
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

REPORT

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

The special committee of five members of the Senate, appointed pursuant to Senate Resolution 224, Seventy-ninth Congress, second session, to investigate senatorial campaign contributions and expenditures in the 1946 elections, submits the following report:

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).

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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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PART II

SUBJECTS INVESTIGATED

A. PRIMARY CAMPAIGNS

1. *Montana*

On June 27, 1946, complaint was filed with the committee by Senator Burton K. Wheeler of Montana, requesting investigation into circularization of an allegedly vicious and scurrilous circular announcing the forthcoming publication of a book entitled "The Plot Against America," contended by Senator Wheeler to be an illegal and libelous smear of his candidacy. Pursuant to decision of the committee, at a meeting held on June 29, 1946, in view of the early date of the Montana primary, investigators were sent to Montana, and hearings held in Montana July 8, 9, and 10, 1946, and in Washington, D. C., July 13 and 17, 1946.

The record as represented by the reported hearings and exhibits appended thereto, copies of which are on file at the offices of the committee in the Senate Office Building, did not indicate violations of Federal or State statutes with respect to contributions or expenditures in the case of either Senator Wheeler or Judge Leif Erickson, his opponent in the Democratic primary in Montana. Considerable extra State contributions were made to committees working for both candidates; in Erickson's case, the Public Affairs Committee in New York and Chicago, giving \$4,000; Mrs. A. Greenebaum, Ritz Tower, New York, \$1,000; the United Automobile Workers (CIO), \$1,500; American Anti-Isolationist Committee, New York, \$167; the Brotherhood of Railroad Trainmen, \$1,000; the United Automobile, Aircraft, Agricultural Implement Workers, \$1,500; Dudley G. Anderson, New York, \$200; Walter Fisher, Chicago, Ill., \$100; a total of \$9,476. In Senator Wheeler's case, Norman Church, Los Angeles, Calif., giving \$2,000; R. M. Hadrath, Stillwater, Minn., \$1,000; Mr. and Mrs. William P. Hunt, Greenwich, Conn., \$2,000; D. B. Robertson, Cleveland, Ohio, \$1,000; Sol Taischoff, Washington, D. C., \$200; A. W. Stortz, New York City, \$100; Walter Meyer, New York City, \$250; Leo Wallerstein, New York City, \$125; Arthur Hess, New York City, \$125; and Luther Walter, Chicago, Ill., \$100; a total of \$6,900. Since the Federal Corrupt Practice Act does not apply to primaries, and since the limitation prescribed by Montana statutes was not exceeded, as far as the record of the investigation shows, no further need for investigation into the subject of contributions and expenditures was shown.

However, the Montana record revealed that a vile and obscene publication entitled "The Plot Against America," was circularized, printed, and published by one John E. Kennedy, a resident of Missoula, Mont., operating as John E. Kennedy, Publishers, Missoula, Mont. The author of this so-called "book" was one David George Plotkin, of New York City, writing under the pen name of David George Kin. Kin went to Montana to write *The Plot Against America*, on invitation of Kennedy, as expressed in the following advertisement inserted by Kennedy in the personal column of the *Saturday Review of Literature*:

Is there a capable, experienced writer who because of too frequent contact with John Barleycorn, or other reasons, would welcome new surroundings in Montana?

Offer such character 2 months' writing job, full maintenance at good hotel, with fine meals and \$100 per month. Maybe transportation. Box 360-L.

In correspondence between Kennedy and Kin, resulting from this advertisement, Kin was given to understand prior to reporting to Kennedy at the Palace Hotel, in Missoula, in June 1945, that he was to do a book on Senator Wheeler. Kin's expenses at the hotel, his meal bill, and general traveling expenses were met by Kennedy, including expenses for interviews between Kin and Lowndes Maury, Senator Wheeler's ex-law-partner and attorney for Judge Erickson at the Montana hearings. Newspaper clippings and other pamphlet material was furnished Kin by Kennedy as source material for the book, which was printed in Hollywood, Calif., by Murray & Gee, 1622 North Highland Avenue, Hollywood, Calif.

Prior to publication and distribution of *The Plot Against America*, approximately 20,000 copies of a lurid, libelous brochure were mailed throughout the State of Montana, describing the book and its contents and soliciting orders. On the fourth page and rear cover of this brochure, appeared a crayon sketch of Kin, together with the following under the caption "The Author of *The Plot Against America* Introduces Himself":

My first contact with Senator Wheeler was in Washington. I was lobbying for starving artists and writers in New York, where I was directing a soup kitchen for painters, poets, jobless professors, and unemployed artist models. While Greenwich Villagers were enjoying the Hoover depression by cutting their throats or taking gas, the vigilante from Butte was staggering out of the Mayflower in a state of alcoholic glee.

"Who is that festive gentleman?" I asked my fair companion, who happened to be a Montanan. "You don't know that sonovabitch?" she asked in amazement.

"No; I don't," I blushed.

"Why, it's B. K., of course."

"B. K.?"

"Senator Wheeler," she growled. "I barged into his office yesterday and gave him a piece of my mind. I said the people of Montana would hang him the way they hung Sheriff Plummer if he kept hanging out with Alice Longworth and her crowd."

"Who was Sheriff Plummer?" I asked, puzzled.

"Never heard of Sheriff-gunman Plummer?" She stared at me as if my abysmal ignorance had hit an all-time low.

She then revealed to me the piquant fact that Plummer was a sheriff-highwayman who, under the protection of the law, robbed the very people he was supposed to guard in the lawless days of the frontier. The password of his gang was: "I am innocent."

A few years later I was directing an anti-Fascist organization in New York, my activities being divided between practicing law, writing poetry and plays, lecturing on the arts and social sciences, psychoanalyzing neurotic women, drawing cartoons, running a newspaper, and fighting Hitler. It was in my anti-Hitler stint that I became interested in the Nazi-Fascist monkeyshines of Senator Wheeler. Like most Americans I believed in the myth of Wheeler's radicalism and his sudden Fascist flip-flop made no sense to me. Then I remembered Sheriff-Crook Plummer and his password: "I am innocent." I became convinced that Wheeler was a part of the Sheriff-Plummer tradition, and that the vigilante from Butte was actually a dangerous enemy of all law, human and divine.

