 25th, 28th, and 29th days of May, 1929.

After the oral arguments the attention of the committee was called to the fact that there had been proceedings in court in Allegheny County in relation to certain indictments found in connection with the election of November 2, 1926, and so the committee determined that these matters should be investigated and further testimony was taken at Pittsburgh relating to such indictments and the proceedings thereunder and some other matters in the month of July, 1929. This proceeding closed the taking of testimony.

Altogether, 3,775 typewritten pages of oral testimony have been taken and voluminous exhibits have been received in evidence constituting a part of the record.

Your committee has examined all of the election records and all of the ballot boxes in all of the said six counties, except the county of Allegheny, and in that county all of the boxes challenged by the contestant.

Three thousand one hundred and seventy-one ballot boxes have been examined, together with all the records and papers pertaining to the election.

Every election division in Pittsburgh and Philadelphia, at the time of election, was furnished with two books made up by the registration commission, which books are identical in form and substance except that the registering voter signs his name in one of the books only. These two books are respectively called the "ballot check list" and the "voter's check list" and these books are present at the scene of election in each voting district for use in checking both ballots and voters.

Two other record books were kept, at the election, in each of which is written the name of every voter who receives and deposits his ballot. Each of these two books is called a "voter's list." One of them is returned to the prothonotary in a sealed bag furnished for that purpose and the other is placed within the ballot box. These two voter's lists, supposed to be made by different persons, should, of course, be identical and should show on their face the names of the voters in the order in which they deposited their ballots.

In order to pass intelligently upon the charges made by the contestant, the committee was compelled to examine in detail and recheck afterwards all of these voting records, name by name, which it did.

Most of the subjects to which the contestant's specifications of fraud are directed are mere irregularities apparent or seeming in the conduct of the election by the election officials or in matters pertaining in some way to the election.

