

MARYLAND SENATORIAL ELECTION OF 1950

REPORT
OF THE
COMMITTEE ON RULES AND ADMINISTRATION
UNITED STATES SENATE
EIGHTY-SECOND CONGRESS
FIRST SESSION
PURSUANT TO

S. Res. 250

(81st Cong. 2d Sess.)

RELATIVE TO THE DUTIES IMPOSED UPON THE
COMMITTEE BY SUBSECTION (O) (1) (D) OF
RULE XXV OF THE STANDING RULES OF THE
SENATE ON SENATORIAL CAMPAIGN
EXPENDITURES

TOGETHER WITH THE
INDIVIDUAL VIEWS OF MR. McCARTHY



AUGUST 20 (legislative day, AUGUST 1), 1951.—Ordered to be printed

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Mr. HAYDEN, from the Committee on Rules and Administration, submitted the following

R E P O R T

[Pursuant to S. Res. 250]

The Committee on Rules and Administration, having received from the Subcommittee on Privileges and Elections its report of the special hearing subcommittee on the 1950 election of a United States Senator for the State of Maryland, after considering and adopting the same, reports it to the Senate.

A hearing subcommittee of the Subcommittee on Privileges and Elections consisting of the Senator from Oklahoma, Mr. Monroney, chairman; the Senator from Missouri, Mr. Hennings; the Senator from New Jersey, Mr. Hendrickson; and the Senator from Maine, Mrs. Smith, was appointed to investigate and hold hearings on complaints made with respect to the 1950 Maryland senatorial general election. The four Senators submitted their report to the full Subcommittee on Privileges and Elections, which report was unanimously adopted and favorably reported to the Committee on Rules and Administration. The report as finally adopted is as follows:

I. BASIC QUESTIONS

The character of the complaints is essentially threefold:

- (1) The alleged defamatory nature of the campaign of John Marshall Butler for United States Senator;
- (2) The financial irregularities involved in the campaign;
- (3) The nature and extent of activities and influence of non-residents of Maryland in the senatorial campaign.

Because of the inherent right under our system of government of each State to choose its representatives in Congress, this subcommittee believes that the Senate in the exercise of its constitutional right to be the judge of the qualifications of its Members must guard against usurping such right of each State and must require the strongest and most substantial evidence before unseating a Senator and nullifying the action of the electorate of a State.

To proceed on any other basis would certainly establish a precedent which would make of the Senate, ad infinitum, the arbiter of every election dispute in every State of the Union in all succeeding national elections where senatorial seats are at stake.

The principal question for the subcommittee to decide on the basis of the facts developed and evidence adduced in its investigation and hearings is whether there are sufficient reasons to recommend that the Rules Committee determine to start de novo proceedings to unseat Senator John Marshall Butler.

While the complaints filed with the subcommittee do not raise the issue of an election contest, the subcommittee does not wish to avoid meeting the basic question or to escape its responsibility of determining whether or not there are sufficient grounds to justify a recommendation that Senator Butler be unseated.

The basic issue is essentially one of what constitutes improper conduct on the part of the candidate or his official agents in a campaign for election to the United States Senate and to what degree such improper conduct transgresses the legal and moral responsibilities of a candidate or his agents in order to justify declaring a seat vacant.

Our answer, as respects John Marshall Butler, is that the facts developed from the evidence before this subcommittee are not sufficient in our judgment to recommend the unseating of Senator Butler.

This is not to say that we approve or condone certain acts and conduct in his campaign. To the contrary, we vigorously denounce such acts and conduct and recommend a study looking to the adoption of rules by the Senate which will make acts of defamation, slander, and libel sufficient grounds for presentment to the Senate for the purpose of declaring a Senate seat vacant.

The distinction we draw is between the past and the future. It is the hope of this subcommittee that, while we do not believe as a matter of fairness that an example should be made of Senator John Marshall Butler and establish a precedent in this case, we may set a course of conduct for future campaigns by which all must abide and, having been put on notice, suffer the consequences for their wrongful acts.

The question of improper campaign conduct as a basis for unseating has through the years been unmet and unanswered. And because it has been unmet and unanswered, the acts and conduct of the Maryland campaign and in many other States throughout the years have been condoned. That is not the exclusive fault of any candidate or any campaign manager. Rather it is the fault of the entire Senate itself—not just the present Senate, but, as well, all preceding Senates.

The only rule presently in effect in the United States Senate which defines standards relating to the right of a Member elected on the face of the returns whose right to a seat is challenged is derived from the Constitution of the United States and is as follows (art. I, sec. 5):

Each house shall be the judge of the elections, returns, and qualifications of its own members * * *

There are no other statutory enactments, rules, standards of ethics, or laws undertaking to define the right of the Senate to deny a seat to any duly elected candidate.

Thus no specific standards of improper campaign conducts or acts have been set up as guideposts. Only the provisions of the Federal Corrupt Practices Act exist and these deal principally with the financial phase of campaigning. Since no standards exist, it would be grossly unfair now to formulate those standards "after the fact" for retroactive application and unseat Senator Butler on the basis of those "after the fact" formulated standards.

To do so would have the effect of enacting a law and applying it retroactively. That is in violation of the spirit, if not the letter, of the Constitution relating to ex post facto laws.

Due to the absence of any specific rule by the Senate on the distinction between fair comment and political defamation in the conduct of a campaign to determine whether the campaign acts constitute grounds for unseating a Senator, the information developed by the subcommittee is not deemed sufficient for recommending action for unseating Senator John Marshall Butler.

The defamation issue before this subcommittee is a novel one on the question of unseating. In the past the issues have usually been with respect to ballot frauds or excessive expenditures. They have not involved publicity efforts aimed at damaging the reputation of the rival candidate and at creating and exploiting doubts about the loyalty to his country of an opposing candidate. Such campaign methods and tactics are destroying our system of free elections and undermine the very foundation of our Government.

These methods should be subject to constant and critical review by the Senate, and the power of the Senate should be invoked to unseat any who by their campaign conduct demonstrate their unfitness to sit in the United States Senate.

But in the absence of any law or rules under which to deal effectively with the problem, no action for unseating based upon a campaign of defamation should, in our judgment, be taken until rules or standards are provided by which candidates can guide their conduct in campaigns.

In respect to the second matter complained of, namely the financial irregularities, there is no conclusive evidence before this subcommittee that the candidate Butler resorted to or made use of excessive expenditures of money to corrupt large segments of the electorate which we find in precedents relating to the fitness of a Senator in cases where the Senate has undertaken to pass upon the qualifications for membership.

If the financial irregularities in the Maryland elections of 1950 fall within the four corners of the Federal Corrupt Practices Act, these statutes provide appropriate penalties for violation—but beyond doubt the Federal Corrupt Practices Act does not provide that the failure to properly report contributions and expenditures in the manner disclosed by the evidence in the Maryland case is justifiable grounds for withdrawing the privilege of a Senate seat.

II. FINDINGS

The findings of the subcommittee fall into four categories of (1) finances, (2) literature, (3) outside influences, and (4) Senator John Marshall Butler. The categories overlap and must be considered in the interwoven relationship that they have to each other.

A. FINANCES

1. As a result of the investigation and hearings of this subcommittee, Jon M. Jonkel, the campaign manager of Senator Butler, has been indicted, plead guilty to, and has been sentenced for, violation of the Maryland election laws for failure to properly report contributions and expenditures in the Butler campaign.

2. Not only were substantial sums of contributions and expenditures not properly reported to Maryland authorities as required by law, but also a proper accounting was not made to the Secretary of the Senate as required by the Federal Corrupt Practices Act.

3. The reports of campaign treasurer Mundy and the record of expenditures by campaign manager Jonkel by the evidence before this subcommittee exceed \$75,000. Under the Federal Corrupt Practices Act, the limit for the State of Maryland is \$14,166.96. Certain exemptions are provided for in the Federal law for personal, travel, or subsistence expenses; for stationery, postage, writing, or printing (other than for use on billboards or in newspapers); for distributing letters, circulars, or posters; and for telegraph and telephone services.

4. The subcommittee has been unable to determine whether these exemptions would lower this amount reported to the legal limit provided by law for the expenditures of the candidate's official campaign organization. It is referring its hearings and files to the Department of Justice for study and such action it deems appropriate.

B. LITERATURE

1. It is not possible to gage the effect of the tabloid "From the Record" on the outcome of the election. However, it is clear that it did have some effect. But it was not of dominant influence on the voters nor did the election turn on it alone. There were other potent factors including the State-wide feeling against the sales tax, the Republican trend in Maryland and the Nation as a whole and other factors that cannot be measured for exact effect, but which together gave candidate Butler a margin of 43,000 votes.

The tabloid "From the Record" contains misleading half truths, misrepresentations, and false innuendos that maliciously and without foundation attack the loyalty and patriotism not only of former Senator Millard Tydings, who won the Distinguished Service Cross for battlefield heroism in World War I, but also the entire membership of the Senate Armed Services Committee in 1950.

2. Its preparation, publication, and distribution were the result of a combination of forces, including Senator Butler's own campaign organization.

3. The tabloid, disregarding simple decency and common honesty, was designed to create and exploit doubts about the loyalty of former Senator Tydings.

4. It could never have been the intention of the framers of the first amendment to the Constitution to allow, under the guise of freedom of the press, the publication of any portrayal, whether in picture form or otherwise, of the character of the composite picture as it appeared in the tabloid "From the Record". It was a shocking abuse of the spirit and intent of the first amendment to the Constitution.

5. The tabloid "From the Record" was neither published nor in fact paid for by the Young Democrats for Butler. Their alleged sponsorship for this publication was nothing more than a false front organization for the publication of the tabloid by the Butler campaign headquarters and outsiders associated with it. In the judgment of the subcommittee, this is a violation of the Federal and State laws requiring persons responsible for such publications to list the organizations and its officers.

6. The pamphlet "Back to Good Old Dixie" was neither published nor paid for by the four Negro citizens listed as its sponsors. Use of the names of the four Negro leaders constituted nothing more than a false front for the publication of the pamphlet by the Butler campaign headquarters. In the judgment of the subcommittee, this is a violation of the Federal and State laws requiring persons responsible for such publications to list the organizations and its officers.

C. OUTSIDE INFLUENCES

1. Almost all of the charges against the conduct of Senator John Marshall Butler's campaign can be attributed directly or indirectly to the acts and conduct of outside influences which were projected into the campaign.

2. Jon M. Jonkel, the campaign manager of John Marshall Butler, as a legal resident of the State of Illinois and not a legal resident of the State of Maryland, was an "outsider" in the campaign in violation of the election laws of Maryland. His appointment was originally recommended by the former executive head of the Washington Times-Herald.

3. Senator Joseph R. McCarthy, of Wisconsin, was actively interested in the campaign to the extent of making his staff available for work on research, pictures, composition, printing of the tabloid "From the Record." Members of his staff acted as couriers of funds between Washington and the Butler campaign headquarters in Baltimore. Evidence showed that some of the belatedly reported campaign funds were delivered through his office. His staff also was instrumental in materially assisting in the addressing, mailing, and planning of the picture post card phase of the campaign.

4. Associated in the tabloid project was the Washington Times-Herald through its then publisher, its then chief editorial writer, its then assistant managing editor, and other personnel of the paper. There is no specific proof of violation of any election laws by the Times-Herald newspaper unless the extremely low printing and composition charge that it made on the tabloid constitutes an indirect campaign contribution.

5. The substantial part of the campaign funds listed belatedly by manager Jonkel came from outside the State of Maryland. These were in large sums of money for the most part and in some cases in the maximum allowed by law. These funds, which manager Jonkel described as being "short-circuited" from the regular campaign treasurer, were used in a substantial amount to pay for the distribution of the tabloid "From the Record."

D. JOHN MARSHALL BUTLER

1. There is no specific evidence that candidate John Marshall Butler had full knowledge of the manner in which his campaign manager, Jon M. Jonkel, and others committed acts that have been challenged.

2. But the hearings established beyond any doubt that Senator Butler gave blanket authority to Jon M. Jonkel who, in fact, was his campaign manager and operated the campaign headquarters and the entire campaign in the manner that Jonkel should decide. It was a matter of the campaign manager and the campaign headquarters directing candidate Butler rather than candidate Butler directing the campaign manager and the campaign headquarters.

3. There is no specific evidence that Senator Butler had knowledge of the illegal manner in which his campaign manager handled the Butler campaign finances.

4. The record is clear that Senator Butler knew of plans for the publication of the tabloid "From the Record" and that he at least on one occasion 5 days before election saw a copy of the tabloid. Senator Butler has never disavowed the tabloid. Further, after taking his seat as Senator, the former chief editorial writer who supervised the preparation of the stories of the tabloid "From the Record" was appointed his administrative assistant.

5. Candidate Butler was fully aware of the outside influences in his campaign. He knew that his campaign manager was not a legal resident of the State of Maryland, although the Maryland law requires that a campaign manager be a legal resident of the State. As one of the prominent lawyers of Maryland, Senator Butler can be presumed to know the election laws of his State—particularly since he was a candidate in an election.