I wrote to the rough-and-tumble cowgirl from Montana, who seemed to be out of this world, a chaste, lovely lady who swore like a sailor and could rope a calf and quote St. Thomas Aquinas with equal facility.

The girl referred me to John E. Kennedy, of Missoula, campaign manager for ex-Congressman Jerry O'Connell, who took John to Washington as his secretary. Kennedy had been waging guerrilla warfare against Wheeler and the company for years, and he persuaded me to come to Montana to see Wheelerism and company fascism in action.

While following the Plummer trail, I discovered Horsethief Kelly, and Wheeler's association with the international horsethieves of Wall Street became a logical consummation of his Jekyll-and-Hyde career. Wheeler's life is all of one piece; it

is the pattern of a Butte hooligan who aims to Hitlerize America and drive it into the slaughter of World War III.

This book is written without straitjacket objectivity and in the manner of Montana political campaigns; everything is hurled at an opponent, including the kitchen sink. If I have failed to fling anything cogent at B. K. Wheeler, America's No. 1 Fascist, it was purely an oversight and I beg the indulgence of Montana liberals who have made hatred of Wheeler a 24-hour occupation, including Sundays and holidays.

But I have not been satisfied with mere muckraking. I have endeavored to break through the wall of company censorship, and show Montanans the political and economic way out. The atomic bomb may end the story of the human race, and I am eager that Americans learn the facts of life before they are burned, cindered, and vaporized in World War III, which Wheeler and his Wall Street zombies are now plotting.

The victory of Wheelerism means the extinction of the human race. Pessimists are anxious for the great event to happen, but I love life and people too much to witness the final dying of God's children. Hence this book, which is my own atomic bomb hurled at Wheeler and Wheelerism—the Satanic destroyers of everything that is beautiful and sacred in the great human adventure.

(Signed) DAVID GEORGE KIN.

The principal contributor of money for the production of the brochure and *The Plot Against America* was Julius Walter Gehring, a resident of Missoula, Mont., and operator of the Coffee Shop in the Palace Hotel in Missoula. He started to operate the coffee shop in the Palace in September 1944, with an initial investment of \$425. He operated this coffee shop in such a prudent business manner that at the time he testified before this committee on July 17, 1946, the coffee shop was grossing in excess of \$20,000 per month. In spite of his care with respect to such financial matters, Gehring nevertheless invested \$7,000 of his own money in *The Plot Against America*, and borrowed \$1,800 additional from an individual named Milton P. Roumm, from Seattle, Wash. (to whom he was introduced by Jerry O'Connell, former Congressman from Montana, to whom Kennedy was at one time secretary), all without proper evidence of indebtedness in any respect running to himself. Milton P. Roumm also invested an additional \$2,600 in the book on a contract calling for a royalty of so much per copy on a sliding scale, and Kennedy, himself, invested \$1,000 in the book, the source of the thousand dollars consisting of a chattel mortgage on his automobile. Repeated attempts were made to finance the book from contributions from outside sources, including the Anti-Defamation League of New York City, without avail.

While the financial arrangements which made publication of *The Plot Against America* possible, were at best of a dubious business nature, no direct connection between candidate Erickson and either the brochure or the book, was established in the record. Erickson acknowledged receipt of the brochure in a letter to Kennedy dated April 15, 1946, requesting a copy of the book and commenting that it sounded like pretty "hot stuff," and on June 6, 1946, Erickson sent a telegram to Ed Waterman, head of the Anti-Defamation League, to the effect that "our program all planned," but it was not shown in the record that Erickson had reference to *The Plot Against America*, or that he in any way contributed to the authorship, printing or publication of either the book or the brochure. In fact the record shows that Kennedy and Kin commenced preparation of the book in 1945, and it was not certain that Judge Erickson was to be the candidate against Senator Wheeler in the Democratic primary of July 1946,

until June 1, 1946. Thus it appeared that *The Plot Against America*, together with its preliminary brochure, was principally directed against Senator Wheeler and as a consequence inured to the benefit of the candidate opposing him, whomever that candidate happened to be.

The official opinion of the Postmaster General as to the mailability of the book and brochure under current postal regulations was obtained by the committee on October 28, 1946. Relevant extracts from this opinion (given by Frank J. Delany, solicitor) were as follows:

Further reference is made to your letter of October 3, 1946, requesting the opinion of this office with respect to the mailability of the book *The Plot Against America*, by David George Kin, published by John E. Kennedy, publishers, Missoula, Mont., copyright 1946, by John E. Kennedy.

It is the opinion of this office, after careful examination of the book in question, having in mind the decisions of the Federal courts, that it is not nonmailable under section 598 of the Postal Laws and Regulations (sec. 211 of the Criminal Code, 18 U. S. C. 334). This opinion is limited solely to the question of whether the book is obscene, lewd, lascivious, or filthy, under the section cited. The opinion does not cover the question of whether or not the material involved is libelous, scurrilous, or defamatory, inasmuch as the law applicable to matter of that character (sec. 212 of the Criminal Code, 18 U. S. C. 335) applies to such matter only when it appears on the outside of mail.

Conclusions.—After considering the testimony of its investigators and the record of hearings held, the committee decided that it did not appear that candidate Erickson, or any group on his behalf with his knowledge and consent, participated in the publication of the brochure or the book *The Plot Against America*. It further did not appear that Senator Wheeler was in any manner connected with illegal or improper primary activities either by way of campaign practices, contributions, or expenditures. Therefore it was voted to close the Montana primary investigation, and, in view of the availability of typed copies of hearings at the Washington offices of the committee, it was not considered necessary or advisable to order the record of proceedings in Montana printed as a Senate document.

The book *The Plot Against America* is expressly condemned as one of the vilest, most contemptible, and obscene pieces of so-called literature ever to be published concerning a man in public office in the United States. A copy of the book has been sent the Attorney General, together with letter of transmittal referring to committee files, with a view to initiation of such criminal prosecution as may be deemed appropriate. Regardless of ultimate determination as to postal regulations and mailability of this book, it is felt that those connected with its preparation and publication are deserving of the strongest public censure. The use of such means to achieve political ends should not be condoned for lack of identification of principals, and the committee feels it desirable that Federal legislation be directed toward placing the onus of responsibility in such cases upon candidates for Federal office to whose benefit publications of this nature inure.

