

IN THE SENATE OF THE UNITED STATES.

JULY 15, 1886.—Ordered to be printed.

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

REPORT :

The Committee on Privileges and Elections, to whom were referred the resolutions of the senate and of the house of representatives of the general assembly of the State of Ohio, asking an investigation into the charges affecting the election of Hon. Henry B. Payne as a Senator from that State, report :

(1) On April 27, 1886, the Senate referred to your committee—

The testimony taken before the select committee of the house of representatives of Ohio, and the report of said committee, as to charges against the official integrity and character of certain members of said house of representatives, in connection with the election of Hon. Henry B. Payne as United States Senator.

(2) On May 20, 1886, the Senate also referred to your committee the following copy of the resolutions of the house of representatives of the State of Ohio in respect to the election of the Hon. Henry B. Payne as a Senator from that State, viz :

Whereas it is the precedent in the United States Senate that charges of bribery must be directly made to warrant a committee of said body in proceeding to investigate the title of any United States Senator to his seat : Therefore,

Be it resolved by the house of representatives of Ohio, That in the investigation made under house resolution No. 28 ample testimony was adduced to warrant the belief that the charges heretofore made by the Democratic press of Ohio are true, to wit, that the seat of Henry B. Payne in the United States Senate was purchased by the corrupt use of money ; and

Further resolved, That the honor of Ohio demands, and this house of representatives requests, that the said title of Henry B. Payne to a seat in the United States Senate be rigidly investigated by said Senate.

(3) The Senate also referred to your committee the following resolution of the Senate of Ohio :

Whereas by common report, suggested and corroborated by the public press of the State without respect to party, and by a recent investigation of the house of representatives, the title of Henry B. Payne to a seat in the United States Senate is vitiated by corrupt practices and the corrupt use of money in procuring his election ; and

Whereas it is deemed expedient, in order to secure a thorough investigation of his said election as Senator by the United States Senate, that the belief of the general assembly in this regard be formulated in a specific charge : Therefore,

Be it resolved, That in the opinion of the general assembly, and it so charges, the election of Henry B. Payne as Senator of the United States from Ohio in January, 1884, was procured and brought about by the corrupt use of money paid to or for the benefit of divers and sundry members of the sixty-sixth general assembly of Ohio, and by other corrupt means and practices, a more particular statement of which cannot now be given.

Resolved, That the Senate of the United States be, and the same is hereby, requested to make a full investigation into the facts of such election, so far as pertains to corrupt means used in that behalf.

(4) The Senate also referred to your committee the following resolutions of the Republican State Central Committee of Ohio:

REPUBLICAN STATE COMMITTEE ROOMS,
Columbus, Ohio, May 5, 1886.

Whereas it has been shown to our satisfaction by the testimony taken by the committee of the Ohio house of representatives, under house resolution No. 28, and from other sources, so strongly as to induce us to believe and charge that the election of Henry B. Payne to the Senate of the United States was secured by bribery, fraud, and corruption; and

Whereas the testimony so taken has been by the house of representatives reported to the Senate of the United States, for such action as that body may see fit to take on account thereof; and

Whereas the facts so established reflect upon the good name of the State of Ohio, and affect in morals, as well as in law, the validity of the title of Mr. Payne to his seat in the Senate: Now, therefore,

Be it resolved by the Republican Central Committee of Ohio, That in the name of all honest people in the State of Ohio, and for the credit of the hitherto unsullied name and reputation of our State, the Senate of the United States be, and hereby is, respectfully requested to prosecute such investigation into the matters suggested by said report, and the charges herein preferred, and to take such action thereon as may be necessary to relieve our State from the disgrace which it now rests under, and to do equity and justice to all concerned; and

Resolved further, That the chairman of this committee is directed to forward an authenticated copy of this resolution to Hon. George F. Hoar, chairman of the Committee on Privileges and Elections of the United States Senate.