OBSERVATIONS, CONCLUSIONS, AND RECOMMENDATIONS

Much of the 1950 Maryland senatorial campaign was in the regular and traditional American political pattern. And like any vigorously fought election, it had good and bad features that stand out.

But the Maryland campaign was not just another campaign. It brought into sharp focus certain campaign tactics and practices that can best be characterized as one destructive of fundamental American principles. The subcommittee unreservedly denounces, condemns, and censures these tactics.

This investigation has developed ample evidence that in the Butler election there were two campaigns within one. One was the dignified "front street" campaign conducted by candidate Butler in his speaking coverage of the State and in which that group of responsible citizens of Maryland who differed with candidate Tydings on traditional, historic, and basic beliefs operated on a reasonable, efficient, and decent plane. The other was the despicable "back street" type of campaign, which usually, if exposed in time, backfires. The "back street" campaign conducted by non-Maryland outsiders was of a form and pattern designed to undermine and destroy the public faith and confidence in the basic American loyalty of a well-known figure. It followed a specific theme and course which has become, unfortunately, a means and weapon which strikes to destroy as suspiciously subversive, rather than simply to defeat an issue.

It might be an exaggeration to call this "back street" campaign a "big lie" campaign. But it certainly is no exaggeration to call it a "big doubt" campaign. In fact, the man who conceived and shaped the campaign along with other outside influences, the Butler campaign manager, Jon M. Jonkel, himself characterized the heart and theme of the campaign strategy as "exploiting the doubt."

Reference to the now infamous composite picture is hardly necessary with the universal condemnation that it has received as a result of the subcommittee's public hearings. It was even too odious for campaign manager Jonkel who told the subcommittee that he had disapproved of it. Even the members of the false front of Young

Democrats for Butler refused to defend it. The Butler campaign treasurer, Cornelius P. Mundy, characterized it as "stupid, puerile, and in bad taste." Only its creators upheld it.

While parts of the tabloid "From the Record" are well within the time-honored tradition of fair comment, other parts of the tabloid "From the Record" are subject to severe censure. One story in the tabloid charged former Senator Tydings and the Senate Armed Services Committee with holding up arms to Korea and another story with responsibility for the high casualty rate in Korea. There can be no question that these stories were designed to create and exploit doubt of the patriotism of former Senator Tydings. In effect, they questioned not only the patriotism of former Senator Tydings but of the 12 other Senator members of that committee. The implications of such tactics as a threat to our American principles should be obvious and frightening.

To a certain extent, any candidate for public office and any public officeholder must realize that he subjects himself to any and all kinds of attacks. More properly, it would be said that he subjects himself to every fair comment and criticism which can be made to his activities. And to be realistic, one must recognize that "fair comment" is so broad under our American freedom of speech and freedom of the press that it encompasses many abuses. Surely the fine line separating fair comment and libelous defamation in campaign material is not easily drawn.

But if the tabloid "From the Record" constitutes "fair comment" within the intent and meaning of the law, then surely the law must be changed and adequate statutes enacted which would afford candidates for public office protection against wrongful and unfounded attack upon their loyalty and patriotism.

If one candidate's campaign chooses to inject into an American election the poison of unfounded charges and doubts as to alleged subversive leanings, this tends to destroy not only the character of the candidate who is its target, but also eats away like acid at the very fabric of American life. The right of disagreement is an inherent American right and privilege. But to recklessly imply to those with whom you disagree the taint of subversive leanings will rob democracy of its priceless heritage of the right to make up its mind as it sees fit.

It is not a sufficient defense to say "let the people themselves judge the 'charges'." The fact is that the people themselves are not in possession of sufficient reliable information upon which to judge irresponsible accusations of disloyalty.

This subcommittee's condemnation of the tabloid "From the Record" is to be leveled more at the "outside influences" in the campaign and to his campaign organization than at candidate Butler himself. Surely candidate Butler erred in acts of omission, if not in acts of commission. In delegating complete authority to run his campaign to Jon Jonkel and to permit outsiders to take an active part in planning and urging upon them such a publication as "From the Record," we must conclude that candidate Butler was negligent in respect to certain implied responsibilities of a candidate for high public office.

Such negligence and obeisance cannot forever be a defense and a protective cloak against responsibility for the acts of agents. As a

prominent lawyer, Senator Butler must be fully cognizant of the import of the old saying under the law that "ignorance is no excuse." Surely studied ignorance cannot be permitted to be an excuse.

In delegating such complete and unequivocal power to conduct his campaign to his campaign manager Jon M. Jonkel, and through Jonkel to other outsiders, Senator Butler must accept some responsibility for acts alleged in his behalf by his agents. If these agents are to blame for censurable acts, then this delegation of authority to them by the candidate cannot excuse him from criticism.

As we have pointed out before, Senator Butler can escape the legal responsibility for these acts of his agents, but there was a moral responsibility for keeping that part of the campaign planned and executed by his official campaign organization and their associates above the low level of "exploiting the doubt" as to the loyalty and patriotism of former Senator Tydings.

In view of the foregoing, the subcommittee makes the following specific conclusions and recommendations:

1. The hearings very forcefully demonstrate the necessity for rules to be formulated on the procedures and standards for contesting the election of any Senator because of acts committed in the conduct of his campaign and for establishing standards or guideposts for what constitutes sufficient grounds for unseating a Senator.

The subcommittee strongly urges that the Rules Committee of the Senate adopt a rule of the Senate which will prescribe in unequivocal terms that the use of defamatory literature in a senatorial campaign will constitute good grounds for consideration by the Senate an action to declare such seat vacant.

2. Standards should be established by the Senate to definitely fix by law the responsibility on the part of a candidate for the campaign acts and conduct of his campaign manager and other authorized campaign aides.

3. Composite pictures such as that appearing in the tabloid "From the Record" which falsely or maliciously misrepresent facts and without justification create and exploit doubt about the loyalty to his country of an opposing candidate should be made illegal under the Federal election laws. The State of Maryland, as a result of our hearings, has taken the lead in this respect as far as State election laws are concerned.

The subcommittee recommends legislation outlawing all composite pictures in campaigns which would be designed to misrepresent or distort the facts regarding any candidate. In the drafting of such legislation, consideration should be given to all types of "composites," whether they be newspaper pictures, voice recordings, motion pictures, or any other means or medium of conveying a misrepresenting composite impression.

4. These hearings underscore the desirability of requiring individual contributions of \$100 or more to campaign funds of candidates and political parties to report their own contributions. Contributions in all election campaigns for Federal office should be required to be reported by the contributor himself, as well as by the candidate and political party to a designated agency of the Federal Government.

5. The question of unseating a Senator for acts committed in a senatorial election should not be limited to the candidates in such elections. Any sitting Senator, regardless of whether he is a can-

didate in the election himself, should be subject to expulsion by action of the Senate, if it finds such Senator engaged in practices and behavior that make him, in the opinion of the Senate, unfit to hold the position of United States Senator.

6. Immediate studies should be undertaken to determine if practicable and legal means can be found to identify to what extent powerful national groups or combination of forces under cover of anonymity are invading State elections. If means can be found to identify these powerful national groups before elections, the voters could then act on the basis of such correct information.

7. The subcommittee is convinced from its findings in the Maryland case that extended studies of the Federal Corrupt Practices Act, looking to a revision thereof, should be made at the earliest possible moment. Such study should be made in all States where abuses of the election machinery has been noted.

Such studies should include means of enforcing the reporting of all campaign donations used in a candidate's behalf. They should include not only the donations to and expenditures by the candidate himself and his official campaign organization, but also all affiliated or supporting clubs or other organizations.

Since the limitations upon expenditures in the Federal Corrupt Practices Act were set in 1925, many new and informative means of communication have come into common use as well as tremendous increases in costs of campaigning in other well-established media.

Because of these necessary increased costs, the subcommittee feels that the formula for calculating the limits on donations and expenditures should be realistic and should reflect current costs and modern campaign techniques. Campaigns must always be limited to reasonable amounts and those amounts so set should be enforceable.

The present law, granting exemptions from the expenditure limits, on a large block of usual campaign expenditures, makes it almost impossible to determine with accuracy whether the legal limits have been violated.

8. We strongly urge that both major political parties take action to establish standards of fair campaigning and to officially condemn the use of unfounded charges of disloyalty or the use of any other campaign tactics which without foundation cast doubt upon the patriotism or loyalty of competing candidates. The subcommittee feels that a continuing committee of eminent members of both parties, working jointly for higher and cleaner standards of campaigning, can do as much as the enactment of laws to rid this Nation of abuses which are reaching alarming proportions.

9. The committee hearings and reports should be referred to the Department of Justice and other appropriate authorities for study and appropriate action.

SUMMARY OF THE RECORD

At the general election in the State of Maryland on November 7, 1950, John Marshall Butler, Republican candidate for United States Senator, defeated Senator Millard E. Tydings, Democrat, by a majority of 43,111 votes. Following this election, in mid-December 1950, Senator Tydings presented written and oral charges to the chairman of the United States Senate Subcommittee on Privileges and Elections

alleging unfair election practices and violation of Federal and State election laws in the campaign of his successful opponent. Following a preliminary investigation, the subcommittee unanimously determined that public hearings should be held to develop under oath evidence relating to certain aspects of the Butler campaign of which Senator Tydings complained. A hearing subcommittee was appointed and public hearings commenced on February 20, 1951. These hearings, which continued until April 11, 1951, were conducted by a bipartisan hearing subcommittee consisting of Senators A. S. Mike Monroney (Democrat, Oklahoma), chairman; Thomas C. Hennings, Jr. (Democrat, Missouri), Robert C. Hendrickson (Republican, New Jersey), and Margaret Chase Smith (Republican, Maine) and were held in the Senate Office Building, Washington, D. C. Chief counsel of the subcommittee was Edward A. McDermott and Ralph E. Becker was assistant counsel.

Prior to the commencement of public hearings on January 3, 1951, John Marshall Butler was administered the oath of United States Senator "without prejudice" in accordance with a unanimous resolution which provides:

Mr. MCFARLAND. Mr. President, I ask unanimous consent that when the oath required by the Constitution and prescribed by law is administered to Mr. John Marshall Butler as a Senator from the State of Maryland for the term beginning January 3, 1951, such action shall be deemed to be without prejudice either to him or to the constitutional right or power of the Senate to take any action it may subsequently deem proper, pending the outcome of the investigation now being made by the Committee on Rules and Administration through a subcommittee into the 1950 election in said State.

The VICE PRESIDENT. Is there objection to the request of the Senator from Arizona? The Chair hears none, and it is so ordered (Congressional Record, vol. 97, p. 1, 1-3-51).

At the opening session of these hearings on February 20, 1951, Senator John Marshall Butler appeared before the hearing subcommittee on a point of so-called "personal privilege" (R., p. 1). While the right of Senator Butler to so appear does not exist as a matter of personal privilege, the subcommittee did permit him to present his observations and gave them its consideration. The subcommittee considered the argument presented by Mr. Butler relating to the constitutional and legislative powers and procedures of the subcommittee and came to its decision which provided, in part, as follows:

In answer to the questions raised, the subcommittee holds that we are acting under the terms of article I, section 5, clause 1, of the Constitution which reads: "Each house shall be the judge of the elections, returns and qualifications of its own members, etc."

Further, the Rules of the Senate, under which the Committee on Rules and Administration functions, and of which we are a part, provide clearly (rule XXV (c) (1) (D)): "Matters relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; Federal elections generally; Presidential succession."

Mr. Butler raises the question of the type of jurisdiction and the nature of these proceedings.

When complaints concerning matters within our jurisdiction are filed with us, and action is taken thereon, we have a threefold obligation:

(1) To develop facts which might be necessary in the event of a contest over the Senate seat or to permit the Senate to decide whether a particular Senator should be seated or permitted to retain his seat;

(2) Where facts suggestive of the violation of Federal or State laws are developed, to refer those findings to proper law enforcing agencies for appropriate action; and

(3) To use the facts developed by the subcommittee in its investigation as a basis for recommending remedial and amendatory legislation.

On this basis, and in this attitude, we have approached the present case and, by preliminary investigation, have developed certain information which is to be presented in more detail, and under oath, at this hearing.

Senator Butler's request for information as to what witnesses are to be examined, the nature of the testimony proposed to be offered, and an opportunity to produce testimony has been anticipated and was unanimously ordered by the subcommittee yesterday * * * The list has been prepared and will be submitted to him (R., pp. 12-14).

PRINCIPLES GOVERNING CONDUCT OF HEARINGS

Prior to convening public hearings to develop, under oath, evidence relating to the campaign of Senator Butler, the hearing subcommittee of the Subcommittee on Privileges and Elections unanimously adopted a statement of principles and procedures to be followed by it in the conduct of such hearings. That statement provided:

I. REASON FOR THIS STATEMENT OF PRINCIPLES

This hearing subcommittee of the Subcommittee on Privileges and Elections considers it appropriate to make, at the outset, a statement of the principles and procedures to be followed in the conduct of the investigative hearings concerning the 1950 senatorial campaign and election in the State of Maryland. The hearings are being conducted by a bipartisan hearing subcommittee.