2. Mississippi

On September 19, 1946, the committee received a sworn complaint signed by T. B. Wilson and some 50 other residents of Mississippi challenging the nomination of Senator Theodore G. Bilbo in the Mississippi Democratic primary of July 2, 1946. Three investigators were forthwith sent to Mississippi for the purpose of conducting a preliminary investigation. These investigators submitted a final

report covering their findings, dated October 31, 1946. On November 16, 1946, the committee voted to conduct hearings in Mississippi, to commence not later than December 2, 1946. The record of these hearings, together with the investigators' report of October 31, 1946, and pertinent appendixes have been printed and are available as a Senate document, Eightieth Congress, first session.

At a meeting of the committee held in Washington, D. C., on December 31, 1946, the matter of final disposition of the complaint against Senator Bilbo was taken up. Because of some differences in interpretation of the voluminous record accumulated, Senators Ellender (chairman), Maybank, and Thomas directed preparation of the committee report containing their findings and conclusions and Senators Bridges and Hickenlooper prepared minority views. In view of the necessity of informing the Senate on January 3, 1947, of the decision of the committee, the committee report, concurred in by Senators Ellender, Maybank, and Thomas, together with the minority views of Senators Bridges and Hickenlooper, was filed with the Senate and printed as Senate Report No. 1, Eightieth Congress, first session.

The committee voted to include Senate Report No. 1 in the body of this report, as indicating the findings and conclusions of the majority of the committee together with minority views in connection with the complaint against Senator Bilbo. The report follows:

[S. Rept. 1, 80th Cong., 1st sess.]

On September 19, 1946, there was filed with this committee a sworn complaint signed by T. B. Wilson and other residents of the State of Mississippi protesting the nomination and election of Senator Theodore G. Bilbo. This complaint, together with the signatures appended thereto is as follows:

To: The honorable Senate of the United States of America.

Attention: Committee on Privileges and Elections.

Committee on Campaign Expenditures.

The undersigned hereby petition for the redress of the following grievances and respectfully show and allege:

(1) The signatories hereto are residents of the State of Mississippi and are duly qualified electors of the State of Mississippi.

(2) Whenever the term "duly qualified Negro electors" is used, it shall mean Negro citizens of Mississippi who have duly qualified to register and vote in general or special elections for Federal, State, and local offices, including the office of United States Senator from Mississippi, and Negro citizens possessing the legal qualifications to register and vote in such elections.

(3) In the primary of the Democratic Party of Mississippi to select a candidate for the United States Senate for the term commencing January 1, 1947, and in which an election was held on July 2, 1946, Senator Theodore G. Bilbo, the incumbent, obtained a bare majority of less than 4,000 votes, of the votes cast and officially counted, over his opponents and thereupon was certified, became, and is the candidate of the Democratic Party of Mississippi for the office of Senator of the United States from that State.

(4) By custom, tradition, and precedent, and because of the absence of an organized or effective party of opposition to the Democratic Party of Mississippi within that State, Senator Theodore G. Bilbo is assured of his reelection to the office of United States Senator from Mississippi and indeed will face no opposition candidate in the general election.

(5) During the aforesaid primary and up to and including July 2, 1946, the date of the election thereof, Senator Theodore G. Bilbo conducted an aggressive and ruthless campaign for his reelection to the office of United States Senator from Mississippi with the purpose, object, design, and calculation to effectively deprive and deny the duly qualified Negro electors of Mississippi of their constitutional rights, privileges, and immunities to register and vote and otherwise legally participate in the said primary election.

(6) Because, amongst other things, Senator Theodore G. Bilbo has been notorious in his hostility toward the Negro people and has exercised all his energies to keep the Negro people in a subordinate and servile status and because he has become a symbol of oppression and reaction against the Negro people in the estimation of the people of the United States, and particularly in the estimation of the Negro people of the United States, Senator Theodore G. Bilbo had knowledge or reason to know that the overwhelming majority of duly qualified Negro electors of Mississippi, totaling approximately 500,000 persons, would vote in the said primary election in opposition and adversely to the candidacy of Senator Theodore G. Bilbo; and it was the intention of Senator Theodore G. Bilbo to frustrate, suppress, stifle, and overcome the opposition of the duly qualified Negro electors to the candidacy of Senator Theodore G. Bilbo in the aforesaid primary and thus effectively to deprive and deny these electors of their constitutional rights, privileges, and immunities to register and vote and otherwise legally participate in the said primary election.

(7) In order to accomplish and effectuate the aforesaid purpose, object, design, and calculation, and to carry out his intention, Senator Theodore G. Bilbo—

(1) Engaged in and inspired systematic and continuous attacks upon the Negro race in general and upon the Negro population of Mississippi in particular, and especially against the duly qualified Negro electors of Mississippi; these attacks were accompanied by and took the form of vituperative, insulting, abusive, and slanderous statements, holding up the Negro race in general and the Negro population of Mississippi in particular, especially the duly qualified Negro electors of Mississippi, to hatred, opprobrium, contempt, and ridicule.

(2) Exhorted, agitated, and made inflammatory appeals to the passions and prejudices of the white population of Mississippi to foster, stimulate, inspire, create, and intensify a state of acute and aggravated tension between the white and Negro races in the State of Mississippi, and utilized and directed this acute and aggravated racial tension for narrow, selfish, and political purposes, to wit, to prevent and deny the duly qualified Negro electors of Mississippi from exercising or attempting to exercise their constitutional rights, privileges, and immunities to register and vote or otherwise lawfully participate in the said primary election; and

(3) With willful intent, individually and in concert with others, advocated, counseled, inspired, encouraged, incited, aided, and abetted the white population of Mississippi to commit acts of violence and intimidation against the Negro population of Mississippi, and especially against the duly qualified Negro electors of Mississippi, so as to discourage, frustrate, suppress, stifle, and overcome the desire and intention of the duly qualified Negro electors of Mississippi of exercising or attempting to exercise their constitutional rights, privileges, and immunities to register and vote or otherwise lawfully participate in said primary election.

