
INVESTIGATION OF SENATORIAL CAMPAIGN
EXPENDITURES, 1946

JANUARY 31, 1947—Ordered to be printed

Mr. ELLENDER, from the Special Committee to Investigate Senatorial Campaign Contributions and Expenditures in the 1946 Elections, submitted the following

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[Pursuant to S. Res. 224 and 293, 79th Cong., 2d sess.]

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PART I

AUTHORITY, MEMBERSHIP, AND JURISDICTION OF COMMITTEE

The Special Committee to Investigate Campaign Expenditures in 1946 was created by Senate Resolution 224, Seventy-ninth Congress, second session, and was agreed to by the Senate on April 1, 1946. On June 25, 1946, the Senate agreed to Senate Resolution 293, which extended the powers of all select committees in full force and effect until January 31, 1947. The full text of these resolutions will be found in appendix 1.

In accordance with long-standing custom concerning membership on the committee, the resolution provided for the appointment by the President of the Senate of five Senators and further provided that no Member of the Senate should be appointed to serve on the committee from a State in which a Senator was to be elected at the general election in 1946.

Pursuant to the authority of the resolution, the President pro tempore of the Senate appointed the following Senators to serve on the committee: Allen J. Ellender, Louisiana (Democrat) chairman; Burnet R. Maybank, South Carolina (Democrat); Edwin C. Johnson, Colorado (Democrat); Styles Bridges, New Hampshire (Republican); and Bourke B. Hickenlooper, Iowa (Republican). On August 9, 1946, Senator Johnson resigned from the committee and Senator Elmer

Thomas, Oklahoma (Democrat) was appointed by the President pro tempore of the Senate to take his place.

Senate Resolution 224 authorized and directed the committee to investigate:

1. The campaign expenditures of all senatorial candidates made in connection with their campaigns for nomination and election to office;

2. The amounts contributed, and the value of services and facilities made available by any individual, group of individuals, partnership, association, or corporation to any such candidate in connection with his campaign or for the purpose of influencing votes at a primary, general election, or nominating convention;

3. The expenditure of funds appropriated by Congress in such a manner as to influence the votes to be cast for any such candidate at a primary or general election;

4. The use of any other means or influence, including the promise or use of patronage in such a manner as to influence the nomination or election of such candidates; and

5. Other matters relating to the election and campaigns of such candidates as the committee might deem to be of public interest and which would aid the Senate in enacting remedial legislation or deciding any contest.

The committee was vested with the authority to initiate investigations and conduct hearings upon its own motion or upon any information it deemed reasonable or reliable. Further, Senate Resolution 224 provided that the committee should conduct an investigation and hearing upon any complaint filed with it under oath setting forth allegations pertinent to the subject matter of the resolution.

Meetings of the committee were held on June 20, June 29, September 6, October 28, November 16, December 2, December 16, and December 31, 1946. Minutes of these meetings are on file at the offices of the committee.

COMMITTEE POLICY

Although there was no Presidential election in 1946, the committee felt that, in the interest of avoiding unwarranted and unnecessary investigations and consequent expense, that all charges filed with the committee should be set forth with such particularity and detail as would establish prima facie that the committee had jurisdiction and that the complaint had substantial basis in fact. In commencing its work, in the case of the complaint of Senator Burton K. Wheeler, of Montana, submitted to the committee on June 27, 1946, the committee did not adhere to the rule, later adopted, that all complaints should be sworn to. All complainants not complying with the approved policy in this connection were promptly advised of the committee's requirements and were given a specified period of time within which to amend or supplement their complaints in conformity therewith.

It was the rule of the committee with regard to hearings, after the Montana hearings had been completed, that no hearing would be authorized in any case until after a preliminary investigation had been made and the investigator's report thereon had been considered by the full committee. In this regard, it may be noted that aside from Montana, hearings were deemed necessary by the committee only in Mississippi.

SCOPE OF INVESTIGATIONS

During the latter part of 1946, several complaints were filed with the committee and in a few instances requests for investigations were made. Investigations were ordered only where the subject matter was deemed of public interest and importance, and only after the complainant met the requirements of the committee with regard to affidavit. Matters outside the jurisdiction of the committee, but deemed to be important, were promptly referred to the appropriate enforcement and administrative agencies for attention.

