
REPORT

OF

THE COMMITTEE ON PRIVILEGES AND ELECTIONS

OF THE

UNITED STATES SENATE

RELATIVE TO

THE RIGHT AND TITLE OF WILLIAM A. CLARK
TO A SEAT AS SENATOR FROM THE
STATE OF MONTANA,

TO WHICH ARE APPENDED

Senate Document No. 2 (Memorial of Members of Montana Legislature),
and Senate Document No. 3 (Memorial of Citizens of Montana),
and Testimony taken before the Senate Committee.

PART I.

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No. 1052.

THE MONTANA ELECTION CASE.

APRIL 23, 1900.—Ordered to be printed.

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

REPORT.

[To accompany Senate Res. No. 284.]

THE RIGHT OF SENATOR WILLIAM A. CLARK, OF MONTANA, TO A SEAT IN THE SENATE.

This case was referred to the committee on December 4, 1899, upon a memorial dated February 25, 1899, signed by 27 members of the legislative assembly of Montana, and upon a later memorial signed by Robert B. Smith, governor of Montana; T. E. Collins, state treasurer; Henry C. Stiff, speaker of the house of representatives of the sixth legislative assembly of Montana; A. J. Campbell, member of Congress from Montana, and Charles S. Hartman, ex-Representative in Congress from Montana.

On December 7, 1899, the Senate directed the committee to investigate the right of W. A. Clark to a seat as Senator from Montana and authorized the sending for persons and papers. The committee began consideration of the case January 5, 1900, and hearings were held on January 5, 6, 8, 9, 10, 11, 12, 13, 17, 19, 20, 22, 23, 29, 30, and 31; February 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 15, 16, 17, 19, 20, 21, 22, 23, 24, 26, 27, and 28; March 1 and 2; April 3, 5, and 6; and the finding of the committee was made April 10, 1900.

FINDING OF THE COMMITTEE.

The finding of the committee is that the election to the Senate of William A. Clark, of Montana, is null and void on account of bribes, attempted bribes, and corrupt practices by his agents, and of violations of the laws of Montana defining and punishing crimes against the elective franchise.

THE ADMITTED OR UNDISPUTED FACTS.

This finding is made in view of certain admitted or undisputed facts, with their attendant circumstances, appearing in the testimony taken by the committee, as follows:

I.

Prior to 1895 the elections in Montana were accompanied by enormous expenditures of money, unquestionably involving widespread belief that extensive corruption was resorted to in all elections. Ex-Governor Hauser, a witness called by Senator Clark in his defense, testified that at the first State election the Big Four, so-called, consisting of Senator W. A. Clark, Mr. Broadwater, Mr. Marcus Daly, and himself, as first contributions gave \$40,000 each; and he also estimated that the expenditures made in connection with the contest to determine whether Anaconda or Helena should be the capital of the State were upwards of \$1,000,000. Senator Clark said he spent over \$100,000 in that contest.

II.

On February 25, 1895, Montana undertook to protect herself against corruption in elections and passed a law relative to crimes against the elective franchise, which limited in purpose and amount the political expenditures which could be made in any election, either by a political committee or a candidate, especially naming a candidate for United States Senator, who could not give more than \$1,000 to any one committee in one county and could not pay more than \$1,000 for his personal expenses in lawful ways specified, and provided that every political committee should make a public return of its expenditures, stating from whom every dollar was received and to whom every dollar was paid, and that every person acting otherwise than under a political committee should make a similar public return; and further provided a fine and imprisonment against persons omitting to make the return required by law.

III.

Senator Clark has been constantly a candidate for office. He was a candidate for Congress in 1888 and defeated. In 1890 there were two legislatures in Montana. He was elected United States Senator by the Democratic legislature, but was not seated. He was again a candidate for the Senate in 1893, but there was no election. In 1895 he was voted for as the Democratic candidate, but Senator Carter was elected.

