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## SENATORIAL CAMPAIGN EXPENDITURES

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January 17, 1928.—Ordered to be printed

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Mr. REED of Missouri, from the Special Committee Investigating Expenditures in Senatorial Primary and General Elections, submitted the following

### R E P O R T

[Pursuant to S. Res. 1]

#### THE CASE OF FRANK L. SMITH

The special committee appointed pursuant to Senate Resolution 195, Sixty-ninth Congress, and the various resolutions supplementary thereto, to whom Senate Resolution 1, Seventieth Congress, first session, was referred, respectfully reports on the case of Frank L. Smith, as follows:

That heretofore, to wit, on the 16th day of December, 1926, said committee reported its proceedings touching the primary in Illinois at which the said Frank L. Smith was nominated as a candidate of the Republican Party for the United States Senate. Said report is hereby incorporated by reference.

Your committee begs to report that after the passage of Senate Resolution 1, Seventieth Congress, first session, the following proceedings were had:

On the 13th day of December, 1927, the committee sent to Mr. Frank L. Smith the following telegram:

The special committee at its meeting this morning agreed to take up and consider your case at the earliest possible time in which you are prepared to proceed. The committee suggests and would like to hold its meeting beginning Friday, December 16. If you can be ready on that date, please wire immediately to that effect. If this is not possible, then indicate at once the earliest possible date when you can be in readiness. In this connection the committee will accord you every privilege to submit such evidence, produce such witnesses as you desire, and will be pleased to hear any statement which you may care to make either in person or by counsel. The committee will also accord you the full privilege of representation by counsel. Your earliest possible reply is solicited.

On December 14 the committee received from Mr. Smith his reply to the foregoing telegram, said reply being as follows:

I have for acknowledgment your telegram of yesterday indicating the special committee of the United States Senate to which my right to take the oath of

office as Senator elect has been referred would consider my case first and suggesting Friday of this week or an early convenient date thereafter. It will not be possible for me to make appearance the 16th as time is too short. It is generally understood that Congress will recess early next week for the holidays and with this in view may I suggest a day be fixed agreeable to your committee for my appearance immediately after the holiday recess. Your advice as to the day appointed with these suggestions in mind will be appreciated. Please answer Dwight, Ill.

Upon receipt of Mr. Smith's telegram, the committee again held a meeting and in accordance with the instructions of the committee, a telegram dated December 17, 1927, was sent by the chairman of the committee to Mr. Smith, which reads as follows:

In accordance with the decision of the special committee, I hereby notify you that in accordance with your request that a date be fixed after the holidays a hearing will be held at 10 o'clock, January 7, 1928, in order that you may be heard in the manner stated to you in committee telegram dated December 13.

Accordingly, on January 7, 1928, at the hour of 10 o'clock a. m., the committee assembled to conduct the said hearings, at which time proceedings were had and evidence taken, all of which is set out in extenso in the document hereto attached, marked "Exhibit A" and made a part of your committee's report.

At said hearing of your committee the following appearances were made:

Mr. Frank L. Smith appeared in person and by his attorney, Hon. C. J. Doyle.

Attorney General Oscar E. Carlstrom appeared for the State of Illinois.

A delegation on the constitutional rights of Illinois also appeared, and was represented by State Senator John Dailey as chairman. The president of the Illinois Senate, Hon. Richard T. Barr; Hon. Robert Scholes, speaker of the House of Representatives of Illinois; Representatives Reed F. Cutler and Gus J. Johnson of the House of Representatives of Illinois, members.

These gentlemen were also accompanied by United States Senator Charles S. Deneen.

Hon. C. J. Doyle stated to the committee the order of procedure which it was desired should be followed, and, in accordance with his suggestion, the proceedings were so conducted.

Mr. Samuel Insull and his counsel, Mr. Daniel J. Schuyler, appeared and gave testimony which in general was confined to those phases of their former examination in which they had declined to answer the questions of the committee. The testimony of these witnesses will be detailed more fully in a separate report. For the present it is thought sufficient to state that their evidence, so far as directly pertinent to this report, was to the effect that Mr. Insull had by the hand of Mr. Schuyler delivered to Mr. Charles F. Francis for the Small-Lundin organization \$20,000 in cash; that Francis had charge of the publicity work of the Small-Lundin faction. That faction was understood to be supporting Senator Smith, but that they also had a candidate for sheriff and that the candidate for sheriff was running with a group of other men that the same organization was supporting.