(8) The conduct, acts, and statements of Senator Theodore G. Bilbo and the acts of violence and intimidation against the Negro people of Mississippi, as described above, and accomplished as hereinafter set forth, were crimes against and violations of the criminal statutes and laws of the United States of America and the State of Mississippi.

(9) As a direct or proximate consequence of the conduct, acts, and statements of Senator Theodore G. Bilbo, as above alleged, wholesale incidents of attacks by white residents of Mississippi upon Negro residents of Mississippi occurred throughout the State of Mississippi during the said primary campaign, including acts of violence and intimidation against duly qualified Negro electors of Mississippi; these attacks and acts of violence and intimidation were willfully and wantonly perpetrated (a) by white residents of the State of Mississippi, acting individually or in furtherance of a conspiracy with others or with Senator Theodore G. Bilbo, to deprive and deny the qualified Negro electors of Mississippi of their constitutional rights, privileges, and immunities to register and vote or otherwise lawfully participate in the said primary election, and (b) by white public officials of the State of Mississippi, acting under color of law, with like willfulness, wantonness, intent, and purpose.

(10) As a result of the foregoing the Negro people of Mississippi, especially the duly qualified Negro electors of Mississippi, were subjected to a campaign and reign of terror during the said primary election; and the Negro people of Mississippi especially the duly qualified Negro electors of Mississippi, were placed in a state of fear, terror, coercion, and duress to the extent that the overwhelming majority of the duly qualified Negro electors of Mississippi were discouraged,

frustrated, suppressed, stifled, fettered, and overcome in exercising or attempting to exercise their constitutional rights, privileges, and immunities to register and vote, or to vote if already registered, or to otherwise lawfully participate in the said primary election; and under the circumstances, such fear, terror, coercion, and duress, followed by the action or inaction above described, were reasonable and deersably justified.

(11) By reason of the foregoing, and as a direct or proximate consequence of the successful accomplishment and effectuation of the purpose, object, design, and calculation of Senator Theodore G. Bilbo, and the successful carrying out of his intention, as aforesaid, the election of Senator Theodore G. Bilbo, as the Democratic candidate for the United States Senate from Mississippi, was and is illegal, void, and contrary to law, and such election was and is tainted and permeated with fraud, duress, and illegality. The said election of Senator Theodore G. Bilbo was not free or unfettered, but, on the contrary, was achieved by force and violence and the use of criminal, extralegal, and illegal tactics and in wanton disrespect and disregard and in derogation of the rights, privileges, and immunities of citizens of the United States under the United States Constitution, particularly the fifteenth amendment thereof, and of the laws of the United States in such cases made and provided, and of the decisions of the Supreme Court of the United States, as well as in violation of the laws and statutes of the State of Mississippi.

(12) Except for the fraud, duress, illegality, force, and violence, as above alleged, the overwhelming majority of the duly qualified Negro electors of Mississippi would have voted in opposition and adversely to the said candidacy of Senator Theodore G. Bilbo and their votes would have materially affected the result of the said primary election and would have resulted in the defeat of Senator Theodore G. Bilbo, or, at least, would have resulted in the failure or inability of Senator Theodore G. Bilbo in securing a majority of the votes cast and officially counted in said primary election, thus necessitating a run-off, which, in all reasonable probability, would have resulted in the defeat of Senator Theodore G. Bilbo.

(13) By his conduct, acts, and words, and by reason of the foregoing, Senator Theodore G. Bilbo—

(a) Has violated his oath of office of United States Senator to support and uphold the Constitution of the United States and its laws;

(b) Cannot reasonably be relied upon in the future to support and uphold the Constitution of the United States and its laws; and

(c) Cannot reasonably be relied upon in the future to honor the oath of office required to be made by United States Senators to support and uphold the Constitution of the United States and its laws; and

(d) Has advocated, counseled, inspired, encouraged, incited, aided, and abetted in the violation of the laws of the United States and the State of Mississippi; and

(e) Has exhibited a crass, wanton, and shocking disrespect and disregard for the constitutional rights, privileges, and immunities of United States citizens to exercise their political franchise to vote in elections for public offices; and

(f) Has demonstrated a cynical contempt for the orderly processes of government; and

(g) Has endangered and undermined the foundations of orderly and democratic government; and

(h) Has subscribed and subscribes to principles, ideas, and philosophies of government which are alien, repugnant and inimical to the principles, ideas and philosophies upon which the Government of the United States and the States of the Union are founded; and

(i) Has fostered, stimulated, inspired, and encouraged conflict, division, and disunity amongst the American people by pitting race against race, religion against religion, and nationality groups against other nationality groups; and

(j) Has brought the august and honorable United States Senate into contempt, ridicule, and disrepute; and

(k) Has been and now is a member of the Ku Klux Klan, a secret, conspiratorial, and illegal organization with past connections with known enemies of the United States of America, to wit: the German-American Bund, and has subscribed and still subscribes to the principles and actions of the said Ku Klux Klan, which has committed acts of lynching, near-lynching, assaults and batteries, false and unlawful detentions, and other crimes of violence and intimidation; and

(l) Has demonstrated his unfitness to hold the honorable position of a United States Senator.

(14) Annexed hereto and made part of this petition, marked "Exhibit 1," and in substantiation and documentation of the allegations of this petition, are excerpts of statements, speeches and writings of Senator Theodore G. Bilbo made during the aforesaid primary campaign.

(15) Annexed hereto and made part of this petition, marked "Exhibit 2," and in substantiation and documentation of the allegations of this petition, is a photostatic copy of a radio interview between Senator Theodore G. Bilbo and certain newspapermen, held on August 9, 1946, over the Mutual Broadcasting Co. system on Meet the Press program.

(16) Annexed hereto and made part of this petition, marked "Exhibit 3," and in further substantiation and documentation of the allegations of this petition, are photostatic copies of statements of Negro residents of Mississippi, indicating instances and describing occurrences of acts of violence and intimidation by white residents of Mississippi, including white public officials of the State of Mississippi, acting under color of law, against Negro residents of Mississippi and showing the acts of violence and intimidation practiced against the Negro residents of Mississippi, including the duly qualified Negro electors of Mississippi and showing further the fraud and illegality practiced against the duly qualified Negro electors of Mississippi. The originals of these statements are in the possession and files of the Civil Rights Congress, 205 East Forty-second Street, New York, N. Y., which directed, supervised and participated in the collection of these statements. Other and additional statements showing and describing similar occurrences against other duly qualified Negro electors of Mississippi are in the possession and file of the Department of Justice, Washington, D. C.