II. REASONS FOR THESE HEARINGS

The Subcommittee on Privileges and Elections, as a subcommittee of the Committee on Rules and Administration, has authority under the Constitution and Rules of the Senate, to investigate any senatorial campaign and election and, at its discretion, to hold hearings for the taking of evidence under oath. In exercising this authority it may proceed on the basis of a complaint filed with it or on its own initiative. In the present instance a preliminary investigation of the 1950 Maryland senatorial campaign was commenced in response to a complaint, written and oral, made by Senator Millard E. Tydings, defeated candidate. That complaint made certain allegations concerning the campaign of his successful opponent, Senator John Marshall Butler. The preliminary investigation leads the subcommittee to believe that in the public interest open hearings should be held and evidence taken under oath. No election contest has been filed challenging the result of the vote in Maryland on the right of Senator Butler to retain his seat.

III. SCOPE OF THE HEARINGS

This hearing subcommittee will have evidence relating to the 1950 senatorial campaign in Maryland presented to it under oath, retaining the right at all times to further determine and define the scope of the hearing and to rule on the admissibility of evidence.

IV. REPORT OF THE HEARING SUBCOMMITTEE

Upon the conclusion of these hearings this hearing subcommittee shall report the facts developed to the Subcommittee on Privileges and Elections. Any recommendations adopted by the unanimous vote of this hearing subcommittee shall be included in that report.

V. REPORT OF THE SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS

After consideration, the Subcommittee on Privileges and Elections shall report the facts developed by these hearings to the Committee on Rules and Administration. In that report members of the hearing subcommittee may comment on the evidence adduced and the unanimous recommendations of the hearing subcommittee shall be included. If evidence suggesting the violation of Federal or State law has been developed, the subcommittee shall refer that evidence to appropriate law-enforcement authority for action. The facts so developed at this hearing shall also be used by this subcommittee in connection with its study of amendatory and remedial legislation.

VI. PRESERVATION OF RIGHTS OF SENATOR BUTLER

It is the intention of this subcommittee, in the conduct of these hearings, to carefully preserve to Senator Butler all rights to which he is entitled. The allegations of the complaint of Millard E. Tydings make it possible that action may eventually be taken, by way of contest or otherwise, challenging the right of Senator Butler to retain his seat in the Senate. If such a contest or challenge should subsequently develop, it shall be tried de novo, and the Committee on Rules and Administration shall establish the procedure therefor.

VII. HEARING PRINCIPLES

The conduct of the hearings before this hearing subcommittee is to be governed by the following principles which have been unanimously adopted:

A. Proper judicial decorum

During these investigative hearings a proper judicial decorum shall at all times be maintained. The chairman shall maintain proper order in the hearing room and no persons shall be seated at the bench except the Senators participating in the hearings, their designated assistants, other Senators, subcommittee counsel and clerk.

B. Evidence

The members of the hearing subcommittee shall determine the scope of the inquiry and shall decide all questions relating to the admissibility of evidence.

C. Sworn testimony

All testimony shall be taken under oath.

D. Questioning of witnesses

Witnesses shall be questioned only by members of the hearing subcommittee, chief counsel, and assistant counsel. Any witness appearing at the hearing may be accompanied by personal counsel but personal counsel shall not examine witnesses (R., pp 67-70).

At the outset there are certain undisputed facts:

- (1) This is not an election contest.
- (2) The defeated candidate did not challenge the seat in the United States Senate.
- (3) There is no contest of the election returns.
- (4) No proceedings were instituted in the State of Maryland in accordance with State law, section 168 of the annotated code as amended by the acts of 1945, chapter 934, of the Election Laws of Maryland.

The testimony of 49 witnesses was received in public hearings; 2 of those witnesses were also heard in executive session and 1 additional witness was heard only in executive session.

COMPLAINTS OF FORMER SENATOR MILLARD E. TYDINGS

The previous complaints of Former Senator Millard E. Tydings to the subcommittee were repeated and expanded upon in his initial appearance before the hearing subcommittee on February 20, 1951. The statement of those complaints was prefaced with these remarks:

At the outset, I want to make my position clear. First, I come to testify at the invitation of the committee. Second, I have not and do not now ask that any specific action be taken upon the evidence adduced. That is a matter for your committee and the Senate to determine for themselves.

I come as a private citizen, feeling it is my duty to disclose certain scandalous, scurrilous, libelous, and unlawful practices in the recent Maryland campaign for such action as you may deem appropriate. Also, I believe the evidence adduced will help in improving the election laws so that these despicable and illegal actions may not be repeated in Maryland or elsewhere in the Nation (R., pp 15-16).

Former Senator Tydings directed the attention of the hearing subcommittee to the following aspects of the Butler campaign:

(1) The circulation of a four-page tabloid entitled "From the Record," allegedly "put out" by a front organization of the so-called Young Democrats for Butler * * * "paid for by the Butler campaign headquarters" (R., pp. 17, 21, 30).

(2) Senator Tydings characterized the tabloid as " * * * conceived printed, and circulated in moral squalor by the dishonorable conspirators and perpetrators, who knew in advance it was a tissue of lies from beginning to end (R., p. 21).

(3) The use, in the tabloid "From the Record" of a composite photograph of Senator Tydings and Earl Browder (R., pp. 29-30).

(4) The participation of Roscoe Simmons, a colored leader of Chicago, Ill., in the campaign of John Marshall Butler (R., p. 41).

(5) The wholesale use of funds in an illegal and irregular manner; and other financial irregularities (R., p. 42).

(6) The "midnight ride" of William Fedder, a Baltimore printer, during which, it was alleged, representatives of Senator Joe McCarthy and others "kidnaped Fedder Chicago gangland style" and subjected him to certain threats (R., p. 44).

(7) The participation of Fulton Lewis, Jr., a radio commentator, in the campaign of John Marshall Butler through his regular broadcasts carried by the Mutual Broadcasting System (R., p. 45).

(8) The possible violation of District of Columbia Code, title 22, Criminal Offenses, chapter 23, defining the crime of criminal libel, in the publication of the tabloid "From the Record" and in the radio broadcasts of Fulton Lewis, Jr. (R., p. 61).

The subcommittee, in its public hearings, directed its attention particularly toward the financial and literature aspects of the Butler campaign and the "outside influences" prominent therein. The substantial quantum of evidence adduced in the hearings has been reviewed by this subcommittee and in this report it considers—

1. The financial aspects of the Butler campaign;
2. The literature aspects of the campaign;
3. Outside influences in the campaign; and
4. Recommendations for remedial legislation.

I. FINANCIAL ASPECTS OF THE CAMPAIGN

CAMPAIGN TREASURER

Incident to his campaign, John Marshall Butler duly appointed in writing and duly registered a campaign treasurer (R., p. 1200). That appointee, Cornelius P. Mundy, a practicing attorney residing in Baltimore, Md., served in that capacity throughout the primary and general election campaigns and, pending the conclusion of certain details of his office, at the time of these hearings still served in that capacity (R., p. 1200). As treasurer Mr. Mundy prepared and filed with appropriate authority the reports required of him by law (exhibits 77-78). In addition to the reports which he filed with the State of Maryland, Mr. Mundy filed with the Secretary of the United States Senate the financial reports required by the Federal Corrupt Practices Act. A review of those reports, and his testimony before this subcommittee, indicates that Mr. Mundy accurately reported all contributions to the campaign of John Marshall Butler received by him and all expenditures made by him (R., p. 1205). However, substantial contributions were received in the candidate's campaign and substantial expenditures made in the campaign in excess of those reported by the treasurer.

CAMPAIGN MANAGER

At the suggestion of and upon the recommendation of Mrs. Ruth McCormick Miller* (R., p. 992), then editor of the Washington Times-Herald, candidate Butler employed Jon M. Jonkel, hereinafter referred to as Jonkel, a resident of the State of Illinois, as a principal in his campaign (R., pp. 431, 436). Jonkel was originally employed as "publicity agent" but, by his own admission, and by the testimony of other witnesses, he was in fact the "manager" of the Butler campaign (R., pp. 432, 466). Included in his duties were the employment of campaign headquarters personnel, solicitation of contributions to the campaign, writing of speeches for the candidate, preparation of newspaper and radio advertising, preparation of and production of printed campaign materials, and liaison with other political organizations. It has been established that the broad authority which he exercised was with the full approval of the candidate, Mr. Butler (R., p. 1751). At no time was this subcommittee advised of any decision of Jonkel that was overruled by the candidate or of any action by him which was disapproved by Mr. Butler. The evidence is that Jonkel's authority in the campaign was extensive and exercised without question or restriction.

At the time of his employment by Mr. Butler, Jonkel was operating his own public-relations business in Chicago, Ill. (R., p. 433). In addition to this experience, valuable in any campaign, Jonkel had previously participated as a volunteer in other political campaigns (R., p. 436). Subsequent to his employment by the candidate and his committee, Jonkel moved temporarily to Maryland, remaining there until shortly following the election on November 7, 1950. Prior thereto and during his temporary residence in Maryland during the campaign, he was a legal resident of the State of Illinois.

HEADQUARTERS PERSONNEL

On or about July 18, 1950, following a conference with the candidate, Mr. Butler, Mrs. Bertha Adkins, Republican national committee-woman, Robert Bonnell, chairman of the Republican State committee on finance, and others in the office and in the presence of Ruth McCormick Miller (R., p. 438), Jonkel, in behalf of Mr. Butler, commenced his activities in the State of Maryland (R., p. 450). Separate campaign headquarters for the John Marshall Butler for Senator campaign were established in the Lord Baltimore Hotel in Baltimore, Md., where other Republican campaign headquarters were also located (R., p. 449). Headquarters personnel was employed by Jonkel. Following Mr. Butler's successful primary campaign, the headquarters took over management of his general election campaign. In addition to paid full-time and part-time workers in campaign headquarters, a volunteer worker, Catherine Van Dyke, a resident of Maryland, assumed the responsibilities of office manager (R., pp. 451, 457). All activities of the campaign identified with the candidate's campaign headquarters were under the direct supervision of Jonkel, assisted by Mrs. Van Dyke (R., pp. 1780, 1790, 1791).

*Mrs. Ruth McCormick Miller referred to in this report, now Mrs. Ruth McCormick Tankersley.

FINANCIAL REPORTS

The report filed by treasurer Mundy with the clerk of the circuit court in Baltimore City, as required by law, reflected contributions to the general election campaign in the amount of \$42,328.61. There was also reported loans amounting to \$17,500. Disbursements during the campaign totaled \$36,572.70 and unpaid campaign bills amounted to \$13,116.24, and notes totaling \$17,500. Candidate Butler personally contributed \$2,500 to his campaign.

NONREPORTED EXPENDITURES

In the course of the preliminary investigation conducted by this subcommittee prior to the commencement of public hearings, facts were developed indicating substantial campaign disbursements not reported in the sworn report of the treasurer as required by law. The principal evidence of these nonreported expenditures appeared in the account of National Advertising Co., a Baltimore, Md., printing firm which printed and distributed a substantial quantity of Butler's campaign literature. While the sworn filed report of Butler's treasurer indicated a total disbursement to National Advertising Co. in the amount of \$5,138.80, the records of the printer show that, at the time of the hearing, payments totaling \$18,099.59 had been made to the printer by the John Marshall Butler campaign (exhibit 9). A similar situation was discovered in the accounts of other firms and agencies who did work or performed services in connection with campaign printing and advertising. For example, Marshall Hawks Advertising Agency, Baltimore, Md., received the sum of \$10,636.17 from the Butler campaign committee (R., p. 1090) as contrasted with total disbursements of \$5,136.17 to this creditor as reported by Treasurer Mundy (exhibit 77). Of the total sum received by him, Mr. Hawks testified there was a cash payment of \$2,490 (R., p. 1092). Similarly, National Republic Publishing Co., Washington, D. C., for printing services, was paid \$2,174.39 (R., p. 1100) by the Butler campaign committee, of which sum \$974.39 was paid in cash on November 14, 1950 (R., p. 1102) and the balance represented by "two or three checks" (R., p. 1100), not drawn by Mr. Mundy, the campaign treasurer. No payments to National Republic Publishing Co. were reported by the treasurer in his sworn report of disbursements (exhibit 77). East Capitol Addressing, a direct mail service in Washington, D. C., was paid in excess of \$1,900 for addressing post cards in connection with Mr. Butler's campaign (R., p. 1114), none of which was received from or reported by Treasurer Mundy.

In each instance, except East Capitol Addressing, the payments received by the campaign creditor in excess of payments reflected in the report of the campaign treasurer were received from the headquarters of the candidate and from either Jonkel or Mrs. Van Dyke. In certain instances the actual delivery of the nonreported payment was by messenger (R., p. 1102), but the source of the funds was the campaign headquarters (R., p. 1103).

