

IN THE SENATE OF THE UNITED STATES.

MARCH 3, 1873.—Ordered to be printed.

Mr. FRELINGHUYSEN, from the select committee to inquire into certain allegations against Hon. S. C. Pomeroy, submitted the following

R E P O R T :

The committee appointed to investigate the charges of bribery in the recent senatorial election of Kansas, preferred against Senator Pomeroy by A. M. York and by B. F. Simpson, respectfully report :

That without any avoidable delay they have performed the duty imposed upon them.

The charges preferred by Mr. Simpson consist of a number of alleged specific acts of bribery or attempts to bribe. The charge of Mr. York is that of a single act of bribery.

I. Attention is first invited to the charges of Mr. Simpson.

Mr. O'Driscoll, a member of the legislature, testifies to four different attempts to bribe him; these charges are contested by the testimony of Asa Lowe, David Payne, J. S. Hoke, S. P. Brown, and other witnesses referred to hereafter.

Frank Bacon, a member of the Kansas legislature, speaks of two attempts to bribe him, and his charges are contested by Albert H. Horton and other witnesses referred to hereafter.

William H. Bond, a member of the Kansas legislature, speaks of three attempts to influence him improperly; these charges are contested by the testimony of John J. Murphy, Albert H. Horton, C. A. Rohrabacker, and two other witnesses referred to hereafter.

C. A. Rohrabacker makes the allegation in his testimony that Senator Pomeroy told him to give Mr. Davis, a member of the legislature, two or three hundred dollars. That this charge is entitled to no weight sufficiently appears by the examination of Mr. Rohrabacker's evidence.

The committee are unanimously of the opinion that even if the foregoing transactions were made out as cases of bribery, there is no sufficient evidence to connect Senator Pomeroy with any of them. Mr. William Simpson, a member of the legislature from the neutral lands of Kansas, testifies that he went to Senator Pomeroy's rooms on the 28th of January, as the election was to occur on the 29th and 30th of January, to inquire about the bill in Congress for the relief of the settlers on those lands, and that Senator Pomeroy told him that if he would vote for him, he would pay the expenses of Mr. Laughlin, the agent of those settlers at Washington, and who was supported by the voluntary contributions of those settlers; that the number of settlers is about 25,000, and that Mr. Laughlin's compensation is small. On this charge there is some difference of opinion in the committee; the majority of the committee holding that if the charge was uncontradicted and unexplained, while it would unquestionably present the case of an improper appeal to "motive," it is at least questionable whether it would be the crime of

attempting to bribe—not because of the small distributive amount of Mr. Simpson's contribution, but because he was under no obligation to pay anything. If the sum Mr. Simpson was to pay was a tax, the case would be different. But Senator Pomeroy opposes his evidence to that of Mr. Simpson, and testifies that Mr. Simpson told him how little money Mr. Laughlin the agent had and that he had so written him, and that he had no means to continue at Washington save by voluntary contribution, and that he, Pomeroy, told Simpson he was a friend of the settlers and would in any event contribute to his support, and that when he reached Washington he did accordingly give Mr. Laughlin \$50; and Mr. Pomeroy then adds in his testimony, "And hence it is certain that my contribution had no relation to any man's vote."

A majority of the committee are of opinion that under this state of facts and under the evidence, this charge of bribery is not affirmatively sustained. The witnesses, Judge Albert H. Horton, George T. Anthony, John A. Martin, and Mr. Legate, the confidential friends and advisers of Mr. Pomeroy in the canvass, and in a position where they would naturally know, state that they have no knowledge of Mr. Pomeroy using, or authorizing to be used, any improper influences in the election.

And Mr. Pomeroy most positively denies that he ever, directly or indirectly, paid or promised to pay any individual one dollar, or any other sum, for his vote for him at the late senatorial election.

A majority of the committee are of opinion that none of the charges preferred as aforesaid by Mr. B. F. Simpson against Mr. Pomeroy have been sustained.