Complaints were received from Senator Burton K. Wheeler, Montana, June 27, 1946 (unsworn); Senator James E. Murray, Montana, October 24, 1946 (unsworn); George E. Brunner, Democratic primary candidate for United States Senate, New Jersey, October 18, 1946 (unsworn); J. Buhl Shahan, Democratic primary candidate for United States Senate, West Virginia, August 2, 1946 (unsworn); Thomas J. Jackson, attorney for Edward Ward Carmack, Democratic primary candidate for United States Senate, Tennessee, September 25, 1946 (sworn); Thomas J. Jackson, October 1, 1946 (sworn); Edward Ward Carmack, Democratic primary candidate for United States Senate, Tennessee, October 25, 1946 (sworn); Richard E. Bowen, chairman, Clean Elections League, Memphis, Tenn., July 23, 1946 (sworn); John R. Neal, Democratic primary candidate for United States Senate, Tennessee, July 20, 1946 (sworn); Arthur H. Schnell, citizen of Pennsylvania, November 29, 1946 (sworn); T. B. Wilson, president, Mississippi Progressive Voters League, Mississippi, September 19, 1946 (sworn, 48 affiants); Noble H. Downes, citizen of Delaware, October 23, 1946 (sworn); Patrick J. Hurley, Republican candidate for United States Senate, New Mexico, November 6, 1946 (unsworn); D. John Markey, Republican candidate for United States Senate, Maryland, December 10, 1946 (sworn).

With the exception of Senator Wheeler's complaint of June 27, 1946, investigations were ordered in connection with only those sworn complaints which in the opinion of the committee were sufficiently specific and which established on their face the prima facie jurisdiction of the committee together with apparent substantial basis in fact. This resulted in field investigations in Montana, Mississippi, Delaware and Maryland, and hearings in Montana, in the city of Washington, and Mississippi, no member of the committee being present at the hearings in Montana, and all members being present at the Mississippi hearings.

Sworn complaints from Tennessee complainants were considered by the committee at its meeting on September 6, 1946. Two of these complaints, originating from Richard E. Bowen, chairman, Clean Elections League, Memphis, Tenn., and John R. Neal, defeated primary candidate, failed to meet committee requirements outlined above, and a third, from defeated candidate Edward W. Carmack, was not sworn. The chairman notified complainant Carmack by telegram of the requirements of the committee, requesting that if complainant intended to submit sworn complaint that he do so within a stated time. This was not complied with, although sworn complaints were next submitted by Thomas J. Jackson, attorney and campaign manager for Mr. Carmack. At the next meeting of the committee, on October 28, 1946, it was voted that no further action

would be taken on Tennessee complaints to date, for failure of complainants to meet committee requirements. Subsequent to this meeting complainant Carmack filed sworn complaint with the committee, which was considered at subsequent meeting of the committee on November 16, 1946, and again on December 31, 1946, at which time it was unanimously voted that the complaint be dismissed for reason of failure of complainant to specify therein sufficient facts to justify investigation.

In addition to formal investigation, the committee obtained supplemental information through the use of questionnaire forms, which together with a copy of the Federal Corrupt Practices Act and the Hatch Act, were mailed to all candidates for nomination or election to the United States Senate; 189 were forwarded to candidates in primary elections and all forms, duly executed, were returned to the committee except in two instances, involving all defeated candidates. The delinquents were as follows: Thomas Logan, Kentucky, illness; and Henry Clay Stephens, Cliff, Ky.

A total of 96 questionnaires was sent to candidates in the general election. Two defeated candidates did not file; Berkeley L. Bunker, Las Vegas, Nev., and John Young Brown, Lexington, Ky.

Appendix 6 is a tabulation of contributions and expenditures reported by candidates in senatorial primaries and general elections in 1946.

Questionnaires were sent to the chairmen of State committees of both Democratic and Republican Parties in each of the 35 States in which there were senatorial contests. Delay on the part of some of the State chairmen in filing the returns with the committee caused the committee to follow up the matter by means of telegraphic requests for the furnishing of the information. The cooperation exhibited by these chairmen on the whole was satisfactory but in the following cases, despite repeated requests, State chairmen failed to file the requested information: Republican State Central Committee of California; Democratic State Central Committee of Minnesota; Republican State Central Committee of North Dakota; Republican State Finance Committee of Pennsylvania; Republican State Central Committee of Wyoming; and Democratic State Central Committee of Washington.