NONREPORTED CONTRIBUTIONS

One week following the commencement of public hearings by this subcommittee and following the original testimony of former Senator Millard E. Tydings on February 27, 1951, Senator Butler filed with the chairman of the hearing subcommittee a copy of a supplemental report which he had the previous day filed with the Secretary of the Senate (exhibit 36). This report, dated February 26, 1951, consisted of a copy of a letter of that date addressed by Jonkel to treasurer Mundy, reporting for the first time contributions to the campaign in the total sum of \$27,100. This additional sum, not previously reported, was never filed with or reported to appropriate authority in the State of Maryland. The supplemental report listed contributions as follows:

Senator Owen Brewster of Maine.....	\$1,000
Mr. Clint Murchison of Oklahoma.....	5,000
Mrs. Clint Murchison of Oklahoma.....	5,000
Mr. Jack Porter of Texas.....	5,000
Mr. Dan Gainey of Minnesota.....	3,500
Mr. Alvin Bentley of Washington, D. C.....	5,000
Mr. J. D. Coleman of Virginia.....	1,000
Mr. J. G. McGarraghy of Washington, D. C.....	1,000
Mrs. Marcella du Pont of Washington, D. C.....	500
Mr. Bruce Baird of Washington, D. C.....	100

SHORT-CIRCUITING TECHNIQUE

In explanation of his failure to report the contributions, Jonkel described in his testimony before this subcommittee a technique identified by him as "short circuiting":

Mr. McDERMOTT. Is that what you mean by short-circuiting technique? What is that again, this short-circuiting business?

Mr. JONKEL. Well, you call it a technique. I would call it an expediency.

If a check came in, instead of sending it to Mr. Mundy and Mr. Mundy depositing it, and then we would have to draw back to pay somebody, instead of doing that, if Mr. Fedder came in, or any other person, I don't know who they were, they were ad infinitum, away back down the line, if they were standing there, and if they insisted that if they did not have some money they would not mail things that were ready to be mailed, or we would not get things to be given to the workers, or we would go off the air, I would give them checks as a partial payment to keep them off my neck, frankly.

Mr. McDERMOTT. So some of the campaign funds which were received in Mr. Butler's campaign headquarters were not transmitted to the official campaign treasurer, is that correct?

Mr. JONKEL. That is right.

Mr. McDERMOTT. Well, now, had you had occasion to consult the requirements of the Maryland election law on that short-circuiting procedure?

Mr. JONKEL. I don't know if I knew about it or not. I really don't.

Mr. McDERMOTT. You did not inquire as to what the law of the State of Maryland said with reference to the handling of campaign funds?

Mr. JONKEL. No; I did not (R., pp. 460-461).

The testimony of various witnesses indicates that the contributions listed above were delivered to or received by Jonkel in the campaign headquarters of candidate Butler during the campaign. Upon receipt of these contributions and without delivering them to the campaign treasurer or reporting their receipt to the treasurer, Jonkel endorsed the checks or drafts and disbursed the proceeds (R., p. 530).

Treasurer Mundy testified to having advised Jonkel and other headquarters personnel of the requirements of Maryland law with reference to the handling of funds:

Senator HENNINGS. Did you give Mr. Jonkel advice during that period of time relating to the requirements of law in the listing of campaign contributions and expenditures?

Mr. MUNDY. During the campaign, Senator?

Senator HENNINGS. Yes, sir.

Mr. MUNDY. Senator, I would at various times read over the telephone sections of the law to them, showing that all moneys should pass through the treasurer and should be disbursed by the treasurer.

Senator HENNINGS. You read such excerpts from the Maryland law to the individuals at the headquarters?

Mr. MUNDY. Yes, sir. Now, I won't say that I read them at all times to Mr. Jonkel. Many of my conversations were with this young lady over at the headquarters. But I do recall definitely not long after I became treasurer I suggested to them that they get copies of the Corrupt Practices Act.

Senator HENNINGS. Yes, sir.

Mr. MUNDY. Now, at that time I was thinking of the Maryland law.

Senator HENNINGS. And you did so advise Mr. Jonkel as to these—

Mr. MUNDY. To the various provisions of the Maryland law.

Senator HENNINGS. Yes, sir, relating to receipts, contributions.

Mr. MUNDY. Yes. I would be most specific on the receipts part and the disbursements section. In fact, they are underlined in my copy of the code in Baltimore because that is the one I had very frequently to refer to (R., pp. 1230, 1231).

Jonkel did not recall receiving such information, but stated:

Senator HENNINGS. Did Mr. Mundy not tell you that he had some views as to that method of procedure?

Mr. JONKEL. He may have, Senator.

Senator HENNINGS. Do you not remember? Are you not able to tell us the substance of his observations?

Mr. JONKEL. No, I am not.

Senator HENNINGS. You do not recall anything he said about it?

Mr. JONKEL. No, I do not.

Senator HENNINGS. Nothing whatever?

Mr. JONKEL. Nothing.

Senator HENNINGS. You recall that you did tell him, however, of the procedure that you had adopted and were following?

Mr. JONKEL. I do not know if he said he was happy about it or if he was sad about it. I do not remember his reactions. I remember telling him, and that I would advise him on my letters of transmittal what checks I had done that with.

Senator HENNINGS. Did not Mr. Mundy advise you of the law at that time and tell you that checks should be cleared through him as campaign treasurer?

Mr. JONKEL. He may have, Senator.

Senator HENNINGS. He may have? Are you not able to tell us whether he did or whether he did not?

Mr. JONKEL. I am not able to remember; no, sir.

Senator HENNINGS. Do you mean to say that Mr. Mundy advised you as to the matter of law, as the treasurer of a campaign and a distinguished lawyer of Baltimore City, and that you do not recall getting any such instructions from him, Mr. Jonkel?

Mr. JONKEL. I will put it another way, Senator. Maybe this is the answer you want—

Senator HENNINGS. No it is not any answer I want. I want your answer. That is what this committee wants.

Mr. JONKEL. I think maybe if I say it this way—maybe I will say it this way. He may have said something to me and it may have left such a little impression on me at the time that I do not remember it now.

Senator HENNINGS. You have no recollection of any conversation in which Mr. Mundy cautioned you as to violating the law?

Mr. JONKEL. No, sir; I do not.

Senator HENNINGS. You would not say that he did not caution you?

Mr. JONKEL. No, I could not. If I do not have any recollection, I could not say he did not.

Senator HENNINGS. Thank you (R., pp. 534-535).

In certain instances these funds were commingled with personal funds and deposited in Jonkel's personal bank account (R., p. 581). No accurate record of contributions so handled was maintained (R., p. 527). Likewise no accurate record of sums so distributed was maintained and no report of such disbursement was ever made to the campaign treasurer (R., pp. 481-482). This procedure which is admitted by Jonkel is amply confirmed by other testimony in the record.

Jonkel testified that, particularly in the last 10 days preceding the general election, when he was being pressed by campaign creditors, he frequently endorsed campaign contributions in the form of checks or drafts and turned them over to creditors as payments on account (R., p. 527). In some instances these contribution checks were cashed and "split six or seven ways." He admits that no record of the transactions was maintained and that at best he may have "noted" the amount of the contribution on a slip of paper:

Senator HENNINGS. Mr. Jonkel, when these contributions that you tell us about in your letter, in your letter to Mr. Mundy of February 26, came in, did you make any record, any temporary record of them anywhere?

Mr. JONKEL. Well, I assume, Senator, that they were being recorded in the same kind of a system that we had set up. I remember making notes myself to make sure they were, little paper notes that I would put on my desk on a spindle. I don't remember following through on them. I just thought that somebody in the office was saying "that such and such a date we received a check from Mr. Murchison, and we used it to pay bills" (R., p. 476).

He did not know what subsequently became of the notation but admitted the contributions were not reported to the campaign treasurer, Mr. Mundy (R., pp. 481-482). The only evidence of the extent of this practice and the total sum of money so handled is Jonkel's recollection several months following the conclusion of the campaign. The treasurer denied any knowledge of the receipt of any funds not included in his sworn report (R., pp. 1205-1206).

Incident to this "short circuiting" procedure certain contributions in large amounts were reduced to cash and the cash in turn disbursed (R., pp. 1813, 960). It has been impossible to determine the extent of the cash disbursements or the purposes for which such cash was expended:

Mr. McDERMOTT. * * * You indicate, I take it, that some and perhaps many of these contributions which you list in your letter of February 26 to Mr. Mundy were cash. Now in these hearings of this subcommittee we have been unable to trace much of that cash. Can you give us any more information on that?

Mr. JONKEL. If I gave the impression that some or many, as you say, of the contributions were cash, I did not mean to do that. I do not remember a majority of \$27,000, even a third of \$27,000 or a quarter of it being in cash. That would be a tremendous amount of money in cash considering that most of the funds that I am talking about came from out of State.

I did say this, and I know that I said this, that we cashed most of these checks when they came in. They were made out to me in all instances. They were cashed.

We cashed them so we could use them in as many ways as possible rather than give any one man. Mr. Fedder, for instance, could have used the whole \$10,000 check according to his lights. I cashed it and used the money. I cut it up into as many places as possible in order to get us through another day or another 2 days' operation.

Mr. McDERMOTT. And I understand that there is no record available as to what disposition was made of the cash proceeds of these various—

Mr. JONKEL. I think there is a splendid record because in Mr. Mundy's report he lists expenditures or payments of X dollars to some of these people. Their books show that they were paid twice or three or four X's. Obviously, the money was paid to them. That is a very good record to me.

Mr. McDERMOTT. That accounts for that portion of it at least (R., pp. 1827-1828).

No record of these transactions in cash was maintained (R., p. 527) and no information was made available to the subcommittee which would permit it to determine the nature or extent of these dealings in cash in connection with the campaign. In his testimony Jonkel states that in addition to payments to regular and legitimate creditors for materials and services, cash in excess of \$2,000 was expended by him to precinct workers and others as election day expenses (R., pp. 2762, 2769).

THE BENTLEY CONTRIBUTION AND "REX LEE" ACCOUNT

Prior to the general election on November 7, 1950, Miss Jean Kerr, a resident of the District of Columbia, research assistant to Senator Joseph McCarthy, arranged a dinner party at her residence in Washington, which included Alvin Bentley, a former employee of the State Department, Mrs. Bentley, and Jonkel. A few days subsequent to that meeting between Bentley and Jonkel, Bentley, after a conversation with Mr. Butler (R., pp. 489-509), delivered to Robert E. Lee, at that time employed as minority clerk to the House Appropriations Committee, Bentley's check in the amount of \$5,000, dated October 30, 1950, and drawn on the Manufacturer's National Bank of Detroit payable to "Butler for Senator Club" (R., p. 1122; exhibit 71). Jonkel endorsed the check and returned it to Lee (R., p. 1157). The following day, October 31, 1950, this check was used to open an account in the National Capital Bank, of Washington, D. C. (R., p. 1124).

The account was opened in the name of Mrs. Rex Lee, wife of Robert E. Lee (exhibit 74). This contribution was not reported to the campaign treasurer nor was the disbursement of the funds reported to him. The contribution was first reported in the supplemental report of Jonkel dated February 26, 1951, and the actual disposition of all the funds has never been accurately determined. A substantial portion of the funds was disbursed in connection with a post-card project (R., p. 1129) which will be treated generally later in this report, an activity originated and handled primarily by employees of Senator McCarthy and supervised by Mrs. Lee.

Subsequent to the original deposit on November 3, 1950, two additional checks totaling \$1,000 were deposited to the Rex Lee account. These deposits were a check in the amount of \$500 drawn by Douglas B. Marshall on the Second National Bank of Houston, Tex., dated October 31, 1950, payable to "Butler campaign committee" (R., p. 1125, exhibit 72), and a check in the amount of \$500 drawn by Daniel C. Gainey on the First National Bank of Owatonna, Minn., dated November 1, 1950, payable to "Treasurer, Butler campaign committee" (R., p. 1126, exhibit 73). Each of these drafts was endorsed by Jonkel with the restriction "payable to Rex Lee" and deposited in the National Capital Bank as indicated. These contributions to the Butler campaign were likewise unreported until Jonkel's supplementary report of February 26, 1951.

There is no testimony to support the conclusion that all contributions to the Butler campaign have been reported. To the contrary, the testimony shows failure on the part of the candidate's headquarters staff to maintain accurate, adequate, or complete records of contributions received or expenditures made.

MRS. RUTH M'CORMICK MILLER CONTRIBUTION

Mrs. Ruth McCormick Miller, by check dated November 3, 1950, drawn on a joint account in the Continental Illinois National Bank in the amount of \$5,000, payable to John Marshall Butler (exhibit 18), made a "loan" to the candidate's campaign. It was so reported by treasurer Mundy. This check was personally endorsed by the candidate and subsequently paid to National Advertising Co. and credited by it to the candidate's campaign account for printing. No report of this disbursement was made by the campaign treasurer although he did report the loan. Mrs. Miller, in her testimony, stated she regarded the loan as a contribution to the candidate's campaign (R., p. 995).

In many instances contributions to the candidate's campaign, including the majority of those listed for the first time in the supplemental report of the candidate filed March 26, 1951, were by check payable to "John Marshall Butler campaign" or some such similar payee designation. Checks so drawn were endorsed on behalf of the candidate by Jonkel (R., p. 527).

THE C. E. TUTTLE TRANSACTION

In his testimony before this subcommittee, Mr. Mundy, campaign treasurer, stated:

Mr. McDERMOTT. In your report, your general election report, that you filed, as amended, you show that you received a loan of \$8,300 from a Mr. C. E. Tuttle to the campaign fund. Has any portion of that loan been repaid at this time?