II. We now come to the consideration of the specific charge of bribery made by Mr. A. M. York.

Mr. York's statement is that Mr. Pomeroy gave him, on Monday, the 28th of January, \$2,000, and on Tuesday, the 29th of January, \$5,000, as a bribe to vote for him in the joint convention on Wednesday.

Mr. Pomeroy's statement is that he did give him the money at the times and in the amounts stated, not as a bribe, but to carry to Mr. Page as a loan from Pomeroy to aid Page in the purchase of thirty bonds of the United States of the denomination of \$1,000, Page having \$25,000 in currency.

The question the committee is to determine is not which, if either, of these two statements, painfully irreconcilable, is, in all its details, true; but the question is whether, taking all the testimony together and weighing it, Mr. York has sustained his charge.

There are circumstances that legitimately affect the credibility of Mr. York in this transaction. John M. Holmes testifies to hearing Mr. York say after the senatorial election that "he had determined to defeat Mr. Pomeroy, cost what it might, and that his exposure of Mr. Pomeroy was the work of time." Mr. York testifies that he, W. A. Johnson, G. C. Horton, Major B. F. Simpson, spoken of as a candidate for the United States Senate, had a consultation on Monday evening, January 28, and it was agreed that, if Pomeroy should offer York money he was to take it and expose him in the convention on Wednesday. It was, in the language of Mr. York, the conclusion of those gentlemen there, at that time, that there was no other way of defeating him, and that he would be elected (page 27;) and it was further there agreed that the money should be appropriated to the school-fund of Kansas, and they pledged themselves to secrecy.

Chester Thomas says that Mr. B. F. Simpson, who acted as counsel for Mr. York in this investigation, and is named by him as above, said to him, "Well, we could not afford to have Pomeroy elected; we had to defeat him some way; we were beat and we had to do something."

I. L. Sharp gives like testimony. It appears that the plan was kept secret until Wednesday at the joint convention, when an excited exposure was sprung upon that body and the money was exhibited by Mr. York, and he made the statement that members of the legislature had Mr. Pomeroy's money burning in their pockets, of which fact we not only have no proof, but it appears that Mr. York had no such knowledge. It appears that an effort was made by members to adjourn and also to have a recess for an hour or two, that the truth of the allegations made might be ascertained, and that Mr. York resisted these efforts, for fear, as he says, that Mr. Pomeroy might be able to appoint his own successor. Thus, even if Mr. York's, and certainly if Mr. Pomeroy's, statement be taken as true, Mr. York was the principal actor in an effort not only to betray and defeat Mr. Pomeroy, but to deprive the State of Kansas of its free and deliberate choice of a Senator.

These circumstances do not prove that Mr. Pomeroy did not bribe Mr. York, but they do impair the credibility of Mr. York as a witness, for when a line of deception has been entered upon, no one can say when it is dropped and the golden thread of truth adopted.

The truth which the committee seek is as to what occurred in the room on Monday and Tuesday when Pomeroy delivered the money to York. They were alone and contradict each other. There is, however, evidence relating to Mr. York's purpose in going to Mr. Pomeroy's room. Mr. York says that Mr. Hairgrove told him that Mr. Pomeroy would be glad to have a business interview with him, and that invitation assured him, York, that Mr. Pomeroy was about to offer him money, and was the reason of the private consultation, before alluded to, with William Johnson, B. F. Simpson, and J. C. Horton, when the plan of operations was adopted. William Johnson says Mr. York said at that consultation that Hairgrove had invited him to Pomeroy's room on a business matter, or to have a business interview, that night, and from that they all concluded that that meant a money proposition. J. C. Horton says York did not give the name of the person who had invited him to Mr. Pomeroy's room. B. F. Simpson, the other person present at the consultation, acted as counsel for Mr. York before the committee and was not sworn.

Mr. Hairgrove says he did not give any invitation to Mr. York to call at Mr. Pomeroy's room; that he had a conversation with Mr. York and told him that, if he wanted to see Mr. Pomeroy, he would so tell Pomeroy, but that he never took any message from Mr. Pomeroy to Mr. York.