Wherefore, the undersigned respectfully petition and request:

(1) The appropriate Senate committee or committees to conduct a full, fair, and fearless investigation into the allegations of this petition and the charges contained therein; and

(2) In connection with such investigation to hold public hearings in and throughout the State of Mississippi and in Washington, D. C., wherein witnesses shall be summoned to testify and give evidence under oath, and such other evidence, including the taking of depositions, as is material, relevant, and pertinent be incorporated in the record; and

(3) Upon the basis of the allegations of this petition and the charges contained therein and the documentary evidence submitted herewith, and any further evidence which may be disclosed as a result of the aforesaid investigation and hearings, the appropriate Senate committee or committees having jurisdiction over the matters herein set forth report and recommend to the Senate of the United States that Senator Theodore G. Bilbo be impeached and removed from his seat as the United States Senator from Mississippi and that the election of Senator Theodore G. Bilbo as the Democratic nominee for the office of United States Senator from Mississippi be declared null and void, contrary to law, and tainted with fraud, duress, illegality, force, and violence, and that a new election be held for such office; and

(4) The Senate of the United States impeach Senator Theodore G. Bilbo and remove him from his office as United States Senator from Mississippi and declare his election as the Democratic nominee for the office of United States Senator from Mississippi to be null and void, contrary to law, and tainted with fraud, duress, illegality, force, and violence, and deny to Senator Theodore G. Bilbo any and all privileges, rights, and immunities which he may possess by virtue of being elected United States Senator from the State of Mississippi for the term commencing January 1, 1947, and also deny Senator Theodore G. Bilbo the right to subscribe to the oath of office for such new term as United States Senator from Mississippi and otherwise to refuse to seat Senator Theodore G. Bilbo as the United States Senator from Mississippi for such new term.

Dated: State of Mississippi, September 1946.

Louis C. Wilcher, Arthur Hicks, Rev. James Young, Julia Mae Hicks, R. S. Lyells, D. T. Hall, Rev. M. H. Bailey, M. A. Dixon, Stevelle Adams, Ozella Cox, John M. Bates, T. B. Wilson, A. J. Noel, M. J. Lyells, James A. Moore, Jr., Guy Cox, Percy Greene, W. A. Bender, Rev. F. W. Lee, W. R. Wrenn, Joseph A. Smith, Mrs. L. W. Alford.

STATE OF MISSISSIPPI,
County of Hinds:

Personally appeared before me, the undersigned authority in and for the county and State aforesaid, the within-named Louis C. Wilchan, Arthur Hick, Rev. James

Young, Julia Mae Hicks, R. S. Lyells, D. T. Hall, Rev. M. H. Bailey, M. A. Dixon, Stevelle Adams, Ozella Cox, John M. Bates, T. B. Wilson, A. J. Noel, M. J. Lyells, James A. Moore, Jr., Guy Cox, Percy Greene, W. A. Bender, Rev. F. W. Lee, W. R. Wrenn, each and all of whom, after being by me first duly sworn, stated on oath that the matters and things set out in the foregoing petition are true to the best of their knowledge, information, and belief.

Sworn to and subscribed before me this the 10th day of September 1946.

VELMA E. WILSON,
Notary Public.

My commission expires August 21, 1949.

STATE OF MISSISSIPPI,
County of Pike:

Personally appeared before me, the undersigned authority in and for the county and State aforesaid, the within-named Joseph A. Smith, Mrs. L. W. Alford, each and all of whom, after being by me first duly sworn, stated on oath that the matters and things set out in the foregoing petition are true to the best of their knowledge, information, and belief.

Sworn to and subscribed before me this the 12th day of September 1946.

[SEAL]

MARGARET SMITH,
Notary Public.

My commission expires August 16, 1948.

James Rundles, Robert Cornelius, Herman Pickett, James Beal, Jr., Roosevelt Terry, Albert Cooper, James Cornelius, Stanley C. White, A. B. Stewart, Norman Haymer, Earl F. Hoyt, Lunford Lane, John D. Pruitt, Jr., Daniel Magee, Robert Hudson, Kermit W. Bryant, Cleophas Murphy, Ocie Lee Simms, Sampson Cleveland, Willie Blackhart, Lee M. Jones, Arthur J. Barlow, J. P. Dawson, J. C. Wilson, John L. Henry, Floyd Lloyd, Wilson Idlebird, Thomas Knox, Willie Terry, John B. Terry, Glover Moore, John Henry.

STATE OF MISSISSIPPI,
County of Hinds:

Personally appeared before me, the undersigned authority in and for the county and State aforesaid, the within-named James Rundles, Robert Cornelius, Roosevelt Terry, Stanley C. White, Earl H. Hoey, Daniel MaGee, Cleophus Murphy, Willie Black Lark, Jonas P. Dawson, Floyd L. Coy, Willie Terry, John Henry, Herman Pickett, Albert Cooper, A. B. Stewart, Linford Lane, Robert Hudson, Osie Lee Simms, Lee M. Jones, J. C. Wilson, Wilson Idlebird, John B. Terry, James Blake, James Cornelius, Norman Haymer, John D. Pruitt, Jr., Kermit W. Bryant, Sampson Cleveland, Tom J. Borden, John L. Henry, Thomas Knox, Glover Moore, each and all of whom, after being by me first duly sworn, stated on oath that the matters and things set out in the foregoing petition are true to the best of their knowledge, information, and belief.

Sworn to and subscribed before me this the 13th day of September 1946.

[SEAL]

VELMA E. WILSON,
Notary Public.

My Commission expires August 21, 1949.