Mr. MUNDY. Yes sir. Before you called me yesterday saying that I could come today instead of next week, I had decided to pay 50 percent dividends, so to speak, from my account. I had some, I think about \$10,000, in there yesterday, and I decided to pay Mr. Tuttle half of \$8,300, \$4,150, I think—my bad mathematics—and Mr. Levering, half of his, which was \$4,200, so I checked out to Mr. Levering \$2,100. I knew that I was coming over here, and I considered those payments perfectly proper, so the checks went out of my office yesterday.

Mr. McDERMOTT. Well, the payments are perfectly proper, Mr. Mundy, and the fact is that 50 percent of both of those loans have been repaid.

Mr. MUNDY. Yes, sir; that is true. (R., p. 1212).

This phase of the financial aspect of the campaign involves a matter that was developed by preliminary investigation prior to the appointment of the present subcommittee and was not covered in the public hearings nor was sworn testimony adduced concerning it. In his report filed with the clerk of the circuit court of Baltimore City covering receipts and disbursements made in connection with the general election on November 7, 1950, treasurer Mundy included in the itemization of "unpaid bills" the following entry: "Loan, Mercantile Trust Co., \$12,500" (exhibit 77).

Inquiry into the circumstances of this transaction disclosed that the entry was incorrectly reported and it was subsequently amended. Actually the \$12,500 which was made available to the campaign

treasurer represented a loan from two individuals. Arthur Levering, vice president of the Mercantile Trust Co. in Baltimore, Md., made a loan of \$4,200, and C. E. Tuttle, 31 Mount Vernon Place, Baltimore, Md., made a loan of \$8,300 to the campaign. Previously, as reported in the Mundy report filed with clerk of the circuit court, Tuttle had made a personal contribution of \$3,000 to the general election campaign of Mr. Butler. That contribution was reported in the treasurer's sworn report as having been received from the "C. E. Tuttle committee." When interviewed concerning this transaction, however, Mr. Tuttle indicated that he made a personal contribution of \$3,000 and that all the funds were his own. He stated that there was no committee and no one else provided any portion of those funds. He was insistent that he was entitled to full and exclusive credit for that contribution.

Mr. Mundy testified 50 percent of the Tuttle loan of \$8,300 has been repaid. If it is a fact that the original \$3,000 contribution was a personal contribution of C. E. Tuttle, rather than a committee contribution, he has contributed a total of \$7,300 to the general election campaign of John Marshall Butler.

The subcommittee is of the opinion that this matter should be transmitted to the Department of Justice for such action as it deems appropriate.

II. LITERATURE PHASES OF THE CAMPAIGN

In the campaign of John Marshall Butler a large quantity of campaign literature was printed and distributed. The literature for the most part consisted of pamphlets, circulars, advertisements, and signs of a type common to senatorial campaigns in other States and beyond criticism. The bulk of this literature, published and distributed in accordance with law, was considered by this subcommittee and found unobjectionable. Two pieces of literature were, however, the subject of extensive consideration:

1. A tabloid newspaper called "From the Record" (exhibit 1); and
2. A pamphlet titled "Back to Good Old Dixie" (exhibit 6).

THE TABLOID "FROM THE RECORD"

In the latter days of the campaign 303,206 copies of a four-page tabloid newspaper titled "From the Record" were circulated and distributed in the State of Maryland by mail to box holders and by hand distribution in Baltimore and other urban communities within the State (exhibit 5). Additional copies of the tabloid were distributed to voters at polling places on the day of election. Included in the tabloid, in the lower left-hand corner of page 4, was a composite photograph of John Marshall Butler's opponent in the campaign, Senator Millard E. Tydings, and Communist leader Earl Browder. Beneath the composite picture was this caption:

Communist leader Earl Browder, shown at left in this composite picture, was a star witness at the Tydings committee hearings, and was cajoled into saying Owen Lattimore and others accused of disloyalty were not Communists. Tydings (right) answered, "Oh, thank you, sir." Browder testified in the best interests of those accused, naturally (exhibit 1).

In this composite Senator Tydings was shown in close physical proximity to Earl Browder, Communist leader. The photograph as it appeared in the tabloid depicted the two individuals in intimate conversation, with Senator Tydings an interested and attentive listener to remarks of Mr. Browder. The photograph, while identified as a composite in the copy beneath it, was so prepared as to create an immediate impression to the viewer that it was an actual photograph of the individuals pictured. Senator Tydings in his complaint to this subcommittee and in his testimony before it indicated that this photograph was injurious to his candidacy and created a false and erroneous impression of his relationship with Browder (R., pp. 30-31). Miss Jean Kerr, an employee of Senator McCarthy, described the composite picture as "a lazy man's way of doing it. They should have used the testimony" (R., p. 2624). Other witnesses who testified before the subcommittee suggested that the photograph did not adversely affect the candidacy of Senator Tydings. Treasurer Mundy characterized the tabloid as "stupid, puerile, and in bad taste" (R., p. 1240). Miss Kerr added that the tabloid as a whole was "the type of literature that should go out in campaigns. The voters should be told the truth about what is going on, and certainly this did it" (R., p. 2621).

In addition to the composite photograph, the tabloid carried columns of copy, political cartoons, and other photographs. The bulk of the material in the tabloid related to the State Department employee loyalty investigation conducted in 1950 under the chairmanship of Senator Tydings and was consistently critical of his participation in and conduct of that investigation. A portion of the material, taken from the Congressional Record, was a reprint of Senator McCarthy's remarks in the Senate on the subject (R., p. 775).

On the eve of the general election Senator Tydings replied to the tabloid, in the press and by radio. Senator Tydings has alleged that the bulk of the copy in the tabloid was "false and misleading" and has described the tabloid as a "tissue of lies." He makes no complaint about the cartoons or editorial comment in the tabloid.

In addition to the reference to the Tydings hearings, other legislative activities of Senator Tydings were discussed in a misleading and critical manner in the tabloid. For example, a front-page story in the tabloid read:

TYDINGS GROUP HELD UP ARMS

One of the fundamental reasons for our early failures in the Korean War is being charged to the Senate Armed Services Committee, headed by Senator Tydings, of Maryland.

Last year Congress appropriated \$87,300,000 to arm the South Koreans. The money was authorized in two bills. One set aside \$75,000,000 to furnish planes, tanks, antitank guns, rifles, and ammunition, any part of which could be used in Korea. The second bill earmarked \$100,300,000 for Korea alone.

A check-up reveals that only \$200 of this money was spent before the North Koreans attacked. It was spent for baling wire. The Armed Services Committee did not use its power to see the money was used in time to prevent the debacle in Korea.

Its genesis

In the testimony of many of the witnesses who participated in the production of the tabloid "From the Record" there was an unwillingness to identify the source of the idea for the publication. Witness after witness disclaimed knowledge of the genesis of the idea for a tabloid of this type. The testimony of Mrs. Ruth McCormick Miller,

however, is that the idea for the tabloid was the suggestion of Senator Joseph R. McCarthy:

Mr. McDERMOTT. Now, directing your attention to the tabloid From the Record which has been identified in the record of the subcommittee as exhibit No. 1, do you recall when you first were approached with reference to the production of such a tabloid by your facilities?

Mrs. MILLER. No, I don't.

Mr. McDERMOTT. Do you recall by whom you were first approached in that connection?

Mrs. MILLER. Yes; the first time I heard of the contemplated production of the tabloid was when Senator McCarthy called me and told me that a group of persons interested in Senator Butler's campaign were considering producing a tabloid, and Senator McCarthy asked me if they reached a decision to produce such a thing, could the Times-Herald do the job.

Mr. McDERMOTT. In that telephone call, which you received from Senator McCarthy, did he identify that group of persons who were interested in producing the tabloid?

Mrs. MILLER. No; I gathered that it was several campaign advisers or other persons interested in the campaign.

Mr. McDERMOTT. Now, on the occasion of that conversation with Senator McCarthy, did you discuss quantity or size—the nature of the tabloid?

Mrs. MILLER. Yes; I had to because he wanted to know whether we could produce it or not, and while we ultimately produced 500,000, another figure I think was mentioned originally, and whether it was more or less, I don't remember. But we were asked—he asked me—if we could produce it, and I told him I would have to check and see if it would interfere with our normal production of the Times-Herald.

Mr. McDERMOTT. In that conversation did he describe the piece of literature to you generally as a four-page tabloid?

Mrs. MILLER. A four-page tabloid.

Mr. McDERMOTT. And carrying certain news columns and certain photographs; is that right?

Mrs. MILLER. We didn't discuss news columns or photographs. He just said he wanted a four-page tabloid newspaper.

Mr. McDERMOTT. All right. Now, on the occasion of that call did Senator McCarthy ask you for an estimate on cost or approximate cost, or was cost discussed?

Mrs. MILLER. I don't remember whether he asked me. I told him I would give him one after I had ascertained whether or not we could produce it (R., pp. 1005-1007).

This subcommittee extended an invitation to Senator McCarthy to appear before it and renewed that invitation subsequent to the testimony of Mrs. Miller. Senator McCarthy did not appear before the subcommittee in response to that invitation or otherwise, nor did he avail the subcommittee of any testimony relative to this phase of the subcommittee's investigation. Members of his staff, and particularly Miss Jean Kerr, his research assistant, vigorously supported the propriety of the tabloid and composite photograph in their testimony.

The evidence establishes the fact that certain of the photographs used in the tabloid and certain of the printed material appearing therein were made available by Senator McCarthy's office staff, including particularly Donald A. Surine, his chief investigator, and Miss Kerr. These persons by their own admissions prepared or provided material and photographs which were in fact used in the tabloid as it was finally produced (R., p. 2579).

Its production

The actual production of the tabloid was by the staff of and in the plant of the Washington Times-Herald, a daily newspaper published

in Washington, D. C. (R., p. 1008). The testimony indicates that after soliciting production and distribution cost estimates in the city of Baltimore, Jonkel, campaign manager for Butler, discussed this particular project with Mrs. Ruth McCormick Miller, then editor of the Times-Herald. Mrs. Miller subsequently agreed to and did produce the tabloid, making available for that purpose certain members of the editorial and managerial staff of the newspaper, as well as its facilities. The tabloid was prepared by Frank Smith, then chief editorial writer for the Times-Herald and now administrative assistant to Senator Butler (R., pp. 884, 2581). The composite photograph was prepared under the direct supervision of the then assistant managing editor of the Times-Herald, Garvin Tankersley (R., p. 907). A 1950 photograph of Earl Browder taken at the time of his testimony before the committee conducting the State Department employee loyalty investigation (R., pp. 909-910; exhibit 60) was trimmed and fitted into position (R., p. 912) with a 1938 photograph of Senator Millard E. Tydings (exhibit 63) and the combination rephotographed and used in the tabloid. The purpose and motive in preparing the composite is admitted as to effectively depict a relationship between Senator Tydings and Earl Browder at the Tydings committee hearings (R., p. 916) which could not be shown by any photograph taken at those hearings, although photographs so taken showing both Senator Tydings and Browder were available.

The "faked" photograph

In describing to the subcommittee the actual preparation of the composite photograph, Tankersley stated that he looked at all photographs of Senator Tydings and of Earl Browder available in the Times-Herald morgue, including photographs showing both persons in the one picture, taken at the Tydings committee hearings (exhibit 93). Of these latter, none were satisfactory because the principals were not close enough to each other. The picture of Browder finally selected had to be reversed in position by rephotographing (R., p. 910). Tankersley testified this particular photo of Browder was selected "because it was one of the more recent pictures of Browder" (R., p. 911); the particular photo of Senator Tydings was a picture of him taken in 1938 "listening to election returns" (R., p. 915). In his instructions to the newspaper's art department he wanted "an effective picture" (R., p. 916). When questioned as to the reason why a faked photograph was necessary, Tankersley's testimony was:

Senator SMITH. Just what did you wish to convey; did you tell the artist what you did want to convey?

Mr. TANKERSLEY. We wanted to—we felt that not only from this tabloid—this was just incidental, so far as the paper is concerned—there is no secret about it—we wanted Mr. Tydings to get out of the Senate and we felt that Mr. Butler would be better for the Senate.

Senator SMITH. But just what did you want to convey by the composition?

Mr. TANKERSLEY. You mean putting them together?

Senator SMITH. What did you want to convey to the people who saw it?

Mr. TANKERSLEY. That we wanted to—rather, I did—I discussed this with no one, not even Mr. Smith. We were, certainly, trying to connect Mr. Tydings up, not necessarily a close relationship with those persons, the people who have been named in this original investigation, the Tydings whitewash—and you all know his manner to Mr. Browder and Mr. Browder's manner to him—I don't have to repeat all of that—but we wanted to show that Mr. Tydings did treat Mr. Browder with kid gloves, and conveyed that in the caption. We conveyed that in the caption. No secret on that.

Senator SMITH. Was it your attempt to link Senator Tydings with communism that you had in mind?

Mr. TANKERSLEY. No. I don't think anyone can accuse Mr. Tydings of being a Communist. I know I don't.

Senator SMITH. I am not asking that. I am asking if your intent was to—

Mr. TANKERSLEY. Not any more than he has already been linked in his, well, protection of some, people might think are Commies. I don't see why he should object to that being investigated (R., pp. 918-919).