Mr. J. Q. Page testifies that after his interview with Mr. Pomeroy on this Monday, he saw Mr. York, and told him that Mr. Pomeroy would probably give him a package of money for him, Page, and that he wanted him, York, to bring it to him. This York denies.

Mr. York's testimony is, in effect, though not in words, that on Monday evening before he had the interview with Pomeroy he not only supposed he was about to bribe him, but was so certain and so assured of it, that a pledge of secrecy as to it was entered into with his associates, as to the coming event; that it was determined that the bribery should not be disclosed on Tuesday in the senate or house, but should first be made known in joint convention on Wednesday; that it was assumed the amount was to be so considerable that it would be a suitable contribution to the school-fund, to which it was by agreement destined, and that to make proof thereafter clear that he had received the money from Mr. Pomeroy he was searched at 7 p. m. and found to have but about \$40 on his person; after which search, it may be remarked, York

went about the town and saw some two hundred persons before he saw Mr. Pomeroy at 12 p. m., and the only foundation for this assurance of the coming bribe, according to Mr. York, was the fact that Mr. Hairgrove had invited him to a "business interview" to be had with Mr. Pomeroy that evening; and this, as before stated, Mr. Hairgrove denies.

The committee are at a loss to discover from whence Mr. York derived this assurance that he was to be bribed and that it was to be that night, and to be in a large sum, from any fact consistent with his statement. If it be true, as Mr. Page testifies, that he had that afternoon told him that Mr. Pomeroy would probably give him a package of money to bring to him, one can more readily understand this confidence that he was to receive money. But that he had any such notice Mr. York denies. If Mr. York was acting on information Page gave him, there is no evidence that he communicated that information to his associates.

Another improbability in Mr. York's statement is, that Mr. Pomeroy gave him \$7,000 in cash, not for his unconditional support in the senate on Tuesday, and in joint convention on Wednesday, if there should be a vote there, but that on Monday night he agreed to give him \$8,000 for his vote under a stipulation that he might vote against him in the senate on Tuesday, (when his vote might be as desirable as on Wednesday,) and that he was at liberty even to reconsider his conclusion as to voting for him on Wednesday, and that on such an understanding he paid him on Monday \$2,000, and on Tuesday, after he had that day voted against him, \$5,000 more. And Mr. Pomeroy did this while it appears in evidence, beyond question, that he was either honorably refraining from all corrupt influences to promote his election, or that he was carefully on his guard against being entrapped in the use of money, and while it appears that Mr. York was attending the anti-Pomeroy caucus, acting as its secretary, and known by Mr. Pomeroy to have been opposed to him.

Now, we come to the consideration of the statement of Mr. Pomeroy, that he gave Mr. York this \$7,000 to take to Mr. Page to enable him to purchase bonds of the United States to aid in the establishment of a national bank.

In considering this statement Mr. Pomeroy is entitled, to the extent that other men are, to the presumption of innocence, a presumption somewhat strengthened by the fact that his accusers have failed to sustain their other charges of bribery against him in the same election.

Mr. Page was a man of means and a banker, living at Independence. Mr. McBartney, of the National Bank at Junction City; Mr. Shaw, of the Paola National Bank; and Mr. Legate, the clerk of Mr. Pomeroy's committee, all heard Mr. Page conversing with Mr. Pomeroy during the senatorial canvass at Topeka, about starting a national bank at Independence, part of the conversation relating to the amount of capital required, but not as to Mr. Pomeroy advancing any part of the capital.

Mr. Maxson testifies to Mr. Pomeroy inquiring of him, prior to 27th January, as to Mr. Page's pecuniary responsibility; that he told Mr. Pomeroy that he was responsible and trustworthy.