We hereby certify the foregoing to be a true copy of the preamble and resolution adopted by the Republican State Central Committee of Ohio, at a regular meeting held in the city of Columbus, Ohio, this 5th day of May, 1886.

JAS. E. LOWRY,
Chairman,

JOSHUA K. BROWN,
Secretary.

The testimony given before the select committee of the house of representatives of Ohio was taken under the authority of the following resolution adopted by the House January 13, 1886:

Whereas the Cincinnati Commercial-Gazette of January 12, 1886, contains a printed statement, on the authority of S. W. Donavin, alleging grave charges against the official integrity and characters of members of this house, namely, Hon. D. Baker, Hon. P. Hunt, Hon. W. A. Schultz, and Hon. Mr. Ziegler, so definite and precise in statement as to call for immediate action in order to vindicate the reputation of members of this house: Therefore,

Resolved, That a select committee of five be appointed to inquire into all the facts of the charges so alleged, and report their conclusions to this house at as early a date as possible; and in the prosecution of this inquiry said select committee are empowered to send for persons and papers and to examine witnesses under oath.

The extent and character of the investigation made by the select committee, under the above house resolution, is described by the select committee in their report as follows:

Although but four persons, and they members of the present house, are named in the resolution, and the committee is required by its terms to investigate and report concerning them only, it was found necessary to extend the inquiry beyond this limit, in order to gain something like a comprehensive view of the situation pertaining to said election.

* * * * *

Whenever our attention was called to anything which indicated the probable employment of improper means to gain support, we followed the clues presented, on the theory that we were not only authorized, but in duty bound, to pursue any matter that promised, even remotely, to show the use of such means in connection with the election, because the discovery of one important fact, although having no immediate bearing upon the charge against the person named in the resolution, might lead to the discovery of facts having such bearing. And furthermore, and upon the same theory, our inquiries were not confined to the technical rules of legal proof, but the committee availed itself of any source of information—admitted hearsay

statements, and even the opinions of witnesses. But we consider in making this report no facts should be stated which are not sustained by testimony upon which a legislative body might base further action.

The conclusion reached by the select committee after the examination of the fifty-five witnesses, is also stated in their report as follows:

Although, as stated in the outset, the testimony developed nothing of an inculpatory character concerning the members of this house named in the resolution of inquiry, we believe that circumstances surrounding the election of Henry B. Payne, as one of the Senators to represent the State of Ohio in the Congress of the United States, as presented by the testimony, are such as to warrant us in recommending that an authenticated copy of the testimony and report be transmitted to the President of the United States Senate for the information of the body of which Senator Payne is a member, and for such action as it may deem advisable.

Upon the presentation of the above report the house of representatives of Ohio adopted the following resolution, on the 16th of April, 1886:

Resolved by the house of representatives of the sixty-seventh general assembly of the State of Ohio, That the clerk of the house be, and he is hereby, directed to transmit a copy, duly authenticated, of the testimony taken by the select committee appointed in pursuance of house resolution No. 28, and of the report of said committee to the President of the United States Senate, to be by him presented to that body.

The testimony taken by the select committee is contained in Senate Miscellaneous Document No. 106. It is not denied that the investigation was had, and the testimony taken in secret session of the select committee with closed doors, and that the house of representatives refused to print the testimony. If any examination was made of the testimony by the members of the house, except those on the select committee, no expression of any opinion, conclusion, or judgment thereon was made by the house, by resolution or otherwise, and it was resolved by the house, in accordance with the recommendations of the select committee, to transmit the testimony to the senate for its consideration and action *without the formulation of any charge.*

On May 18, 1886, over a month after the adoption of the resolution directing the transmission of the testimony without any conclusions thereon, and requesting nothing but the consideration of the Senate and such action as it thought proper, the *same* house of representatives, composed of the *same* members, after reciting that—

Whereas it is the precedent in the United States Senate that charges of bribery *must be directly made to warrant a committee of said body in proceeding to investigate the title of any United States Senator to his seat:*

Resolved, That in the investigation made under house resolution No. 28 ample testimony was adduced to warrant the belief that the charges heretofore made by the Democratic press of Ohio, that the seat of Henry B. Payne in the United States Senate was purchased by the corrupt use of money, are true.