In the summer of 1898, after he had consulted with Governor Hauser and other supporters, including at that time Mr. A. J. Campbell, a committee of his friends was created outside the State committee of the Democratic party, which was in the hands of persons not favorable to him; this, his committee, being organized for the purpose of controlling the politics of the State and securing the legislature to meet in January, 1899. This committee consisted of his son, Charles W. Clark, William McDermott, and A. J. Davidson, agent. Charles W. Clark was made treasurer, and the assistants of the committee were John B. Wellcome, Walter M. Bickford, A. J. Steele, John S. M. Neill,

Frank E. Corbett, E. L. Whitmore, and Walter Cooper. To this committee Senator Clark gave unlimited authority to expend money which he agreed to furnish; an estimate, however, being made that at least \$35,000 would be necessary to secure the State convention, and that \$75,000 might be needed to secure the State legislature.

IV.

In the canvass which ensued the approximate expenditures admitted by the various members of his committee and their assistants were as follows: By Charles W. Clark, \$25,000; by McDermott, \$22,000; by Davidson, agent, \$22,300; by Wellcome, \$25,000; by Steele, \$11,000; by Corbett, \$5,000; by Whitmore, \$4,600; by Cooper, \$2,900, mainly furnished by Charles W. Clark; and the amount of these expenditures Senator Clark himself paid to his son. The advances and payments made by Senator Clark to his committee and agents, as admitted by him, amounted to about \$139,000, of which sum Charles W. Clark received from him on August 12, 1898, \$35,000; October 17, \$20,000; November 23, \$40,000, and February 13, 1900, \$20,592; and in addition to this \$139,000 Senator Clark paid \$5,000 to McDermott, one of his agents; \$5,000 to Wellcome, his attorney, and \$5,000 to E. C. Day, a member of the legislature.

V.

None of the members of his committee or their assistants made the sworn returns required by law, nor did Senator Clark himself make any return.

VI.

In December, 1898, Senator Clark began negotiations with one H. W. McLaughlin, a member of the legislature, for the purchase of his wood lots and sawmills, and on the 9th day of December bought all Mr. McLaughlin's property for the sum of \$24,684, paying \$10,000 down, and on the 12th of March paid him \$6,000 cash and \$8,684 in stock of a new lumber company to which the property was transferred, which lumber company employed Mr. McLaughlin as its agent, with a salary of \$200 per month.

VII.

On December 31, 1898, Mr. Walter M. Bickford received from Mr. Charles W. Clark five one-thousand-dollar bills and four five-hundred-dollar bills, and went to Missoula for the purpose of purchasing a supposed indebtedness on account of his ranch of one E. P. Woods, a member of the legislature, but, not succeeding in meeting Mr. Woods, he returned the money to Mr. Charles W. Clark. In February, 1899, Mr. Massena Bullard paid to Mr. Kemper the amount due upon the ranch and a deed was made running to Mrs. Woods, which was not recorded, but in January, 1900, the property having been sold to other persons for \$9,750, the deed to Mrs. Woods was destroyed and new deeds made to the new purchasers.

Senator Clark knew of Mr. Bickford's attempts to purchase the indebtedness which Woods owed, and the correspondence shows that

the object was to secure Mr. Woods's vote for Senator Clark. Mr. Bickford testified: "In pursuance of that letter (the letter of November 21 from one Ector) and of the invitation which I at that time received, I made arrangements to obtain, for the purpose of using it to prevent the indebtedness of Mr. Woods going into the hands of Mr. Daly's friends, the sum of \$7,000 with which to take up that indebtedness." On November 12, 1898, Mrs. Woods mortgaged their sheep and cattle for \$1,000, payable in one year, and on April 22, 1899, paid the mortgage debt. Mr. Woods has left Montana and gone to New Mexico.

VIII.

Mr. W. E. Tierney was senator and W. C. Eversole and Michael Shovlin were representatives from Broadwater County. Mr. Tierney voted for Mr. Clark on the first ballot, and Eversole and Shovlin came over on the sixth. Mr. Tierney was a dealer in general merchandise in three small firms—Miss A. M. Darcy & Co., Tierney & Co., and Eversole & Co.—which had moderate capital and were in debt. After the legislature adjourned, on March 3, Mr. Shovlin deposited \$8,500 in the Montana National Bank. Eversole, who had in fact been only a clerk, bought out Mr. Tierney, paying him \$1,600 in cash and a credit with his new firm of \$3,000.