Mr. Page lived in the same town with Mr. York, and they were friends. It appears, by Mr. York's testimony, that he called on Mr. Pomeroy with Mr. Page some ten days before the occurrence to which our investigation is directed. Mr. Page testifies that he requested Mr. Pomeroy's influence to obtain a national bank at Independence; that Mr. Pomeroy told him that it would require \$50,000, but if he had \$30,000 in United States bonds he could pay the balance in installments. Page said that he could raise \$25,000 in currency, and that Mr. Pomeroy

said he would help him to the balance, as he had helped other young men, and that Mr. Pomeroy said he expected to have the money before the election, and would let him have it.

On Monday, Mr. Page says he went to Mr. Pomeroy and told him he was going home, and it was arranged that Mr. Pomeroy was to send him the money by Mr. Bell or Mr. York. It is to be observed that Mr. Pomeroy then had in his possession the \$7,000; and that fact should receive its weight as affecting Mr. Pomeroy's statement. And Mr. Page says that, on the same day, he told Mr. York that it was probable that Mr. Pomeroy would hand him, Mr. York, a package of money for him; and if so, he wished him to bring it to him.

Mr. Page says that he on Monday told Mr. Hairgrove, who was also a promoter of Mr. Pomeroy's election, that he was going home, but was persuaded by Mr. Hairgrove to stay; that he did not stay at the same hotel with Mr. Pomeroy, and did not see him again to speak with him while at Topeka, though he did see him from the door of Mr. Pomeroy's room.

Mr. Pomeroy states, on his oath, that Monday evening, January 27, Mr. York called on him, having sent word that he was coming, and informed Mr. Pomeroy of what was going on at the anti-Pomeroy caucus; spoke of the favor Mr. Pomeroy had granted his friend Page, and said that Page had requested him to get the money, and forward it to him at Independence, and that he, York, would leave soon after the election for home.

Mr. Pomeroy told him he was not prepared, at that time, to furnish it, although he said he had promised it to Page before he, Pomeroy, left the city. Mr. York said perhaps Mr. Pomeroy had no confidence in him. Mr. Pomeroy assured him of his confidence, and said that he could furnish \$2,000 at any time, and thought he should be able to pay the \$5,000 next day; and paid him \$2,000 then. It is proper to notice that on this Monday Mr. Pomeroy had the \$7,000 with him.

During the next day Mr. Pomeroy says he sent Mr. Knight and Mr. Lemuel Pomeroy to look for Mr. Page to inform him of the transaction, if he had not left the city, and to see if it was all right. They could not find him. Neither Lemuel Pomeroy nor Knight was examined on this point. That on the afternoon of that day, Tuesday, Mr. Pomeroy paid Mr. York the \$5,000 in currency, in packages of \$1,000, with the bank mark on them.

When the alleged exposure was made in the convention, Judge Horton, who was present, says that when a recess was refused, as soon as he could get out of the crowded house, he went to Mr. Pomeroy's room and told him what had happened; that Mr. Pomeroy was overwhelmed; that no one defended him, and said he had done nothing wrong; that while they were talking, a messenger came in, and said that the convention was voting for Senator; that there being much excitement at the hotel, Mr. Pomeroy went to a private house, and as soon as there Mr. Pomeroy told him substantially what Mr. Pomeroy has stated before this committee; that Mr. Pomeroy said that he supposed Mr. Page, now thinking he was going to lose the money, might go back on him, and he would have trouble; but if Page would stand up to the agreement, there was no question that before the country and his friends he would be fully vindicated.

There are several questions that arise in this transaction which are not satisfactorily explained.

Why did not Mr. Pomeroy deliver the entire \$7,000 to Mr. York on Monday, instead of \$2,000 on Monday and \$5,000 on Tuesday?

It is true Mr. Pomeroy says the \$5,000 was locked up in his valise,

and the key with his clerk, but the clerk was near; and it is also true that Mr. Pomeroy says he sent out on Tuesday to find Mr. Page, if he was in town, to see that it was all right, and could not find him; and he says that when he hesitated in paying Mr. York anything on Monday evening, he considered it a want of confidence. The same difficulty exists, too, if we adopt Mr. York's statement. On the theory of his story, why did not Mr. Pomeroy pay the whole \$7,000 on Monday? He says he only paid him then \$2,000.