Upon receipt of this complaint, three committee investigators were sent to Mississippi, where for 6 weeks a preliminary investigation into the matters alleged in the complaint was conducted culminating in the submission to the committee on October 31, 1946, of a 33-page report, together with numerous exhibits, affidavits, and statements of witnesses interviewed by them. In light of this report this committee on November 16, 1946, unanimously voted that public hearings into the matters covered by the complaint be held in Mississippi, these hearings taking place at Jackson, Miss., from December 2 to December 5, 1946. The record of the hearings has been ordered printed as a Senate document, together with certain exhibits and the basic complaint. No complaint respecting campaign expenditures on the part of any candidate from Mississippi has been made to this committee and the matter of campaign expenditures was in no manner at issue in the investigation of Senator Bilbo's campaign.

At the request of counsel to Senator Bilbo, the investigators' report of October 31, 1946, together with the exhibits appended thereto, was made a part of the record and has been considered by the committee in arriving at the conclusions expressed in this report.

During the course of the hearings, 102 witnesses testified before the committee, 34 of whom were white and 68 colored. Eighty-four of the witnesses were volunteers or subpoenaed by the committee and 18 were called at the request of Senator Bilbo. All of the witnesses called at the request of Senator Bilbo were white and many of them did not support his candidacy.

By way of background, it is apparent from the record that previous to the July 2 primary, Negroes have not participated in Democratic primaries in Mississippi for 56 years for the reason that the Democratic primary in Mississippi had been accepted under the law as the white man's primary by Negroes and whites. However, in April 1944, the Supreme Court, in the case of *Smith v. Allwright* (321 U. S. 649), invalidated a resolution of a State Democratic convention in Texas, which purported to limit the participation in the primary in that State to white citizens. The effect of this decision upon the Negro citizens of Mississippi remained largely quiescent until the spring of 1946, at which time, due to the influence and intervention of certain outside-of-the-State organizations, attempts were made to organize the Negroes and urge them to go to the polls and participate in the July 2 Democratic primary. These attempts were further facilitated by the passage in April 1946 by the Mississippi State Legislature of an act exempting all veterans without reference to whether they were colored or white, from the payment of a poll tax for the 1944-45 period if they were in the armed services. The combination of these elements, together with agitation by certain radio commentators and correspondents from outside of the State, and the return to Mississippi of large numbers of Negro veterans, contributed to a situation which was shown by the record to have prevailed in Mississippi, in which great interest in this primary was exhibited on the part of both whites and Negroes.

Evidence presented to the committee showed that Senator Bilbo felt that the combination of these outside interests and intervention in the internal affairs of the State of Mississippi was inimical to the welfare of its citizens, and in consequence of that he aligned himself with the great majority of the white citizenry of Mississippi in an effort in his campaign to overcome this outside influence and to confine the results in the primary to the will of the qualified electorate of Mississippi. If Senator Bilbo made extreme statements in this campaign, it is felt that these must be considered in light of this outside interference and in the heat of a campaign in which known hostility of certain elements of the press and radio, whom he was convinced were opposed to the best interests of the State of Mississippi existed, and which were openly and avowedly out to get him.

Evidence presented to the committee from both Negroes and whites was practically unanimous to the effect that it is "common knowledge" that the Democratic primary in Mississippi was confined to whites and that Negroes had theretofore never participated therein. The testimony of the principal complainant, T. B. Wilson, on this point was as follows (record, p. 21):

"Mr. WILSON. * * * We have had no opportunity to vote in the Democratic primary prior to this year, prior to the time at least that the Supreme Court decision was handed down in the Texas case, and our people were indifferent about registering all the time because of that fact. They knew that they were refused all years past and said, 'This is a white Democratic primary, and you cannot vote in it.' There are numbers, hundreds of our people, right in Hinds County, that were indifferent, were disinterested in even registering and paying a poll tax because of that fact. They said, 'What is the use of throwing away that \$2 when we can't vote? There is no other place to vote in Mississippi but the Democratic primaries, only in the general elections, which don't mean anything; and since we can't vote in the primaries, I don't care to throw away my \$2 poll tax.'"

On this same subject, Rabbi Stanley R. Brav, of Vicksburg, Miss., testified as follows (record, p. 92):

"The CHAIRMAN. Well, this situation really exists throughout the State among the white people, does it not, as a whole, that is, that they don't feel that the colored people should vote in the same primary elections as they vote?"

"Mr. BRAV. Well, I don't know how the folks feel throughout this State. I have heard many people say that."

"The CHAIRMAN. But it is just common knowledge that that is true, especially in the Southern States, is it not?"

"Mr. BRAV. There is a good bit of feeling in that direction."

A typical Negro witness, Meredith Lewis, of McComb, Miss., testified as follows (record, p. 323):

"The CHAIRMAN. Well, is it not true that it is common knowledge in the South, particularly in Mississippi, that the white people have been trying to keep the colored people from voting in their primaries?"

"Mr. LEWIS. Yes, sir.

"The CHAIRMAN. That is common knowledge; is it not?"

"Mr. LEWIS. Yes, sir.

"The CHAIRMAN. And is it not true that, no matter who would have run, whether it was Senator Bilbo or Tom Smith or Bill Smith, the same results would have occurred; that is, that the white people as a whole would have made every effort to keep the colored people from voting in that primary?"

"Mr. LEWIS. Well, I don't know, sir, because before, you see, they didn't ask all those questions.

"The CHAIRMAN. I am not talking about your registration. I am talking about the sentiment in Mississippi as to the white people trying to maintain the primary ballot for themselves and not let the colored people participate in it. Is it not true that that condition has prevailed?"

"Mr. LEWIS. Yes, sir; it has prevailed."

The testimony of the election officials who were heard before the committee, specifically the circuit clerks, in whose hands under the Mississippi law lay the responsibility for administration of the electoral machinery as applied to voters, uniformly testified that the discrimination against the Negro, if any, which they practiced, came from their deep-seated traditional conviction that the Negro has no place in the Democratic primary and that nothing that they did was attributable in any manner to the speeches or statements of Senator Bilbo in his campaign. The testimony of Clifford R. Field, of Natchez, Miss., was very clear on this point (record, p. 430):

"The CHAIRMAN. Well, to be truthful about it, you made it a little harder for the colored to register than the whites; isn't that true?"

"Mr. FIELD. That is right.

"The CHAIRMAN. Isn't it a fact that it is common knowledge throughout the State of Mississippi—in fact, throughout the South—that the white people have been striving to keep the primary elections to themselves without interference by the colored people?"