And later:

Mr. McDERMOTT. Do I correctly understand your explanation of this, now, Mr. Tankersley, that you make this ultimate selection based on the expressions of the two men in the photographs that you ultimately used, and you used the composite because you were desirous of showing them closer together physically than they appeared in any news photograph that was available for use in the tabloid?

Mr. TANKERSLEY. It stands to reason I would not have Mr. Browder seated and Mr. Tydings standing. I want to get them the same with the results I showed there, to get them down to the same size, relative value, something a person looking at it would call their attention, let them read the caption (R., pp. 123-124).

And, finally, in evaluating his work and its propriety, Tankersley testified:

Senator MONRONEY. You see nothing wrong in the composite?

Mr. TANKERSLEY. I don't; I mean, I can't.

Senator MONRONEY. No misleading of intent?

Mr. TANKERSLEY. No, indeed; no more than I have ever illustrated stories, and I have illustrated a lot of stories.

Senator MONRONEY. Would you have run that story as assistant managing editor in the Times-Herald, in the paper?

Mr. TANKERSLEY. Well, we did run this caption, this quote, in the Times-Herald.

Senator MONRONEY. I said the picture.

Mr. TANKERSLEY. If we did not have other pictures—not the usual illustration that you will use in a newspaper.

Senator MONRONEY. Is it an unusual illustration there?

Mr. TANKERSLEY. The tabloid is unusual. Don't you think it is?

Senator MONRONEY. That is what we are trying to find out.

Mr. TANKERSLEY. The voters thought it was pretty unusual.

Senator MONRONEY. You thought it was pretty effective?

Mr. TANKERSLEY. I do. I think Mr. Tydings thinks it was effective (R., pp. 928-929).

After the material in the tabloid was prepared and assembled by the Times-Herald staff, the page proof was submitted to Mr. Perry Patterson, of the law firm of Kirkland, Fleming, Green, Martin & Ellis, attorneys for the newspaper. The purpose of this submission of page proof to counsel was for an opinion from the standpoint of libel (R., p. 760); that opinion was that the material in the tabloid was not libelous and this opinion was reiterated by counsel for the newspaper in his testimony before this subcommittee (R., p. 769). With the express approval of its counsel and with the knowledge and at the direction of its then editor, Mrs. Ruth McCormick Miller, the Times-Herald then proceeded to print and fold 500,000 copies of the tabloid. The Times-Herald furnished, in addition to editorial and production talent, the substantial quantity of newsprint consumed in the printing and the use of its presses and pressroom personnel.

Its distribution

Subsequent to the production of the tabloid, Catherine Van Dyke, Candidate Butler's campaign office manager, instructed William Fedder, proprietor of National Advertising Co. in Baltimore, to pick

up the copies of the tabloid and arrange for their distribution (R., p. 76). Specific instructions with reference to distribution were given to Fedder by Mrs. Van Dyke:

Mr. McDERMOTT. Is that the only discussion you had with him [Fedder]? Did you have a discussion with him as to the manner in which the tabloid should be distributed and where?

Mrs. VAN DYKE. I went into the subject very thoroughly. He was to deliver in Baltimore by hand, in some of the larger towns by hand; and the rest of the distribution was to have been taken care of through star routes (R., p. 1749).

Pursuant to those instructions, Fedder, with a letter of authorization given him by Mrs. Van Dyke, rented a truck and drove to Washington, D. C., where, at the loading dock of the Times-Herald, he picked up the copies of the tabloid, weighing approximately 12,000 pounds. Fedder returned to Baltimore with all copies of the tabloid and subsequently arranged for the distribution of a major share of them. According to the evidence a total of 303,206 copies were distributed in the following manner: 169,000 copies distributed door-to-door in Baltimore, Hagerstown, Annapolis, and Dundalk, Md.; and 134,206 copies mailed to rural route, star route, and post-office box holders in cities in Maryland where door-to-door distribution was not made (exhibit 3).

In addition to this distribution, an undetermined number of copies of the tabloid were taken by Marse Calloway, a negro political leader in the city of Baltimore (R., p. 1936), for distribution at the polls and otherwise. A quantity of the tabloids, approximately 200 copies, were prior to the election and upon the request of Mrs. Van Dyke delivered by Fedder to the campaign headquarters of the candidate, Butler, and receipted for by a volunteer worker in headquarters on November 6, 1950, the day before election (R., p. 2248). The credible testimony before this subcommittee indicates that the balance of the tabloids, approximately 200,000 copies, were destroyed by Fedder at the city dump or incinerator or disposed of as waste paper (R., p. 2262-2263). William Christopher, a Butler campaign worker, testified that he destroyed a quantity of the tabloids on his own initiative "to get them out of circulation." He said, "I think they were an insult to the people's intelligence" (R., p. 1937).

YOUNG DEMOCRATS FOR BUTLER

The tabloid "From the Record" was, according to its masthead, authorized and distributed by a political committee identified as "The Young Democrats for Butler, Edward B. Freeman, chairman; John B. Purnell, treasurer" (exhibit 1). The Young Democrats for Butler was a legally constituted political committee under the laws of the State of Maryland (exhibits 46-47). The committee was a small group of registered Democrats of the State of Maryland—approximately six in number (R., p. 797)—not affiliated with any other Young Democrats Club in the State of Maryland or elsewhere. In addition to an organizational meeting, only one meeting of the group was held (R., p. 798). The testimony is that the Young Democrats for Butler was a "front organization" initiated by W. Fairfield Peterson, a 62-year-old consulting engineer, a resident of Maryland and a registered Democrat, and others active in the campaign of John Marshall Butler, in mid-October 1950, for political purposes in support of Butler's

candidacy. This committee filed the required statement of its formation with the secretary of state of Maryland on October 18, 1950 (exhibit 46), some considerable time following the genesis of the tabloid and, in fact, even subsequent to the completion of arrangements for its production and printing by the Times-Herald (R., p. 1795). The chairman of this political committee in his testimony under oath disclaimed all knowledge of the tabloid prior to its printing and actual distribution:

Mr. McDERMOTT. * * * Now, when did you first have occasion to see this tabloid, either in copy form or page-proof form or printed form?

Mr. FREEMAN. I cannot give you the exact date, but it was after it was distributed.

Mr. McDERMOTT. So the first time you had occasion to see this exhibit ["From the Record"] was after it had been distributed; is that correct?

Mr. FREEMAN. Yes, sir.

Mr. McDERMOTT. Do you recall how it was brought to your attention?

Mr. FREEMAN. Well, I received some telephone calls from friends of mine kidding me about it. I had not seen it. I had read in the Sun that Senator Tydings had brought the tabloid circular, or whatever you want to call it, "From the Record," to the people's attention, and that was the first time that I had seen it. (R. p. 800.)

And:

Mr. McDERMOTT. Did you know prior to the time that it was called to your attention after election that such a tabloid had in fact been printed and distributed under your authorization?

Mr. FREEMAN. I knew nothing at all about a tabloid—will you say that again, please?

Mr. McDERMOTT. Will you read the question?

(The question was read by the reporter.)

Mr. FREEMAN. No, I did not.

Mr. McDERMOTT. You had no prior knowledge?

Mr. FREEMAN. I had no prior knowledge of the tabloid until it was brought to my attention that it had been on the street.

Mr. McDERMOTT. So, therefore, although you were chairman of the Young Democrats for Butler, you discussed with no one the arrangements for its printing, the obtaining of estimates for its printing, the material that would be included in the copy, nor did you examine it in page-proof form; is that right?

Mr. FREEMAN. I had nothing to do with it (R., pp. 801-802).

He delegated the details of the committee's activities to Purnell (R., p. 812). The treasurer of the organization testifies to having given approval to the use of the name of the committee as sponsor of the tabloid (R., p. 817), but admits that he was never consulted with reference to its content, arrangements for its production, or its distribution (R. pp. 825, 827). He, too, acquired direct knowledge of the content of the tabloid only after its production had been accomplished and its distribution commenced (R., p. 826).

There was testimony that when the tabloid was in page-proof form, W. Fairfield Peterson, accompanied by his son-in-law, Andy Brewster, a lawyer, went to the Times-Herald in Washington and read and examined part of the galley proofs (R., p. 956). No photographs or captions were examined. Subsequent to this visit, and following approval by Peterson, the authorization of the Young Democrats for Butler was given.

Jonkel testified that competitive estimates of the cost of production of the tabloid obtained by him in Baltimore ranged from "\$2,000 to \$4,000" (R., p. 594) for the printing of the tabloid alone. Subsequently, in a telephone conversation with Mrs. Ruth McCormick Miller, Jonkel was advised the Times-Herald would print the tabloid

“as a favor” (R., p. 608). We find that all services of the Times-Herald—editorial and production—were billed at \$1,440 (exhibit 48). While an effort has been made to justify and explain this low cost figure, the evidence shows that since the Washington Times-Herald did little or no outside printing of this type prior to production of the tabloid, its chief accountant testified, in detailing the breakdown of that billing, that the Times-Herald based its charges on certain standard for cost computation previously used for other job printing (R., p. 933). He testified further that the computed cost on the job was \$1,189.29 (R., p. 937), including newsprint at \$106 per ton (R., p. 937). To this figure 20 percent was added for overhead and profit, resulting in a total charge of \$1,440 (R., p. 938).

The billing of \$1,440 was made, in accordance with prior agreement, to the Young Democrats for Butler. Prior to this billing, however, Mr. Purnell, treasurer of the committee, had been assured that the Butler campaign headquarters would make funds available with which to pay the charge.

Mr. McDERMOTT. All right. Now, what was the status of your organization's treasury at that time, when you had this initial discussion about the tabloid?

Mr. PURNELL. Well, all I can say is that it probably was not so good.

Mr. McDERMOTT. Well, did you express any concern about how you were going to pay for it [the tabloid]?

Mr. PURNELL. I certainly did, very definitely. I was told that it would be taken care of, that it would be paid for, and that I was not to worry about the payment of the printing of the tabloid—of the newspaper.

Mr. McDERMOTT. Who told you that?

Mr. PURNELL. Well, I should say either Mrs. Van Dyke or Mr. Jonkel or Mr. Peterson.

* * * * *
Mr. McDERMOTT. One of these persons told you that it would be paid for, and that you, as treasurer of your organization, would have nothing to worry about?

Mr. PURNELL. Exactly.

Mr. McDERMOTT. Now, were you closely identified with the preparation of the copy that was ultimately used and which ultimately appeared in the tabloid?

Mr. PURNELL. No, sir; I was not.

Mr. McDERMOTT. Were you at any time shown the copy that they proposed to use in the preparation of this tabloid?

Mr. PURNELL. No, sir.

Mr. McDERMOTT. Did you have any information or receive any information as to the source of that copy or by whom it was being prepared?

Mr. PURNELL. No, sir (R., pp. 823-824).

Upon receipt of the Times-Herald invoice in the amount of \$1,440 Purnell presented it to Mundy, official campaign treasurer for Butler, and he received from Mundy a check drawn on the campaign account in the amount of \$1,515 (R., p. 833). Of this sum \$1,440 was expressly for the payment of the Times-Herald invoice covering the printing of the tabloid and the balance of \$75 was in adjustment of another unrelated item (R., p. 834). The Young Democrats for Butler then transmitted their check in payment of the charge to the Times-Herald.

The Young Democrats for Butler engaged in other campaign activities in support of the candidacy of John Marshall Butler and also raised funds, independently of the Butler campaign committee, for these activities. Its total disbursements, including \$1,440 for the tabloid, were \$3,615.71. Their activities, commencing October 20, 1950, included:

1. Sponsorship of radio spot announcements and radio and TV programs;

2. Arranging with volunteer groups for the addressing of 25,000 campaign post cards;
3. Sponsorship of newspaper advertisements; and
4. Arrangement for political speeches in behalf of Butler (R., pp. 815-816).

In addition to these facts we find that the total cost of distribution of the tabloid in the sum of \$5,703.32 (exhibit 5) was paid to National Advertising Co. by the Butler campaign committee. This charge was apparently paid by the "short circuiting" of campaign contributions in the manner previously described and as admitted by the campaign manager, Jonkel. The payments made to National Advertising Co. throughout the campaign were payments on account, not earmarked toward a particular job or credited by the printer to a particular phase of his activity, which included printing and distribution.

"BACK TO GOOD OLD DIXIE"

Another piece of literature to which this subcommittee directed its attention was a trifold pamphlet in three colors titled "Back to Good Old Dixie" (exhibit 6). This literature, 75,000 copies of which were produced by National Advertising Co. (R., p. 74), upon the order of the campaign headquarters of Mr. Butler, through Jonkel (R., p. 74), was designed to appeal to the Negro voters of the State (R., p. 559). Here again we find the idea for the literature originating with Jonkel (R., p. 558) and payment for the lay-out and printing being made from the candidate's campaign committee fund (R., p. 569). The name of candidate Butler, his committee, or treasurer did not appear on the literature as sponsor. The names of three Negro leaders in the city of Baltimore were used. Two were clergymen and the third a Negro businessman: Bishop Alexander P. Shaw, Baltimore Area Methodist Church; Rev. J. Timothy Bodie, president, United Baptist Missionary Convention; and John L. Berry, district manager, North Carolina Mutual Life Insurance Co. (exhibit 6). The testimony of these three witnesses before the subcommittee was that, without exception, they had nothing whatsoever to do with the publication or distribution of the pamphlet, contributed nothing toward its cost, and, with one exception, did not see the pamphlet until after its distribution had been commenced. One of the purported sponsors, Bishop Alexander P. Shaw, whose name appeared in the pamphlet as the first of the three sponsors, had no knowledge whatever of the use of his name at any time prior to the distribution of the literature (R., p. 1075). Authorization for the use of his name was never obtained and his name as a sponsor was gratuitously used without his permission. He did not complain when the literature was subsequently brought to his attention (R., p. 1076). The other two state in their testimony that the use of their names was authorized.