Why did not Mr. Page, who was present at the convention when the alleged exposure was made, state that Mr. York was to bring him a package of money from Mr. Pomeroy?

It is true it was not certain the money was to be sent; the sum was not definitely fixed; it was to be from eight to ten thousand dollars. Neither was it known to him whether it would be sent by Mr. Bell or Mr. York; and yet it would seem natural for him to have spoken.

How did it happen that no one was present at either of the two interviews between Mr. York and Mr. Pomeroy? Mr. Pomeroy speaks of that fact as merely accidental, he not being entirely certain whether any one was present or not. It is clear, however, that they were alone, and it is unfortunate for the solution of this question that they were so.

How did it happen that Mr. Page and Mr. Pomeroy, holding their relations, did not meet, when both in Topeka from Monday to Wednesday? This may have been accidental if such was the fact. Mr. Page says that he did go to Mr. Pomeroy's rooms, but that there was a great press of people there, so that he could not reach him.

Why did not Mr. Pomeroy deliver the \$7,000 to Mr. Page himself when he called on Monday? He then had the money.

Why did not Mr. Pomeroy give Mr. York the money he was to take to Mr. Page in a sealed package?

Mr. Pomeroy may have desired, in view of the coming election, to conciliate Mr. York, by showing him that he was assisting his friend Page, by showing him that he was aiding in establishing a bank in his town, and by reposing confidence in him; but even the suggestion of this improper motive is not a satisfactory answer to these questions.

There are also some discrepancies between the statements of Mr. Pomeroy and Mr. Page, such as to whether it was in the morning or in the afternoon of Monday that Mr. Page last called on Mr. Pomeroy; perhaps they are not other than such as show the absence of arrangement between them as witnesses. These are questions, and there may be others, to which the committee do not find satisfactory answers.

The committee, some of whom were absent on other duty from time to time, as the evidence was being taken, did not receive the printed testimony until the morning of Saturday, the 1st instant, and have given the evidence such examination as, in the press of business, they have been able, which has been by no means as thorough as was desirable.

The committee bearing in mind, while examining the evidence, that the whole transaction, whatever view be taken of it, is the result of a concerted plot to defeat Mr. Pomeroy, and remembering that the burden of proof is on the party making the accusation, have come to the conclusion that Mr. York has not sustained his charge by sufficient proof, contradicted as it is by the evidence of Mr. Page and Mr. Pomeroy.

The committee report herewith the evidence taken, and the briefs of the respective counsel.

FRE'K T. FRELINGHUYSEN.
WM. A. BUCKINGHAM.
J. L. ALCORN.

VIEWS OF MR. VICKERS.

I cannot forbear saying that this case is not entirely free from difficulty and embarrassment; but as a preliminary remark, I can say that I do not think any connection has been proved between the persons alleged to have offered bribes, being the friends of Mr. Pomeroy, and that Senator. Most, if not all, these instances of attempts to bribe have been denied by the persons who it was said made the offer. Nothing has been traced to Mr. Pomeroy, and there is no difficulty in acquitting him of all charges of that character. The counsel for the prosecution, when the testimony was admitted, proposed to connect Mr. Pomeroy with them, directly or circumstantially. The result proved a failure to do so. I do not think that the offer of Mr. Pomeroy to assist Mr. Laughlin, an agent of certain poor settlers upon neutral lands in Southern Kansas, if Mr. William Simpson would support him for Senator, in connection with the surrounding circumstances, is of such a character as to amount to a direct offer to bribe, although the motive held out to Mr. Simpson cannot be approved. Mr. Pomeroy denies substantially any motive or attempt to influence Mr. Simpson's vote, in the conversation held between them.