On June 1 Mr. Tierney organized the State Bank of Townsend with a capital stock of \$25,000, of which he took \$5,800. Mr. Shovlin took \$1,000 and Mr. Eversole \$1,000, nearly all the \$25,000 passing through Mr. Tierney's hands in currency. His \$5,800 he says he took from the money drawer in a safe in the office of Miss Darcy & Co., but whence this \$5,800 came he did not show by any writing whatever.

IX.

Mr. E. L. Whitmore, the confidential agent and employe of Mr. Charles W. Clark, purchased of D. G. Warner, a member of the legislature, certain lots in the town of Boulder, Jefferson County, and a small ranch nearby and took the deed in his own name, paying the amount of \$7,500 in bank bills in Helena in the first week of January, 1899, the deed being recorded February 1, 1899. Mr. Warner has left Montana and gone to California.

X.

Mr. H. H. Garr, member of the legislature, lodged a package during the session with Mr. Peeler, of the bank of Kalispell. After the legislature adjourned he obtained the package, went to his home, and in the name of Miss Wickham, his wife's aunt, a milliner, who had lived with him for seven years, purchased a ranch for \$3,500, for which he paid in currency, including a thousand-dollar bill, which money he said he obtained from his wife's aunt, believing she had accumulated and kept it in a box in her room in his house.

Mr. Garr had been a poor man, with little or no property, earning sometimes \$50 or \$75 a month as a notary public, sometimes nothing. He had in cash \$75 or \$80 when elected and borrowed \$25 to go to Helena with. His wife's aunt paid board in the family at the rate of

\$2.50 a week. He had no previous knowledge of how she had accumulated this money. Mr. Steele had obtained interviews with him before the legislature met with a view to securing his vote, and after his arrival he figured in the Whiteside exposure.

XI.

Mr. John H. Geiger was a Republican who, after Mr. Whiteside's exposure, was seated in the legislature as a senator, in place of Mr. Whiteside, on the 26th day of January, by the votes of the Republicans and the Democratic supporters of Senator Clark, on the ground that his name on a few of his ballots had been marked at the wrong end, and on the 28th Mr. Geiger voted for Senator Clark. He was a man with no regular occupation, was entirely without means, and a borrower of small sums. During the session of the legislature he received and carried home with him \$3,600. After accounting for one or two petty sums, he claims that he obtained this money by faro gambling and through \$1,100 in bills which he found in his room and believed came in connection with some bills pending in the legislature which Mr. John B. Wellcome was carrying through as attorney.

XII.

Mr. B. F. Fine, a member of the legislature, and a mining operator with no property, in May after it had adjourned, in pursuance of an agreement made during the session by Senator Clark after his election as Senator, received \$2,000 from Senator Clark's bankers, and since that date has received other moneys, making the sum of \$5,000 in all, which has been all his earnings since his nomination, his only business being the hunting up of testimony to disbar or impeach Mr. W. A. Clark, of Madison County, one of the principal witnesses against Senator Clark, to do which no steps have yet been taken.

XIII.

Mr. Stephen Bywater, a Republican, 30 years of age, and a railroad conductor, voted for Mr. Clark for the first time on the eighteenth ballot, when he was elected. On the 3d day of March, immediately after the legislature adjourned, he deposited in the Montana National Bank \$15,000. He accounts for it by saying that he brought from Kalispell, his home, \$6,000 in currency, which he kept with him during the whole session of the legislature, and by saying that he received on March 3 \$9,000 from his brother for the purchase of stock in a mining company in British Columbia, but he produced no writing in confirmation of his statement as to either the \$6,000 or the \$9,000. He did produce a prospectus and letter showing that there was such a mining company and that he was its president, and a Mr. Peeler, a broker, with whom Mr. Bywater kept an account, testified that Mr. Bywater also kept a package of money not included in the bank account.

XIV.

Mr. E. C. Day was Senator Clark's candidate for speaker and was defeated in the Democratic caucus, receiving 25 votes against 30 votes for Mr. Stiff. Mr. Day was the leader of Mr. Clark's forces in the