"Back to Good Old Dixie" and the tabloid "From the Record" are the only pieces of campaign literature brought to the attention of this subcommittee which did not conform to the routine pattern of the candidate's campaign, under which pattern and procedure all literature, with these exceptions, bore the credit: "By authority Cornelius P. Mundy, treasurer, John Marshall Butler campaign."

BALTIMORE SUNDAY AMERICAN ADVERTISEMENT

In the Sunday, November 5, 1950, edition of the Baltimore American, published in Baltimore, Md., a full-page anti-Tydings advertisement appeared. The advertisement bore the credit: "By authority Democrats for Butler, John B. Purnell, treasurer" (exhibit 2). This apparently referred to the Young Democrats for Butler.

The copy in the advertisement was critical of Senator Tydings' conduct of the State Department employee loyalty investigation and stated, in referring to those hearings, that Republican counsel to that committee was "never allowed to question a witness" and was "never admitted to closed executive sessions" of that committee. Senator Tydings in his complaint pointed out numerous misstatements of fact in the ad and branded them "total and complete lies" (R., p. 40). Our investigation indicates certain of the copy was false and that the quotations above are not correct statements of the true facts.

The testimony established that this advertisement was prepared, on her own initiative, by Margaret T. Berndt, Lutherville, Md. (R., p. 1179). She was desirous of defeating Senator Tydings and prepared this advertisement as her contribution toward that objective (R., p. 1178). After preparing the copy she presented it to candidate Butler, to Jonkel, to Fulton Lewis, Jr., and others for approval (R., pp. 1182-1183). With their approval she showed the lay-out to John B. Purnell, treasurer of the Young Democrats for Butler, who "thought it was a good idea." Subsequently the advertisement was published. Payment in the sum of \$1,741 was made by Mrs. Berndt's husband directly to the Baltimore American (exhibit 51). This was explained as a "loan" to the Young Democrats for Butler; a portion, but not all, of that sum was later repaid to Mr. Berndt by the Young Democrats for Butler (R., pp. 1186-1187).

Mrs. Berndt states that following publication of the advertisement she learned some of the statements contained in it were inaccurate. She testified further she would not have knowingly used copy that was not true (R., p. 1195).

III. OUTSIDE INFLUENCES IN THE CAMPAIGN

After the election on November 7, 1950, it became apparent, as it was to this subcommittee, that, in addition to the activity of certain duly constituted Republican political organizations, outside forces and influences were operative in the campaign of John Marshall Butler. While some of these forces had an obvious and direct interest in the campaign, others had no apparent relation to the electorate or interests of the State itself.

FINANCES

A substantial portion of the total sum contributed to the Butler campaign was from contributors who were nonresidents of the State of Maryland. Of the sum of \$27,100 first reported by Jonkel in his letter dated February 26, 1951, all contributions, many in the maximum amount allowable by law, were from nonresidents (exhibit 36). No adequate reason for failure to disclose these out-of-State funds prior to the commencement of these hearings has been given. Many

of the contributions, as has been mentioned previously, were made payable to Jonkel personally, including the following:

Contributor:	Amount
J. D. S. Coleman.....	\$500
George A. Moffett.....	1, 000
H. J. Porter.....	3, 000
C. W. Murchison (and wife).....	10, 000

By whom these contributions were solicited or why they were made payable to the campaign manager rather than to the candidate, his treasurer, or campaign committee has not been disclosed; and Jonkel, in his testimony, disclaimed any knowledge of facts which would supply an answer to these questions:

Mr. McDERMOTT. * * * Did you have anything to do with the solicitation of the funds represented or included in the schedule in that letter?

Mr. JONKEL. I may or I may not have. I don't know all of the people. I don't remember offhand all the names now. I told a lot of people that we needed money, if that is an indirect solicitation. * * * As I said before, in previous testimony, the checks were probably made payable to me because they knew that I was on the campaign. How they knew I don't know. I also said that (R., pp. 1812-1813).

WASHINGTON TIMES-HERALD

Beginning in the early phases of the campaign in mid-July 1950 we find that Mrs. Ruth McCormick Miller, then editor of the Times-Herald, published in the District of Columbia and widely circulated in Maryland, was instrumental in recommending and ultimately accomplishing the appointment of Jon M. Jonkel, Chicago public-relations consultant, as campaign manager for John Marshall Butler. The meeting of Jonkel and Butler with others, in the executive office of Mrs. Miller at the Times-Herald, was the first meeting between the two (R., p. 439). During his activity in the campaign, extending from July 18 until November 7, 1950, Jonkel repeatedly visited and consulted with Mrs. Miller. In addition, we find that Mrs. Miller was a substantial contributor to the campaign of Mr. Butler. By one check drawn on the Continental Illinois National Bank of Chicago, she contributed the sum of \$5,000 (exhibit 18). In addition, she made a payment of \$1,500 (exhibit 38) to Jonkel personally during the campaign, which payment they both described as a personal loan from Mrs. Miller to Jonkel (R., p. 999). Mrs. Miller also, by her own testimony, solicited, accumulated, and forwarded to the candidate's campaign headquarters contributions from others (R., p. 1016).

In addition to this personal participation by Mrs. Miller, we find a number of top-level employees of the Times-Herald devoting their time, talents, and efforts to work and activity directly related to the campaign. We find also that immediately following the election, Frank Smith, a resident of Virginia, chief editorial writer for the Times-Herald, who prepared the copy for the tabloid "From the Record", took leave of absence from his Times-Herald employment and became administrative assistant to Senator Butler (R., p. 859), still serving in that capacity at an annual salary of \$10,848 (R., p. 881).

SENATOR JOSEPH R. M'CARTHY

The activity of Senator McCarthy and his staff, according to the evidence, commenced in early July 1950, when the candidate, John

Marshall Butler, accompanied by his campaign treasurer, Mundy, visited Senator McCarthy in his office in the Senate Office Building in Washington, D. C., in the late afternoon (R., pp. 1248-1249). After a discussion there with Senator McCarthy; Miss Jean Kerr, his research assistant; and Robert K. Morris, identified in the records of this subcommittee as minority counsel in the State Department employee loyalty investigation, this group, including the candidate Butler, had dinner and spent the evening together (R., p. 1250) discussing various phases of Butler's forthcoming campaign (R., p. 2577). According to the testimony, Senator McCarthy had accumulated a large quantity of information and material related to Senator Tydings' conduct of the loyalty hearings. He made the charges that resulted in that investigation, followed it closely, spoke about it extensively throughout the country and had labeled the investigation as a whitewash.

Miss Jean Kerr

Subsequent to the primary on September 18, 1950, and continuing until election day itself, we find Miss Jean Kerr and others of Senator McCarthy's staff devoting extensive time to the campaign of John Marshall Butler. Although the testimony of Jonkel to the subcommittee would suggest that during this interval of her activity Miss Kerr was on a leave of absence from her senatorial employment (R., p. 515), Miss Kerr has stated unequivocally that during that entire time she remained on the payroll of Senator McCarthy (R., p. 2574) and acted at his request and with his knowledge and approval (R., p. 2580). She postponed her vacation to perform this work (R., p. 2580). Miss Kerr's participation was extensive, and many of the witnesses appearing before the subcommittee in its inquiry had occasion at one time or another to be contacted by her. She was a courier of funds and information, delivering campaign contributions from Washington to campaign headquarters in Baltimore (R., p. 2587), and, under the direction of Jonkel, contacting printers of campaign literature in both cities. It is also to be noted that she was hostess at a dinner party arranged and given at her home in Washington attended by Mr. and Mrs. Alvin Bentley, and to which she invited Jonkel (R., p. 2592). Although she disclaims any campaign motive in this social event, it is a fact that shortly following this meeting between Bentley, Jonkel, and Miss Kerr, Bentley met with Mr. Butler and later made a \$5,000 contribution (R., p. 2594).

Others of the staff of Senator McCarthy were likewise active. One of the members of the Senator's staff stated that at times the full staff of the Senator, including his administrative assistant, secretary, clerks, and investigators, devoted their energies and efforts in various ministerial capacities in connection with Butler's campaign (R., p. 2604). Also among those who participated prominently was Donald A. Surine, an investigator in the employ of Senator McCarthy.

The "midnight ride"

Charges were made by former Senator Tydings concerning Mr. Fedder, the Baltimore printer, and his "midnight ride." He referred to this incident as a "story of Chicago gangland transported into Maryland" and stated that Fedder was "virtually kidnapped in order to get Butler's letter back" (R., p. 44).

In his testimony Fedder made reference to a telephone conversation he had with candidate Butler, on or about November 2, 1950, in

which Fedder expressed concern over the large quantity of printed campaign materials which he had on hand and for which he had not been paid. Following this conversation, on November 2, 1950, Mr. Butler wrote and delivered to Fedder a letter in which he stated:

At this time I want to give you my personal assurance that I do guarantee payment for any of your services that have not been paid for at the time the campaign is completed. This assurance applies to materials that have been delivered and to materials that were not shipped in time for use in the campaign.

Sincerely,

JOHN MARSHALL BUTLER.

Extensive testimony was received by the subcommittee concerning the "midnight ride." On the evening of November 4, 1950, Miss Kerr, through Ray Kiermas, an employee of Senator McCarthy, made arrangements with Fedder to have addressed and messaged a quantity of post cards bearing the photograph of candidate Butler (R., p. 83). Similar work was being done in the District of Columbia by Republican National Committee volunteers and others under the supervision of Mrs. Rex Lee. In connection with this project, at about midnight on November 6, 1950, Donald A. Surine, an investigator employed by Senator McCarthy, in company with Ewell Moore, a lawyer, and George Nilles, a real-estate agent, both residents of Virginia, met Fedder at the post office in Baltimore (R., p. 88) to pick up and mail completed cards which had been addressed by Fedder's workers at their residences in various parts of Baltimore. The parties remained together until 6 a. m., during which time they traveled through Baltimore picking up post cards. In this interim Surine prepared a handwritten document, detailing certain conduct of Fedder, which Fedder signed after making certain corrections (exhibit 22). Although the statement was silent with reference to it, Fedder testified Surine and his companions demanded the return of the letter, dated November 2, 1950, which Mr. Butler had previously written to Fedder guaranteeing payment of his campaign printing bill. This allegation is vigorously denied by Surine, of Senator McCarthy's staff, Nilles, and Moore. Fedder claimed that throughout the night he was threatened, intimidated, and placed in fear for his personal safety. This Surine and the others also deny. They insist, in their testimony, that the sole purpose of the mission was "to pick up and mail addressed post cards" and that the only reason the three of them remained together and with Fedder until 6 a. m. was this purpose. The leader of the three, Surine, was at the time acting with the knowledge and consent of his employer, Senator McCarthy.

Despite Fedder's testimony of "threats" and "intimidation" during this experience, the fact is that although he had access to a telephone on several occasions during the night, he did not notify police authority nor complain to anyone concerning the activities of the three. Disclosure of this incident was not made by Fedder until some weeks following its occurrence.

The explanation given by Surine, Nilles, and Moore for their activities on this occasion is not convincing; and it is the opinion of this subcommittee that the "picking up and mailing of addressed post cards" was not the only purpose of their mission.

Donald A. Surine

Surine, formerly a special agent of the Federal Bureau of Investigation, was, at the time of this campaign in the employ of Senator

McCarthy as an investigator. He became so employed in February 1950, and still serves in that capacity (R., pp. 1487-1488). His chief activity as investigator for Senator McCarthy involved an investigation of alleged subversives in Government (R., p. 2634). In the campaign of John Marshall Butler he participated in the "post-card project," to which we have previously referred. Upon his return to Washington from the "midnight ride" he prepared a four-page memorandum of the night's activities and addressed and delivered it to his employer, Senator McCarthy (exhibit 81). A copy of the memorandum with appropriate cover letter was forwarded by Surine to candidate Butler with a copy of the statement signed by Fedder (exhibit 82). This was for the information of the candidate.

