

CHARGES RELATIVE TO ELECTION OF ISAAC STEPHENSON.

FEBRUARY 12, 1912.—Ordered to be printed.

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

REPORT.

[To accompany S. Res. 136.]

The Committee on Privileges and Elections, to whom was referred certain charges preferred by the Legislature of the State of Wisconsin against Isaac Stephenson, a Senator of the United States from the State of Wisconsin, with instructions to report to the Senate whether in the election of said Isaac Stephenson as a Senator of the United States from the State of Wisconsin there were used or employed corrupt methods or practices, have had the same under consideration and submit the following report:

On August 15, 1911, the Senate adopted the following resolution:

Resolved, That the Senate Committee on Privileges and Elections or any subcommittee thereof be authorized and directed to investigate certain charges preferred by the Legislature of Wisconsin against Isaac Stephenson, a Senator of the United States from the State of Wisconsin, and report to the Senate whether in the election of said Isaac Stephenson, as a Senator of the United States from the said State of Wisconsin there were used or employed corrupt methods or practices; that said committee or subcommittee be authorized to sit during the recess of the Senate, to hold its session at such place or places as it shall deem most convenient for the purposes of the investigation, to employ stenographers, to send for persons and papers, and to administer oaths; and that the expenses of the inquiry shall be paid from the contingent fund of the Senate, upon vouchers to be approved by the chairman of the committee or chairman of the subcommittee.

Pursuant to the authority given by said resolution the Committee on Privileges and Elections appointed a subcommittee consisting of Mr. Heyburn, chairman, Mr. Sutherland, Mr. Bradley, Mr. Paynter, and Mr. Pomerene, with full powers to investigate said charges.

On January 20, 1912, the subcommittee reported to the full committee as follows:

IN THE MATTER OF THE INVESTIGATION OF THE CHARGES AGAINST ISAAC STEPHENSON, A SENATOR OF THE UNITED STATES FROM THE STATE OF WISCONSIN.

To the honorable the Committee on Privileges and Elections of the United States Senate:

Your subcommittee proceeded pursuant to the terms of its appointment to investigate the above-mentioned charges, and in pursuance of said duty met in

the city of Washington and, having organized, proceeded to adopt a plan for holding such investigation.

It was agreed by your subcommittee that the investigation should commence on October 2, 1911, at the city of Milwaukee, in the State of Wisconsin.

Accordingly your subcommittee met at the city of Milwaukee on the above-mentioned date, all parties in interest being present. Hon. Charles E. Littlefield, W. E. Black, and H. A. J. Upham, Esqs., appeared as counsel for Senator Stephenson.

The governor and the attorney general of the State of Wisconsin were notified by the chairman of your subcommittee of the time and place of the hearing and were invited to indicate to the committee whether or not they desired to be present and participate in any manner in such investigation. The governor of Wisconsin, speaking for the State, informed your subcommittee that no one on behalf of the State would appear at such investigation.

Your subcommittee then proceeded to the examination of witnesses and documents, which examination occupied 25 days, during which time 124 witnesses were sworn, 35 affidavits received, and 2,100 pages of printed testimony taken, which testimony, affidavits, and exhibits are herewith submitted as a part of the report of your subcommittee.

Your subcommittee has given the fullest consideration to all the testimony introduced and has considered its weight and effect under the rules pertaining to the investigation and is of the opinion that the charges preferred against Senator Isaac Stephenson have not been sustained, and your subcommittee finds that the election of said Isaac Stephenson as a Senator of the United States from the State of Wisconsin was not procured by corrupt methods or practices in said election of Isaac Stephenson.

W. B. HEYBURN, *Chairman.*
 GEORGE SUTHERLAND.
 W. O. BRADLEY.
 ATLEE POMERENE.

Mr. Heyburn, chairman of the subcommittee, submitted a statement of his views in support of the conclusions reached, and on the request of members of the committee further consideration of the matter was postponed to February 3, 1912, on which date a further postponement was had to February 10, 1912, with the understanding that any member of the committee might file a statement of his views to accompany the final report of the committee, and that a vote might be taken on that date.

On February 10, 1912, the Committee on Privileges and Elections met in regular session and received a statement of the views of Mr. Pomerene and Mr. Sutherland in support of the report of the subcommittee, and proceeded to the consideration of the report of the subcommittee together with the views expressed by the members thereof upon a full record of the testimony and proceedings in the case.

On motion it was ordered that the report of the subcommittee be adopted and that said subcommittee be discharged.

Whereupon it was ordered that Mr. Heyburn be instructed to report the action of the committee to the Senate, together with a transcript of testimony and of all the proceedings of the subcommittee, including the address of Hon. Charles E. Littlefield before the whole committee, and also the individual views presented by members of the committee. Leave was given to file a minority report by those dissenting from the conclusions reached.