"Mr. FIELD. I think so; yes, sir. I think it is common knowledge, and I just believe it is.

"The CHAIRMAN. As a matter of fact, isn't it that which prompted you to take the steps you did?"

"Mr. FIELD. I expect that is right."

* * * * *

(Record, p. 432):

"Did you hear or read about any statements that were made by Senator Bilbo during his campaign speeches respecting the fact that he didn't want the colored people to vote? You heard many of these statements?"

"Mr. FIELD. Yes, sir; I heard them. I heard the ones over the radio.

"The CHAIRMAN. Can you tell the committee what it is that you heard?"

"Mr. FIELD. Just about what they said here this morning, that he was advising them—I don't remember just how it was put now. I would hate to make a mistake about it.

"The CHAIRMAN. What effect, if any, did his statements have in causing you not to register colored people, or giving a lesser chance to the colored to register than the whites?"

"Mr. FIELD. It didn't change me one bit.

"The CHAIRMAN. In other words, irrespective of what Senator Bilbo said, you would have followed the same course as you did?"

"Mr. FIELD. Yes, sir; because as you brought out there a little while ago, it is generally accepted in Mississippi that the white primary is for the white people.

"The CHAIRMAN. And that is the reason why you took the steps that you did, and you were not at all influenced by Senator Bilbo's statements?"

"Mr. FIELD. That is right."

Wendell R. Holmes, circuit clerk in Magnolia, Miss., testified on this point as follows (Record, p. 389):

"The CHAIRMAN. Is it not a fact that it is almost common knowledge in the State of Mississippi, and in many of the Southern States, that the white people have consistently attempted to prevent colored people from voting in the primary elections?"

"Mr. HOLMES. That is correct.

"The CHAIRMAN. And with that knowledge on your part, don't you think that whether or not Senator Bilbo had been the candidate, or anybody else, that the white people would have taken the same position?

"Mr. HOLMES. Regardless of who was running.

"The CHAIRMAN. What effect do you think the statements attributed to Senator Bilbo had?

"Mr. HOLMES. None whatever, none at all.

"The CHAIRMAN. What effect did they have on you in attempting to discourage registration of colored people?

"Mr. HOLMES. None at all. I followed the custom that had been in existence from the time I started in the circuit clerk's office in 1932, and his speeches didn't have any effect at all on me."

Bearing on the custom and tradition as existing in the State of Mississippi, the record indicates that but an extremely small portion of the white and colored of the State population are not native-born (about three-tenths of 1 percent) and from that it follows that the custom and tradition with regard to white Democratic primaries is inbred and ingrained into the great majority of Mississippi citizenry. A majority of the committee are of the opinion that the record clearly shows that irrespective of what Senator Bilbo actually said in his campaign oratory, the disqualification of and prevention of the Negro from registering or voting would have been the same, since that is uniformly the attitude of the native white Mississippi citizenry.

Two statements which Senator Bilbo was alleged to have made in the course of his campaign were (exhibit 1):

(1) "I call on every red-blooded white man to use *any means* to keep the niggers away from the polls. If you don't understand what that means you are just plain dumb."

(2) "* * * I'm calling on every red-blooded American who believes in the superiority and integrity of the white race to get out and see that no nigger votes. * * * *And the best time to do it is the night before!*"

Witness after witness was questioned about these statements and as to their intended effect and actual effect upon the electorate and upon election officials. Senator Bilbo was asked to explain these alleged statements. He admitted to frequent repetition of the phrase about "seeing them the night before the election" but denied that he intended that those following his admonitions give other than friendly advice to Negroes the night before the election. It is significant that not one witness testified that he had been "seen the night before the election" nor was there any evidence of any violence connected with "seeing Negroes the night before the election." On the record we can only conclude that Senator Bilbo's intention as well as the effect of his words was the giving of friendly advice to Negroes.

As to the allegation that Senator Bilbo urged use of "any means" to prevent Negroes from voting, Senator Bilbo categorically denied ever making such a statement. At the hearing he insisted he always used the adjective "lawful" means. In the transcript of the radio speech which he made the night before the election, he used the adjective "lawful." Several witnesses who heard Senator Bilbo's speeches also recollected that he used the adjective "lawful." On the record of conflicting accounts, the majority conclude that he used the word "lawful" and that if on some occasions he neglected to use the adjective as alleged by some witnesses, it was due to a slip of the tongue. This conclusion is further supported by a report of an interview between Senator Bilbo and some reporters of the press as included in the record, page 787, which interview occurred on August 9, 1946, and in which Senator Bilbo spoke of this point as follows:

"SPIVAK. Do you believe, when you speak as you did in your primary, you are upholding the fifteenth amendment?

"BILBO. I certainly was. There was nothing in violation of that provision of the Constitution in anything that I said; and I said further that it was the duty of every white Democrat in Mississippi to resort to every means *within the law* to keep the Negro from voting in our primary, because they were not qualified to vote."

While the record shows that in some respects Senator Bilbo's campaign oratory was crude and in poor taste as viewed by some, it is our opinion that these statements cannot and should not be reasonably construed as indicative of moral turpitude or as unconstitutional and illegal. Mississippi politics have always been heated, and the type of campaign oratory used by Senator Bilbo conforms to the custom prevalent in Mississippi for many years and to the wishes of the

white citizenry of Mississippi regarding their candidate's position as evidenced by the returns in the primary, in which Senator Bilbo led his nearest opponent by nearly 40,000 votes. We consider it a highly dangerous precedent for the Senate of the United States to criticize one of its Members for conforming to the pattern desired by the electorate in his particular State, in order to obtain the nomination, merely for the reason that that pattern may not happen to be that espoused in many of the other States.