I dismiss this part of the case, and come to the charge of actual bribery made by Mr. York against Mr. Pomeroy. Mr. York has testified before the committee, unequivocally, to the offer of a bribe by Mr. Pomeroy to him for his vote, as a member of the legislature of Kansas, for Mr. Pomeroy for the place of United States Senator; that Mr. Pomeroy paid him \$2,000 on Monday night preceding the election on Tuesday, and \$5,000 on Wednesday, before the meeting of the joint convention of the legislature on that day; that he, Mr. York, produced the money before the convention; stated all the circumstances, and declared that he knew of five or six members of the convention who had Mr. Pomeroy's money burning in their pockets, and he would disclose their names at a proper time. Mr. Pomeroy, in his testimony before the committee, denied emphatically the truth of Mr. York's statement, and averred that he handed him \$2,000 and the \$5,000 to him to be delivered to Mr. Page, a banker at Independence, to whom he had promised to loan the money, to aid in establishing a national bank at Independence, in Kansas. Mr. Page swears that he told Mr. Pomeroy to send the money by Mr. York, or Mr. Bell, (a member of the legislature,) and that he told Mr. York that he had told Mr. Pomeroy, on Monday preceding the election, to hand the money over to him, to be carried to Mr. Page. Mr. Page also swears that he did not leave Topeka till Thursday, the day after the election, but did not converse with Mr. Pomeroy after Monday. Mr. Page had several conversations with Mr. Pomeroy upon the subject of establishing a national bank—some of them in the presence of others.

The following is a statement of part of the cross-examination of Mr. Pomeroy before the committee:

"Question (to Mr. Pomeroy.) You say that on Monday night you gave to Mr. York \$2,000; where, at that time, were the \$5,000?"

"Answer. They were in my valise; not in my trunk."

"Q. Why did you not give him the \$5,000 as well as the \$2,000?"

"A. I had not it with me in the room at the time, and I intended to see Mr. Page the next morning.

"Q. In what room was it that you gave Mr. York the \$2,000?

"A. In what they call my private room.

"Q. Your reception room?

"A. No; back of that.

"Q. Where was your valise that contained the \$5,000?

"A. It was in a closet, or in a place which I extemporized for a closet, behind my trunk.

"Q. In the same room?

"A. Yes, sir.

"Q. Then why did you not give him the \$5,000 at the same time that you gave him the \$2,000?

"A. For the reason that I wanted to see Mr. Page.

"Q. Had Mr. Page told you, Mr. Pomeroy, you could give the money to Mr. York?

"A. Yes, sir; he had told me I might send it to him by Mr. York; that he was going to leave town, and to send it by Mr. York or by Mr. Bell.

"Q. When was it that Mr. Page told you to send the money by either of those gentlemen?

"A. On Monday.

"Q. In the forenoon.

"A. In the forenoon, the same day.

"Q. You say you did not give him the \$5,000, because you expected to see Mr. Page the next day?

"A. Yes, sir.

"Q. You knew, then, that Mr. Page had not left Topeka then?

"A. I did not know whether he had or not. He had told me he thought he should go. I sent out for him on Tuesday twice, to find out whether he had gone.

"Q. As he had told you you might send the money by Mr. York, why did you hesitate to give Mr. York the whole \$7,000?

"A. For two reasons: First, I wanted to know if it was all right from Mr. Page; and then I had not the \$5,000 accessible at that time.

"Q. Did I not understand you that the \$5,000 were in the same room?

"A. Yes, sir; but in a valise. I kept money and private papers in a valise which Mr. Lemuel Pomeroy, my clerk, had the control of and key of; but the trunk I had the key of myself.

"Q. You had not the key of the valise in which the \$5,000 were?

"A. No, sir; I had not.

"Q. Where was Mr. Lemuel Pomeroy at that time?

"A. He was in the reception room or abed. He was about the hotel.

"Q. I understand you took no memorandum from Mr. York that you had delivered the money to him?

"A. I did not.

"Q. Was this a subscription to the stock of that bank?

"A. No, sir.

"Q. It was a loan?