Wherefore your committee, having given full consideration to the law and to the testimony and to all of the facts and circumstances brought to its notice, does find that the charges preferred against Isaac Stephenson, a Senator of the United States from the State of

Wisconsin, are not sustained, and your committee further finds that the election of said Isaac Stephenson as a Senator of the United States was not procured by corrupt methods or practices.

WM. P. DILLINGHAM.
 ROBERT J. GAMBLE.
 W. B. HEYBURN.
 GEO. SUTHERLAND.
 GEORGE T. OLIVER.
 JOS. F. JOHNSTON.
 DUNCAN U. FLETCHER.
 ATLEE POMERENE.
 W. O. BRADLEY.

VIEW OF MR. HEYBURN IN SUPPORT OF THE REPORT OF THE COMMITTEE.

The subcommittee having reported to the whole committee in favor of Isaac Stephenson, I desire to submit herewith the reasons which actuated me in arriving at that conclusion:

JURISDICTION.

On August 15, 1911, the United States Senate adopted the following resolution:

Resolved, That the Senate Committee on Privileges and Elections or any subcommittee thereof be authorized and directed to investigate certain charges preferred by the Legislature of Wisconsin against Isaac Stephenson, a Senator of the United States from the State of Wisconsin, and report to the Senate whether in the election of said Isaac Stephenson, as a Senator of the United States from the said State of Wisconsin there were used or employed corrupt methods or practices; that said committee or subcommittee be authorized to sit during the recess of the Senate, to hold its session at such place or places as it shall deem most convenient for the purposes of the investigation, to employ stenographers, to send for persons and papers, and to administer oaths; and that the expenses of the inquiry shall be paid from the contingent fund of the Senate, upon vouchers to be approved by the chairman of the committee or chairman of the subcommittee.

Pursuant to the authority given by said resolution the Committee on Privileges and Elections appointed a subcommittee consisting of Senators Heyburn, Sutherland, Bradley, Paynter, and Pomerene, with full powers "to investigate said charges preferred by the Legislature of Wisconsin relating to the election of Isaac Stephenson, a Senator from the State of Wisconsin."

MEETING OF SUBCOMMITTEE

In performance of said duty the subcommittee met at Milwaukee, Wis., on October 2, 1911, in the Federal Building, a quorum of said subcommittee being present.

The chairman announced that the subcommittee would recognize a duly authorized representative of the State of Wisconsin, in view of the fact that the State had submitted through its governor to the Senate of the United States the charges to be investigated. No one

appearing, the chairman then instructed the secretary of the subcommittee to communicate with the governor and attorney general of the State and advise them that the committee was in session in Milwaukee for the purpose of investigating the charges aforesaid, and to inquire whether or not the State desired to be represented at the hearing, and, pursuant to such instruction, the secretary sent the following communication to the governor:

MILWAUKEE, WIS., October 2, 1911.

HON. FRANCIS E. MCGOVERN,
Governor of Wisconsin, Madison, Wis.:

A subcommittee of the Committee on Privileges and Elections of the United States Senate, duly appointed, with instructions to investigate the election of Isaac Stephenson as a Senator of the United States from the State of Wisconsin, as recommended by the Legislature of Wisconsin as provided in joint resolution 58 of said legislature, has entered upon the investigation in the Federal Building, in the city of Milwaukee. As the State appears to be unrepresented by counsel, you are requested to advise the committee whether or not it is the desire of the State to be represented by counsel before this committee, and if so, designate in writing such person to represent the State.

W. B. HEYBURN, *Chairman.*

To which communication the governor replied as follows:

EXECUTIVE CHAMBER,
Madison, Wis., October 3, 1911.

HON. W. B. HEYBURN,
*Chairman Subcommittee of the United States Senate
Committee on Privileges and Elections, Milwaukee, Wis.*

MY DEAR SIR: In reply to your telegram of yesterday, in which you request me to advise your committee "whether or not it is the desire of the State to be represented by counsel" before your subcommittee, permit me to say that I find there is very serious doubt that I have any power to act in the matter. Joint resolution 58, to which you refer, confers no such authority. It simply requests the United States Senate "to investigate the manner, means, and methods by and through which Isaac Stephenson secured his election to the United States Senate," recommends to the district attorney of Dane County that prosecutions be commenced against all persons shown to have committed perjury in the senatorial inquiry in this city, and suggests that prosecutions be commenced in other counties of the State for such violations of the corrupt-practices or bribery statutes as the evidence may justify.