The testimony of Surine before this subcommittee contains an apparent willful and knowing misstatement of a material fact relating to the circumstances of the termination of his services with the Federal Bureau of Investigation prior to his employment by Senator McCarthy. In his original sworn testimony before a quorum of this subcommittee on March 21, 1951, Surine stated under oath that his termination was a "voluntary resignation" (R., p. 1515). On the basis of further information obtained by the subcommittee, Surine was recalled to testify on this particular point. In his sworn testimony on recall before a quorum of this subcommittee on April 10, 1951, he elaborated on the circumstances of his "voluntary resignation." Evidence introduced into the record at this time disclosed that Surine had been "dropped from the rolls of the FBI" (R., pp. 2642-2643; exhibit 101) and that this personnel action was taken by the Federal Bureau of Investigation based upon Surine's "disregard of Bureau rules and regulations." The evidence indicated that Surine tendered a resignation in writing to the FBI dated February 7, 1950 (exhibit 103). He was advised by letter signed by J. Edgar Hoover, Director, dated February 9, 1950, that he was being "dropped from the rolls" of the Federal Bureau of Investigation, "effective at the close of business February 8, 1950" (exhibit 104). Subsequently Surine was advised by letter dated March 6, 1950, signed by J. Edgar Hoover, "it will not be possible to change the manner in which you were separated from the Bureau's rolls" (exhibit 105). The evidence is that Surine, by his own testimony, submitted his resignation after "violating certain regulations [of the FBI]" and after learning that some disciplinary action was contemplated. He stated:

Rather than take a transfer or cut in salary or some other aspect along that line of disciplinary action I submitted my resignation through my SAC (R., p. 2636).

Surine states that in his original testimony on March 20, 1951, he had no intention to mislead the subcommittee about the circumstances of the termination of his services by the FBI.

However, the subcommittee is of the opinion that this testimony, together with every other conflict in testimony of other witnesses as to a material fact or facts as the record may disclose should be transmitted to the Department of Justice for such action as it deems appropriate.

Conclusion

Shortly following the commencement of these hearings, the hearing subcommittee, as is customary, extended to Senator McCarthy, in

writing, an opportunity to appear to make any statement he felt was indicated. In that letter it was stated:

In the investigation being conducted and public hearings being held by the Subcommittee on Privileges and Elections in connection with the recent senatorial campaign in Maryland, testimony has been presented concerning certain personnel in your employ; and we anticipate that your name, which has already been introduced into the record by the testimony of Senator Tydings and others, may be mentioned by other witnesses.

In anticipation of this, it is the unanimous attitude of the subcommittee that you should be extended an opportunity to appear at the public hearings to make any statement or explanation that you feel is indicated, if you desire.

Senator McCarthy replied by letter dated March 12, 1951:

I received letter from you this morning in which you extend to me an opportunity to appear at your hearings on the Tydings election.

I am not seeking an "opportunity" to appear, but will be glad to do so if you or any of the members of the committee or counsel have any questions which you care to ask me. * * *

The original invitation was renewed by the subcommittee on March 30, 1951, to which Senator McCarthy replied:

This is to acknowledge receipt of your letter of March 30, in which you state that the subcommittee understands I do not wish an opportunity to appear in connection with the Maryland hearings.

I have not read any of the testimony taken before the committee except those portions reported in the newspaper, nor have I attended the hearings except for about 1 hour. For that reason, I am not too thoroughly acquainted with the testimony given. If the committee feels there was any credible evidence that adversely reflects upon my staff or any credible evidence to indicate that anything improper was done by either me or my staff in the Maryland election, then I naturally would want to be called by your committee so as to go into such matters in detail.

* * * * *

To this letter the subcommittee replied on April 9, 1951:

Since our hearings are still continuing the subcommittee cannot at this time presume to pass upon the testimony of any witness or group of witnesses who have appeared before it. That action, as you know, must necessarily follow the development of all material facts and after careful analysis of the record.

The purpose of our earlier letters was to offer you an opportunity to be heard if you so desired. The present schedule of witnesses suggests we may conclude our hearings Wednesday, April 11, 1951.

No further communication was received from Senator McCarthy. He was not called as a witness nor did he appear in response to the invitations. While there was no duty upon him, under the circumstances, to testify at this hearing, the prominence of his personnel in the anti-Tydings campaign and the activity attributed to the Senator himself by certain witnesses might properly have been explained by him. From the testimony it appears Senator McCarthy was a leading and potent force in the campaign against Senator Tydings.

FULTON LEWIS, JR.

The attention of the subcommittee was directed by former Senator Tydings to the activities of Fulton Lewis, Jr., as they related to the campaign of candidate John Marshall Butler (R., p. 45). Mr. Lewis, a resident of Maryland, registered as an Independent (R., p. 1348), is a political commentator with a regular 15-minute nightly broadcast, Monday through Friday. This broadcast is carried by the National network of the Mutual Broadcasting System (R., p. 1349). His

program is carried by approximately 535 radio stations throughout the country (R., p. 1349). Mutual has five stations in the State of Maryland, all of which carry the Fulton Lewis, Jr., commentary. These stations are located at Cambridge, Salisbury, Baltimore, Hagerstown, and Cumberland. In addition, his program is carried by Station WEAM, in Arlington, Va., with a transmission range which covers a considerable portion of the State of Maryland (R., p. 1352). During the period immediately preceding the general election in November 1950 Mr. Lewis devoted numerous broadcasts to a severe criticism of the incumbent candidate, Senator Millard E. Tydings. The substance of the broadcasts related to Senator Tydings' conduct of the loyalty investigation and his alleged whitewash of the charges which precipitated those hearings (R., p. 1351). During the course of these broadcasts Senator Tydings complained to officials of Mutual Broadcasting System concerning the attacks upon him by commentator Lewis (R., p. 47), and subsequently Mr. Lewis made available his time on two broadcasts for purposes of reply by Senator Tydings. Technical difficulties interfered with the transmission of the first broadcast and for that reason the second broadcast period was made available (R., p. 51). A demand by Senator Tydings upon Mr. Lewis for "equal time" in which to answer the anti-Tydings statements of the commentator was declined.

In his testimony Mr. Lewis detailed the conditions of his contract with Mutual Broadcasting System. Under its terms Mutual has no control over the factual material used by the commentator, and its power to edit his material is restricted to libel and profanity (R., p. 1349). Mutual sells the program, as part of its service, to the 535 stations who, in turn, carry it on a sustaining basis or as a regularly paid broadcast with a local sponsor (R., p. 1349). The local stations determine whether the commentary is broadcast but exercise no control over the commentator's material.

Mr. Lewis denied that his broadcasts, of which Senator Tyding's complained, were "political speeches" (R., p. 1350). He states instead that they were "strictly legitimate, truthful, factual reporting and commentary" (R., p. 1351). The testimony is that the broadcasts on five of the six stations with which we are concerned were presented under the local sponsorship and that the commentary on Station WEAM was sustaining with paid spot announcements preceding, during, and following each broadcast (R., p. 1353).

ROSCOE CONKLIN SIMMONS

Roscoe Conklin Simmons, an acknowledged Negro leader in Republican political circles, for many years and during the time preceding the general election of November 7, 1950, was an employee of the Chicago Tribune (R., p. 1022). In the interim preceding the general election in the State of Maryland, Simmons was retained on the payroll of the Chicago Tribune and received a regular salary from it (R., p. 1026) but devoted himself for a period of several weeks (R., p. 1025) exclusively to the support of John Marshall Butler and other Republican candidates in the State of Maryland. Simmons testified that he received reimbursement for certain of his expenses from the Butler campaign committee (R., p. 1027) but that his salary was received from his employer, the Chicago Tribune. In addition,

during this interim, personal advances of funds were made to him by Mrs. Ruth McCormick Miller (R., p. 1003). Mr. Simmons' participation in the campaign consisted primarily of working with the Negro electorate in the State of Maryland; by his testimony he gave many speeches in support of Mr. Butler's candidacy and in general support of Republican candidates for office.

On April 28, 1951, Roscoe Conklin Simmons died. His race and the Nation has lost a distinguished cultural and political leader.

IV. CRIMINAL LIBEL

In his complaint to this subcommittee former Senator Tydings alleged a violation of the criminal libel law of the District of Columbia. The evidence available to this subcommittee does not permit us to determine whether there was a violation of that statute in this campaign, and no recommendation in relation to this allegation is being made.

V. JOHN MARSHALL BUTLER

Contemporaneously with the opening of public hearings conducted by this subcommittee, Senator John Marshall Butler was by letter advised that he would be given an opportunity to appear before the hearing subcommittee at any time that he desired for the purpose of presenting any information which he felt the hearing subcommittee should consider. This written invitation was extended to him again by letter dated March 26, 1951.

At the opening day of the hearings, February 20, 1951, former Senator Tydings was scheduled to be the first witness. As the hearings convened and prior to the testimony of Senator Tydings, Senator Butler arose, as he stated, "on a point of personal privilege" (R., p. 1) and questioned the type of jurisdiction the committee proposed to exercise and the nature of the proceedings it proposed to conduct (R., p. 2). While there is no right of personal privilege that extends beyond the floor of the Senate, this subcommittee granted Senator Butler an opportunity to make his statement at that time as a matter of courtesy, not as a matter of right. Questions raised by him at that time were considered and a ruling announced. That ruling has been quoted previously in this report.

It was likewise stated by this hearing subcommittee at the convening of its session on February 28, 1951, the second day of the hearings that—

It is the intention of this subcommittee, in the conduct of these hearings, to carefully preserve to Senator Butler all rights to which he is entitled * * * (R., p. 69).

The subcommittee consistently adhered to that decision.

Senator Butler, although twice invited, did not at any time, other than that noted, appear before this subcommittee to testify with reference to any aspect of his campaign which was the subject of our investigation and which received wide day-to-day coverage and publicity in the press. We observe that this was not an adversary proceeding, that Senator Butler was not called to testify, and that there was no affirmative duty on his part to appear.

The conduct of his campaign was the issue before this subcommittee, and a large share of the evidence presented was through the testimony

of his own campaign personnel and suppliers. The subcommittee would have welcomed any information the Senator himself could make available, but Senator Butler did not elect to accept its invitation.

The financial irregularities uncovered by this investigation of the Butler campaign were of a substantial nature, involved large sums of money and were engineered by the candidate's own manager. We are impressed with the fact we are not considering actions by enthusiastic supporters of his candidacy operating from a base foreign to the candidate's personal campaign. These practices emanated from his own headquarters, and the actors were his key campaign personnel. It is apparent Mr. Butler employed Jonkel and delegated to him the broadest authority to act in the candidate's behalf. As stated by Mrs. Van Dyke, the headquarters office manager:

Senator MONRONEY. But he [Jonkel] planned the advertising and the preparation of pamphlets, secured the art work on the Butler campaign literature?

Mrs. VAN DYKE. That is correct.

Senator MONRONEY. And in all ways and in all forms he handled the management and administration of the campaign. That was strictly in Mr. Jonkel's hands?

Mrs. VAN DYKE. Absolutely, Senator.

Senator MONRONEY. You were second in command when he was gone, but you were acting under his direction, Mrs. Van Dyke, were you not?

Mrs. VAN DYKE. That is correct.

Senator MONRONEY. He had the authority to incur obligations for the Butler campaign?

Mrs. VAN DYKE. That is correct.

Senator MONRONEY. To authorize the form of literature, to denominate the quantities that would be prepared?

Mrs. VAN DYKE. That is correct.

And continuing:

Senator MONRONEY. His [Jonkel's] decisions were not questioned in the office?

Mrs. VAN DYKE. That is correct (R., pp. 1790-1791).

In addition there is ample evidence Senator Butler had actual personal knowledge that a tabloid newspaper was to be produced and distributed in behalf of his candidacy. He had actual personal knowledge of the existence of the tabloid "From the Record" shortly after its production was accomplished and distribution begun, if not before. In referring to the candidate's knowledge of the tabloid, Jonkel stated:

Senator MONRONEY. And Mr. Butler saw it ["From the Record"] 5 or 6 days before the election?

Mr. JONKEL. It was, I believe, on a Thursday—it was distributed on Thursday or Friday. Distribution was being carried out at that time.

Senator MONRONEY. Where did it take place; where did you show it to him?

Mr. JONKEL. In our headquarters. He came back from the caravan, stopped at our headquarters, and I showed him one.

Senator MONRONEY. Had you ever discussed the State-wide tabloid over the telephone or by letter?

Mr. JONKEL. Sir, the only time I remember discussing it with him, as I previously testified, was when I said that all of the things that people wanted—I believe some people in there were saying that Mr. Butler was not hitting hard enough at Senator Tydings, and why didn't he say this or that. After they left, I said there was a plan under way, or a project had been proposed, why don't we put out a small newspaper to incorporate things. It was my idea, that if used at all, they would be quoted from other sources, reprints from other things. That way you could put out that kind of thing, I suppose. He didn't say he would not put it out. He asked me if it was a good idea. I said I did not know which—it would answer a lot of questions for a lot of people, make them think we were

being cooperative to them. That's as much conversation as we had. I have testified that before.

Senator MONRONEY. He understood it would go out not under your responsibility, but under some other responsibility?

Mr. JONKEL. Yes.

Senator MONRONEY. How long before election was that?

Mr. JONKEL. I don't know. That may have been 4 weeks before the election.

Senator MONRONEY. Quite some time—about the time, perhaps, they started gathering material?

Mr. JONKEL. Before (R., pp. 1852-1853).

To this date Senator Butler has not disclaimed responsibility for the tabloid, the faked photograph, or any other aspect of his campaign under investigation.