"A. It was a loan.

"Q. Interest-bearing or not?

"A. I had made no particular arrangement. I told him I would help him to money enough with what he had got to buy thirty bonds. He was to settle with me after he got the currency here.

"Q. How long was he to have the money?

"A. I think it was thirty or forty days. It generally takes thirty days after putting the bonds in to get the currency from the Department."

I have not referred to all the testimony, but only a small portion of it, the whole being printed, and to which the Senate is referred; but I have noticed the material portions of Mr. York's and Mr. Pomeroy's and Mr. Page's, so as to bring the point at issue more distinctly and prominently into view. It will be seen that Mr. York stated to the joint convention that he knew of five or six members of that body who had Mr. Pomeroy's money burning in their pockets, and at a proper time he would disclose their names. A few days subsequent, when told by a member that his statement of that fact, and the manner of making it, impressed his mind with the supposition or belief that he (York) had received his information from Pomeroy, he made no reply nor entered into any explanation. Mr. York, when interrogated before the committee, does not remember the statement made in reference to the bribery of other members, and pleaded excitement as an excuse for his defect of recollection. That part of the declarations of Mr. York before the convention had, no doubt, its effect upon their minds, coupled with the revelations about the money transaction and the production of the funds, and doubtless he intended it should have. He had Mr. Pomeroy's defeat in view, and as auxiliary to other statements they were introduced. This additional charge of bribery of other members was of such a notable character, which, if true, could not so soon be forgotten. It would require the largest measure of charity to believe that Mr. York could have forgotten them, or the charge which he made. The conclusion is inevitable that he stated as facts what he did not know, or, in other words, that he manufactured the statement for the occasion. Mr. Pomeroy denies all the material facts, and asserts that the money was handed to Mr. York to be taken to Mr. Page. He denies explicitly every offer directly or indirectly to bribe Mr. York, or the offer or delivery of money for his vote. But there are circumstances connected with the transaction that cast a somber hue over portions of it. The lateness of the hour; the place, the room of Mr. Pomeroy; the absence of all witnesses; the fact that Mr. Page was then in Topeka; the delivery of a portion of the money, and the balance on Wednesday morning, the day of the meeting of the convention; the limited acquaintance of the parties; no receipt or memorandum taken; the fact that Mr. Borland loaned Mr. Pomeroy \$5,000 on the Friday preceding; (Mr. Pomeroy states, in his testimony, he wanted it for Mr. Page;) the fact that on Saturday following he did not inform Mr. Page he had the money; that on Monday he told Mr. Page that he expected to receive the money before he left Topeka, and was told by Mr. Page to send it by Mr. York or Mr. Bell, (Mr. York residing in the same town with Mr. Page—Independence,) when he had the Friday before borrowed the money from Mr. Borland, and had it in his possession at the time he told Mr. Page he expected to receive it; and that the money was not inclosed in any envelope; the fact that Mr. Pomeroy states nothing was said about security or interest, (although the parties had not known each other for more than one or two years, and resided at different and distant points;) that Mr. Page states he was to have it without interest; the additional facts elicited in the cross-examination of Mr. Pomeroy by one of the committee, that the reason he did not pay over the whole \$7,000 to York on Monday night, but only \$2,000, was that he wanted to see Mr. Page first; and, on further cross-examination, that he had not the key of the valise where the \$5,000 was placed; first that the money was not in the same room (the back room) where the parties were, and afterwards that it was: these and other circumstances connected with the affair show discrepancy apparently irreconcilable. Mr. Pomeroy, when testi-

fyng, would naturally state the case as favorable to himself as it could be done consistently with the facts.