In the absence of any specific authority conferred by this joint resolution the only other possible source is chapter 268 of the laws of Wisconsin for the year 1911. Careful consideration of this statute leaves me in doubt as to whether it confers power upon me to employ at the expense of the State counsel to attend the investigation your subcommittee is now conducting. Nor can I see that much good is likely to come from such employment. Your invitation comes so late as practically to preclude the possibility of anyone whom I might select rendering any real service to your committee or materially assisting in the investigation now in progress. That investigation has already begun. The transactions to be inquired into are numerous and involved, as appears from the fact that the testimony already taken occupied many months of the time of committees of the State legislature and now fills a number of large volumes of printed reports. To be of service counsel for the State should have been employed months ago. I say this with no feeling of personal responsibility in the matter for the reason that until your telegram came yesterday there was no ground for anticipating that the appearance of an attorney for the State at this hearing would be acceptable to your committee. Indeed, more than a week ago, under date of September 25, the Associated Press quoted you as having expressed yourself as chairman of the subcommittee as follows: "The State of Wisconsin will not have an attorney in the investigation of the election of Isaac Stephenson by the United States Senate committee. This hearing is under the jurisdiction of the United States Senate, which does not recognize the State as a party to the investigation. This is an investigation, not a trial."

An additional reason why I should not avail myself of your invitation at this time is furnished by the practice of other committees charged with duties similar to yours. So far as I know no State has been represented by counsel at any of these investigations. The work has been done either by the members of the committee alone or by counsel of their own choosing. At any rate, the responsibility for a thorough, searching inquiry is upon your subcommittee acting as the agent of the United States Senate

in determining a question relative to the "election, returns, and qualifications" of one of its own Members. Neither the State of Wisconsin nor its legislature desires to assume the rôle of prosecutor or to sustain any other relation to this investigation than that of petitioner for a thorough, fearless, and impartial inquiry.

For the present, therefore, I shall take no action concerning the matter mentioned in your telegram. Assuring you, however, of my appreciation of your consideration in extending the invitation, I am,

Very truly, yours,

FRANCIS E. MCGOVERN.

The chairman inquired whether or not counsel were present to represent Mr. Stephenson. Whereupon Hon. Charles E. Littlefield, Mr. W. E. Black, and Mr. H. A. J. Upham appeared on his behalf and were recognized by the committee.

The joint resolution and specific charges certified to the United States Senate by the governor of Wisconsin were then read. (Transcript, pp. 4 and 5.)

Before entering upon the examination of witnesses by the committee Hon. Charles E. Littlefield, of counsel for Mr. Stephenson, requested leave to make a statement, which leave was granted. (Transcript, pp. 6-23.)

The subcommittee then proceeded to the examination of witnesses and documents, which examination occupied 25 days, during which time 116 witnesses were sworn and examined, 36 affidavits received, and upward of 2,100 pages of printed testimony taken, which testimony, affidavits, and exhibits are herewith offered as a part of the report of the subcommittee.

The subcommittee was directed to investigate certain charges preferred by the Legislature of Wisconsin against Mr. Stephenson. These charges were set forth in the communication of the governor of Wisconsin, and the papers accompanying the same, certified to the United States Senate, among which was the joint resolution adopted by the Legislature of Wisconsin on June 26, 1911, which is found on page 2 of the transcript.

The charges referred to in the resolution under which the subcommittee acted are as follows:

SPECIFIC CHARGES.

1. That Isaac Stephenson, of Marinette, Wis., now United States Senator and a candidate for reelection, did, as such candidate for reelection, give to one E. A. Edmonds, of the city of Appleton, Wis., an elector of the State of Wisconsin and said city of Appleton, a valuable thing, to wit, a sum of money in excess of \$106,000, and approximating the sum of \$250,000, as a consideration for some act to be done by said E. A. Edmonds, in relation to the primary election held on the 1st day of September, 1908, which consideration was paid prior to said primary election, and that said Isaac Stephenson was at the time of such payment a candidate for the Republican nomination for United States Senator at such primary, and did by such acts as above set forth violate section 4543b of the statutes.

2. That said Isaac Stephenson did, prior to said primary, pay to said Edmonds above-mentioned sums with the design that said Edmonds should pay to other electors of this State, out of said sums above mentioned and other sums of money received by said Edmonds from said Isaac Stephenson, prior to said primary, sums ranging from \$5 per day to \$1,000 in bulk, as a consideration for some act to be done in relation to said primary by said electors for said Isaac Stephenson as such candidate, in violation of said section.

3. That with full knowledge and with instructions from said Isaac Stephenson, as to how and for what purposes said sums were to be expended, said sums were so paid as above stated to said Edmonds by said Isaac Stephenson and that said sums were paid as above stated for the purposes above stated and also for the purpose of bribing and corrupting a sufficient number of the electors of the State of Wisconsin to encompass the nomination of said Isaac Stephenson at said primary for the office of United States Senator.