Mr. Insull also contributed \$20,000 to Mr. George F. Harding for the so-called Harding organization. This was paid in cash by hand of Mr. Schuyler; that Harding was an important man in certain wards

in Chicago, particularly the first, second, third, fourth, fifth, sixth, and seventh wards; that he was understood to be supporting Smith and a group of candidates, and that the money was turned over to Harding to help him in his fight for his group of candidates; that the reason the witnesses had refused in their previous examinations before the committee to disclose the persons to whom these moneys were paid was because Francis and Harding had told Schuyler that they did not want him to mention their names and did not want Mr. Insull to mention their names because they were not in the senatorial campaign and had not been interested in it and did not want to be mixed up in it. Nevertheless, Witness Schuyler stated that he understood that they were supporting a group or groups of candidates which embraced Mr. Smith as a candidate for nomination to the Senate.

At the conclusion of the testimony of Mr. Schuyler, the attorney general of Illinois, the representatives of the general assembly, Senator John Dailey, and Mr. Smith in person addressed the committee. No evidence whatever was furnished. The protest of the General Assembly of Illinois which has already received the attention of the Senate and been printed in the record, was formally presented to the committee.

The attorney general of Illinois, State Senator Dailey, and Mr. Smith all took the position that until and unless Mr. Smith was sworn in as a United States Senator, neither the special committee nor any regular committee of the Senate, nor the Senate itself, had the power or jurisdiction to pass upon the qualifications of Mr. Smith, or to take any action whatsoever in relation to his claim to a seat.

The arguments presented by these gentlemen all appear in the transcript of the proceedings, which is herewith filed.

It will be observed that nothing was presented by Mr. Smith or on his behalf which has not in substance been heretofore presented upon the floor of the Senate. He offered no new evidence; he presented no new argument; he simply stood upon the claim that the committee and the Senate were alike without jurisdiction to consider and pass upon his right to a seat in the Senate until it shall have first seated him as a Senator.

Your committee, having complied with the instructions contained in Senate Resolution 1, Seventieth Congress, first session, respectfully presents and recommends the passage of the attached resolution, being in substance and effect the resolution offered by the senior Senator from Nebraska, Mr. Norris, on the 5th day of December, 1927, and incorporated in and being a part of Senate Resolution 1, which said resolution was by the Senate approved on the 7th day of December, 1927. There is omitted from said resolution the clause instructing this committee to grant further hearings, and there is added to the resolution a further clause relating to the right of the said Frank L. Smith to membership in the Senate, all of which appears from the text of said resolution which is by your committee respectfully recommended for passage:

#### RESOLUTION

Whereas on the 17th day of May, 1926, the Senate passed a resolution creating a special committee to investigate and determine the improper use of money

to promote the nomination or election of persons to the United States Senate and the employment of certain other corrupt and unlawful means to secure such nomination or election.

Whereas said committee in the discharge of its duties notified Frank L. Smith, of Illinois, then a candidate for the United States Senate from that State, of its proceeding, and the said Frank L. Smith appeared in person and was permitted to counsel with and be represented by his attorneys and agents.

Whereas the said committee has reported—

That the evidence without substantial dispute shows that there was expended directly or indirectly for and on behalf of the candidacy of the said Frank L. Smith for the United States the sum of \$458,782; that all of the above sum except \$171,500 was contributed directly to and received by the personal agent and representative of the said Frank L. Smith with his full knowledge and consent; and that of the total sum aforesaid there was contributed by officers of large public-service institutions doing business in the State of Illinois or by said institutions the sum of \$203,000, a substantial part of which sum was contributed by men who were nonresidents of Illinois, but who were officers of Illinois public-service corporations.

That at all of the times aforesaid the said Frank L. Smith was chairman of the Illinois Commerce Commission, and that said public-service corporations commonly and generally had business before said commission, and said commission was, among other things, empowered to regulate the rates, charges, and business of said corporations.

That by the statutes of Illinois it is made a misdemeanor for any officer or agent of such public-service corporations to contribute any money to any member of said commission, or for any member of said commission to accept such moneys upon penalty of removal from office.

That said Smith has in no manner controverted the truth of the foregoing facts, although full and complete opportunity was given to him, not only to present evidence but arguments in his behalf; and

Whereas the said official report of said committee and the sworn evidence is now and for many months has been on file with the Senate, and all of the said facts appear without substantial dispute: Now therefore be it

*Resolved*, That the acceptance and expenditure of the various sums of money aforesaid in behalf of the candidacy of the said Frank L. Smith is contrary to sound public policy, harmful to the dignity and honor of the Senate, dangerous to the perpetuity of free government, and taints with fraud and corruption the credentials for a seat in the Senate presented by the said Frank L. Smith; and be it further

*Resolved*, That the said Frank L. Smith is not entitled to take the oath of office and is not entitled to membership in the Senate of the United States, and that a vacancy exists in the representation of the State of Illinois in the United States Senate.

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