On the other hand is to be considered the circumstances leading to, attendant, and consequent upon the alleged receipt of money by Mr. York from Mr. Pomeroy. Four persons conspired to defeat Mr. Pomeroy's election to the Senate of the United States; the plan of operations was concocted at night, and Mr. York, as the chief conspirator, was selected or volunteered to carry out the programme. He went to Mr. Pomeroy's rooms very late at night. His object was to obtain Mr. Pomeroy's confidence and his money, and then betray him. He induced Mr. Pomeroy to believe that he would be his friend, but that he wanted money. He asserts that he sold his promised support to Mr. Pomeroy for \$7,000; received the \$2,000 before he left, and the balance, of \$5,000, the next day; that he took the money to the joint convention, made an exciting speech and exposure, and strenuously opposed all motions for adjournment or recess to allow Mr. Pomeroy an opportunity for denial or explanation. Although a witness who acknowledges the turpitude of his conduct, and the iniquitous means he resorted to to deceive and induce another to commit an offense that he might betray him, may possibly be believed, yet the mind cannot relieve itself of the unfavorable effect which the facts stated and the moral taint of the witness must produce. Detectives, it is said, are employed by governments and by individuals, and to use stratagems and devices to detect suspected offenders. But the cases, I presume, are not exactly parallel. Mr. York and Mr. Pomeroy were personal and political friends, and Mr. York admits that he sought Mr. Pomeroy and exerted his influence to induce him to commit a crime by the offer of a very valuable consideration. A detective may lay his plans and place temptations in the way of one he wishes to entrap, but I do not suppose that he solicits and bargains for its commission. I should be reluctant to credit the testimony of one who confessed to such practices, unless he was strongly corroborated. The true theory should be, that the evidence of one who acknowledges his own wrongful and vicious purposes and acts to seduce another into the commission of crime, should be corroborated in the essentials of his testimony. While he may be competent to testify, his credibility is sensibly and materially affected. Unless some such rule prevail, any citizen in the community might be unjustly convicted upon the false testimony of a sharp but unprincipled witness. Character alone will sometimes outweigh the charge of an accuser, unless corroborated. In my opinion, neither governments nor individuals should countenance the violation of truth or morality to accomplish any purpose.

Taking all the testimony and circumstances into consideration, and weighing them carefully in equal scales, I cannot decide that the guilt of Mr. Pomeroy is established beyond a reasonable doubt. If I were a judge or a juror, I could not convict upon such testimony. The duty of the committee was to take the testimony and report upon it to the Senate, with their convictions of its bearing and effect. They have, in the short time allowed, and under difficulties and inconveniences arising out of their senatorial duties and engagements on other committees, and some delay in receiving the printed testimony, been prevented from giving as thorough a consideration of the evidence as they desired to do. But considering the nature and character of the testimony for the prosecution and defense, with all the surrounding circumstances, I have not been able to conclude, beyond a reasonable doubt, that the charges against Mr. Pomeroy have been sustained.

G. VICKERS.

VIEWS OF MR. THURMAN.

I cannot agree with the report of the majority of the committee. I think that the testimony proves a corrupt offer by Mr. Pomeroy to Senator Simpson, of the Kansas legislature, to obtain the vote of the latter.

I also believe that the testimony convicts Mr. Pomeroy of having attempted to bribe Senator York, of that legislature, to vote for him; that Pomeroy delivered to York \$7,000 is not denied. The only material issue between them is, for what purpose was the money delivered? York says that it was a bribe for his vote. Pomeroy says that it was handed to York to carry it to one Page, whom Pomeroy had promised to assist in starting a national bank. In my judgment, the statements of Mr. Pomeroy on this subject are contradictory, are inconsistent with Page's statements; are so opposed to the usual circumstances attending a business-transaction, and are so improbable, especially in view of the circumstances attending the senatorial election, that reliance cannot be placed upon them. Perceiving no good to result from an elaborate statement of the testimony, and reasons that bring me to these conclusions, I refrain from making such statement. Were there time for the Senate to consider the subject fully, I should feel it my duty to give at large the reasons for my convictions. But this is the last day of the session and of Mr. Pomeroy's senatorial term. Before the reports can be printed, much less considered, the session will be at an end. I therefore say no more than to repeat the conclusions to which my mind has, reluctantly and painfully, been brought.