Through the use of a specially prepared questionnaire form, the committee made special efforts to obtain information concerning the nature and activities of independent or educational committees. In this connection, questionnaires were sent to 253 committees of this type and replies were received from 121 (satisfactory and unsatisfactory). Some of the information received is summarized under the heading "Independent political committees," *infra*.

Tabulation of material in the appendix to this report has been confined to information on file with the committee as distinct from that available at the office of the Secretary of the Senate and the Clerk of the House of Representatives, and in the respective offices of the various secretaries of state. The committee, after considered deliberation, is of the opinion that further compilation of statistical information contained in reports, wherein the information specified is peculiarly within the knowledge of the signer and difficult to verify, represents a waste of time and effort in light of currently ineffective legislation on this subject. Recommendations of this committee in this regard are contained in part IV of this report.

The investigators' reports contained numerous exhibits evidencing wide publicity given the purge by both parties on the radio and in the press from September 17 to October 8, which resulted in an abnormally high registration and reregistration on the general registration day, October 19, 1946, amounting to some 13,000 in Newcastle County alone. One of these press articles dated September 21, 1946, contained a challenge from the Republican secretary of the Newcastle Department of Elections that—

If any person has information or facts which will show this canvass has not been done on a strictly nonpartisan and nonpolitical basis and wholly within the law, I challenge them to show up or shut up.

A sample list of 56 names is allegedly illegally stricken was obtained from the Democratic City Committee of Wilmington, of which number 12 were found to have voted, 4 were not stricken but did not vote, 5 were stricken but reregistered on October 19, 9 were not listed in the poll books in the precincts indicated, and 15 were stricken for nonresidence.

Conclusions.—The committee found that the complainant's name was stricken from the register of Gumboro Hundred but that since he was still carried on the original and controlling register, he did not receive a registered notice as required under section 31, chapter 144 of the election laws of Delaware; that complainant's wife was permitted to vote absentee in Gumboro Hundred but that complainant had registered and voted without difficulty in another county (Indian River), which reasonably appeared to be complainant's present address in Delaware. The committee further found that complainant failed to notify the appropriate officials in Delaware of his change of address as required by law; that complainant had for a protracted period resided and been employed in Washington, D. C., where he is at present residing with his entire family, and that difficulty experienced by Mr. Downs in registering at Gumboro Hundred, Del., was not the fault of registration officials of Sussex County.

The committee further found, after thorough investigation, that there was no fraud, conspiracy, or other violation of law in the conduct of the purge in Delaware, and that it did not militate to the advantage of either senatorial candidate in the general election held in Delaware on November 5, 1946. Accordingly, the committee, on December 16, 1946, voted to close the Delaware investigation.

2. Maryland

On December 10, 1946, sworn complaint was filed with the committee by D. John Markey, defeated Republican senatorial candidate in Maryland, alleging irregularities and improper tallying of ballots cast in the November 5, 1946, general election and requesting a recount by the committee, in view of the fact that the right to demand recount by a contestant was confined under Maryland statutes to primary elections. The Markey complaint further alleged excessive campaign expenditures by or on behalf of Senator-elect O'Connor, in both the primary and general election; unauthorized use of names of prominent Maryland citizens as endorsers; unreported contributions, and contributions by corporations in violation of law; and improper use for political purposes of lists of Maryland selectees under the Selective Service Act, allegedly prepared at the expense of the Federal Government. Investigation of these matters was requested of the committee pursuant to Senate Resolution 224.

In accordance with committee policy, contestant Markey was requested to file sworn particularities of general charges contained in the complaint. Affidavits were filed by contestant, dealing with election irregularities, but none were furnished and no evidence was produced substantiating the other charges embodied in the original complaint.