The select committee who had confronted and examined the fifty-five witnesses failed to discover that the testimony was "ample" or strong enough to create the "belief" that any such charges were true; and all the committee could say, and all the house could concur in saying, *on the testimony, when it was fresh in their recollection* (if it had ever been read by any member), was, "we believe that *circumstances surrounding the election of Henry B. Payne as United States Senator, as presented by the testimony, are such as to warrant us in transmitting to the Senate an authenticated copy of the testimony, without recommendation, or the expression of any opinion or belief as to what the testimony established.*

The charge made by the house for the first time on the 18th of May, 1886, *nearly two years and a half after the election of Senator Payne, that his seat was purchased by the corrupt use of money, is founded expressly and solely on the testimony taken under house resolution No. 28.*

The resolution of the senate of Ohio adopted on May 14, 1886, states:

That in the opinion of the general assembly, and it [the general assembly] so charges, the election of Henry B. Payne as Senator of the United States from Ohio, in January, 1884, was procured and brought about by the corrupt use of money paid to or for the benefit of divers and sundry members of the sixty-sixth general assembly of Ohio, and by other corrupt means and practices, a more particular statement of which cannot now be given.

The above resolution was not a "joint," but a "Senate," resolution, although it undertakes to express the opinion of the general assembly of Ohio four days prior to the passage by the house of its own resolution on the same subject. The resolution of the Ohio senate is based *expressly and solely* on "common report suggested and corroborated by the public press of the State without respect to party, and by a recent investigation of the house of representatives." It nowhere appears that the testimony taken by the select committee of the House was ever reported to the Senate, or otherwise subjected to its examination.

The Republican State Central Committee of Ohio, at a regular meeting held in the city of Columbus on the 5th day of May, 1886, preferred the charge "that the election of Henry B. Payne to the Senate of the United States was secured by bribery, fraud, and corruption," and such charge is made on "the testimony taken by the committee of the Ohio house of representatives under house resolution No. 28, and from *other sources*."

Your committee are fully aware of the transcendent importance of throwing around the Senate of the United States the highest safeguards against seating or allowing any man to occupy a seat in that body whose title thereto was procured by bribery, fraud, or corruption. It is an undeniable public fact, causing general and serious apprehension among patriotic and thoughtful people, that in all representative governments founded on popular suffrage the indiscriminate and frequently the corrupt use of money by political parties, without exception, and their candidates, has become one of the most powerful and dangerous instrumentalities in elections. In the United States especially the power inseparable from great wealth in the hands of individuals and corporations has been, and we fear will always be, improperly and often corruptly exerted to produce successful results in elections. All parties invite, and as a rule demand, the contribution of money to control elections, and its influence has been found to be so potential that its use is generally accepted by public opinion as being indispensable and permissible to insure the success of parties and their candidates.

The charge in the case before us is made by the two houses of the general assembly of Ohio, acting separately, and by the Republican State central committee of Ohio, that Henry B. Payne obtained the seat he now occupies in the Senate of the United States by the corrupt use of money, or, to be more specific, by bribery of members of the legislature. The gravity of the charge and the respectability and responsibility of those who make it are conceded, and your committee are deeply sensible of the obligation they are under to examine and decide the question referred to them as one of momentous public importance.

It is manifest that the charge as it comes to the Senate has its origin and support in the testimony taken by the Ohio house, under resolution No. 28, and forwarded to the Senate and printed in Mis. Doc. No. 106.

It is equally manifest to a majority of your committee that no consideration of duty, law, justice, public policy, or propriety requires the Senate to authorize an examination into the title of a Senator to his