Since particular emphasis was laid in the complaint upon the necessity for immediate recount of the totals on the voting machines in Baltimore City due to decision of the board of supervisors of elections of that county to clear the machines on December 16, 1946, committee investigators were forthwith dispatched to Baltimore, where official recount of the returns indicated on the voting machines in Baltimore City was conducted and completed on December 14, 1946. In the process of this recount committee investigators were accompanied by counsel for Contestant Markey and Senator-elect O'Connor, and all official committee returns were initialed and approved by all parties present and represented, including the Board of Supervisors of Elections for Baltimore City. The result of the committee's recount of the voting machines in Baltimore City showed totals differing slightly from those previously certified by the secretary of state of Maryland. This difference was much less than necessary to change the results of the election.

On December 17, 1946, committee investigators proceeded to Montgomery County, where recount of the totals shown on the voting machines in that county was conducted under the same regulations, and with the observance of similar formalities in the execution of the official committee returns by authorized representatives of both parties, and the board of supervisors of elections of Montgomery County. The result of the committee's recount of the voting machines in Montgomery County showed a very slight change in the vote from the official count of the votes for that county.

Recount of the ballots cast by means of machine voting throughout the entire State of Maryland was confined to Baltimore City and Montgomery County by virtue of the fact that these 2 counties were the only ones in Maryland, out of a total of 24 counties (including Baltimore City), in which voting machines were used in the 1946 general election. However, there were represented in the votes cast on these voting machines nearly 50 percent of the total vote cast at the November 5, 1946, election, namely, 222,336 ballots out of a State-wide ballot of 472,232.

In order that a fair test might be made to determine whether the contestant's allegations as to the irregular handling of paper ballots were well founded, the committee, taking cognizance of the potentially greater margin of error inherent in the multiple electoral processes connected with the use of paper ballots, at its meeting on December 31, 1946, ordered that Contestant Markey furnish the committee with an affidavit containing a list of five counties in the State of Maryland wherein it was alleged that the greatest number of irregularities and discrepancies occurred, in the order of their importance. This sworn list was furnished the committee by contestant on January 9, 1947, listing the following counties in the order named:

1. Anne Arundel.
2. Prince Georges.
3. Baltimore.

4. St. Marys.

5. Howard.

It was planned by the committee to recount the ballots in each of these named counties for the purpose of ascertaining the truth or falsity of the charges made by contestant; and if, in the opinion of the committee, the changes, if any, in the committee's recount from the totals previously reported substantially reduced the lead of Senator-elect O'Connor, a State-wide recount would be ordered. On the other hand, if no substantial change resulted, a further recount in other counties would be abandoned. In furtherance of these plans, counsel for contestant and incumbent, together with committee counsel, met in Washington and agreed upon procedure for the conduct of the recount, which agreement was embodied in a stipulation prepared for signature of the parties.

However, on January 3, 1947, Contestant Markey filed a sworn petition with the Secretary of the Senate, this petition containing certain similar allegations to those in the complaint previously filed with this committee on December 10, 1946. This new complaint was referred to the standing Committee on Rules and Administration, and in consequence of decision of the Rules Committee further investigation in Maryland by the Senate was transferred to the Committee on Rules and Administration on January 18, 1947, and is currently continuing as of the date of this report, under the immediate supervision of the Subcommittee on Privileges and Elections of the Committee on Rules and Administration.

The Committee on Rules and Administration, through a subcommittee, is now engaged in counting the ballots in the five counties above named and in accord with the terms of the agreement of procedure above referred to.

C. INDEPENDENT POLITICAL COMMITTEES

In recent years a trend toward the financing of Federal political campaigns by independent committees, unaffiliated with the official national party organizations, has developed. The Political Action Committee movement on the part of labor has dramatized the importance of, and drawn attention to, these numerous independent political groups and to the substantial sums raised and expended by them. This splintering up of the fund-raising and fund-expending process, inspired in part by the unrealistic \$3,000,000 limitation upon contributions to and expenditures by national political committees, has greatly reduced the effectiveness of the publicity provisions of the Federal Corrupt Practices Act.

No attempt should be made to restrict the right of any group of individuals to associate freely and to speak and publish to the body politic their individual and collective views on political issues or candidates. Our Federal Bill of Rights guarantees this opportunity. But as the 1944 special committee asserted:

It cannot be regarded * * * as an abridgment of any freedom to require publicity as to the source of their finances and the nature of their expenditures.

Many of these committees have claimed to be exempt from the requirements governing the filing of statements of contributions and expenditures with the Clerk of the House on the ground that their activities are educational or nonpolitical. The definition of "political

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