The testimony of two of the so-called leaders of the Negroes in Mississippi, T. B. Wilson, president of the Mississippi Progressive Voters' League, and Percy Green, editor of the State's leading Negro newspaper, the Jackson Advocate, showed that they did all that they could to get the Negroes to come to the polls and yet that in Hinds County, in spite of their efforts, only 414 out of 55,000 registered and only 195 out of the 414 voted. The record shows further that there, was no trouble encountered in Hinds County by Negroes in registering or voting, and that in spite of that fact and the efforts of these leaders, a very small number of Negroes even went so far as to register to vote. Percy Green testified to an editorial carried on the front page of his paper and in the New Orleans Times Picayune and the Memphis Commercial Appeal, which invited and requested the Negroes to put down all show of force and arms and go to the polls and vote; and yet, in spite of that fact and the fact that no one in Hinds County was seen the night before or otherwise troubled, very few Negroes showed enough interest to even make the attempt to register to vote. T. B. Wilson's testimony in this respect was as follows (record, p. 13):

"The CHAIRMAN. Do you know of any duly qualified elector in Hinds County who presented himself to vote on July 2 and who was refused the right to vote?"

"Mr. WILSON. I don't know; I don't recall anybody who was refused the right to vote, only those challenges.

"The CHAIRMAN. So that, so far as you know, all of the colored people in Hinds County who were duly qualified and who presented themselves to vote, did vote?"

"Mr. WILSON. Did vote; that is right."

Wilson testified that while the ground work for the complaint upon which the investigation was based was initiated by the Progressive Voters' League, that the complaint itself was prepared by a lawyer for the Civil Rights Congress of New York and that assistance in preparing the complaint was furnished by the Civil Rights Congress.

Senator Bilbo consistently maintained before the committee that under the law of Mississippi the Democratic primary was confined to whites. He pointed out that in 1890 the Mississippi Constitution was amended to provide for an educational qualification in connection with registration which had proved to be a stumbling block to the Negroes' efforts to register for more than 50 years. He explained that even if registered, he believed that under the law (sec. 3129 of the Mississippi Code) that the Negroes as a group were incapable of bona fide intending to support the party nominee and of showing the election officials in their respective cases that they had been in accord with the party holding the primary within the two preceding years. Section 3129 of the Mississippi Code provides:

"No person shall be eligible to participate in any primary election unless he intends to support the nominations in which he participates, has been in accord with the party holding such primary within the two preceding years, and is not excluded from such primary by any regulation of the State executive committee of the party holding such primary."

Bearing upon this point, the majority of the committee is of the opinion that the Supreme Court decision in the case of *Smith v. Allwright* does not of itself invalidate Mississippi statutes until they are specifically at issue before the Supreme Court in appropriate proceedings, and that under section 3129 of the Mississippi Code it was open to Senator Bilbo to maintain, and to the election officials in Mississippi to sustain, this statute by administratively interpreting it to constitute the primary confined to whites. This appears to us to be sound for two reasons: (1) That the inconsistency and hence improbability of the would-be Negro voter affirming his intention to support the party's nominee in the case of a party openly advocating white supremacy is apparent; (2) that in the case of established affiliation with the party holding the primary within the two preceding years, it is administratively feasible that the burden of proof in that regard be upon the voter, and unless he is able to prove to the election officials that he has been in accord with the party holding the primary within the two preceding years, his vote can be rejected. On this basis we feel that custom and tradition is entitled to consideration in interpreting the meaning of the words used in the

statute; and that in light of this custom and tradition showing that election officials had for many years confined the primary to whites, we feel we cannot say that under the law of Mississippi it is not a white primary, and from this we cannot condemn Senator Bilbo for having in his campaign endeavored to protect what he felt to be the true meaning of the law of Mississippi.

Many Negroes testified as to fear of registering or voting and associated this by opinions only with statements alleged to have been made by Senator Bilbo during the course of his campaign. On this record we are unable to conclude that the failure of Negroes to participate was due to remarks made by Senator Bilbo. Such a conclusion would be a mere speculation. In our opinion there are many other factors, such as (1) general belief among the white population and election officials (irrespective of statements made by Senator Bilbo) that the primary was exclusively for whites; (2) Negroes, being probable Republicans, did not, therefore, qualify to participate in the Democratic primary; and (3) failure to participate was at least in part due to the lethargy of a group which had had little political experience hitherto. The record shows further that Perry Howard, Negro national Republican committeeman from Mississippi, in an article published in Mississippi papers 2 or 3 days before the primary, urged Negroes not to go to the polls on July 2 but to be prepared to remain qualified as Republicans and to go in 1948 to elect a Republican President.

"PERRY HOWARD STATEMENT REDUCED NEGRO VOTE

"A statement attributed to Perry Howard, Negro national Republican committeeman from Mississippi, appearing in a local daily some 2 or 3 days before election day, is charged with having greatly reduced the number of Negro voters in the July 2 Democratic primary, in which Negroes voted for the first time in 70 years.

"The Howard statement urged Negroes not to go to the polls on July 2 but to be prepared to go to the polls in 1948 to elect a Republican President of the United States.

"Already fearful and apprehensive, many Negroes made the Howard statement their excuse and stayed away from the polls on election day."

Witnesses called by Senator Bilbo uniformly testified that in their opinion Senator Bilbo in his campaign had nothing to do with any difficulties that the Negroes may have had in the July 2 primary; but that, on the contrary, Senator Bilbo had been earnest in his efforts in Mississippi to maintain peaceful relations and to protect the Negro citizens of the State of Mississippi. Many of these witnesses were not supporters of Senator Bilbo and were not in agreement with him on political issues. Yet, in spite of that fact, their testimony was very clear in developing the point that what happened in the Mississippi primary happened because of traditional antipathy to the Negro voting in the Democratic primary on the part of the whites and not because of anything Senator Bilbo might have said in his campaign for nomination.

We further note that the record shows and that several witnesses testified that the July 2 primary, while a tense election, was very peaceful, there was very little violence (but 5 cases were discovered by the committee's investigators in 22 counties, and that in none of these cases was Senator Bilbo, or any of his statements responsible on the basis of any evidence submitted to the committee. Several of the violence cases were shown not to have been connected with the election but to have exemplified the usual difficulties attendant on an election day whether in Mississippi or any other State.

CONCLUSION

The majority of the committee feel that there is no evidence in the record connecting Senator Bilbo with any illegality or impropriety other than perhaps in certain cases departure from ordinarily accepted good taste as some view it, or with any of the alleged discrimination or denial to the Negro in Mississippi of the right to register or vote. We are of the opinion that the record demonstrates conclusively that any difficulties experienced by the Negro, in his attempts to register and vote in the July 2 primary in Mississippi, resulted from the traditional feeling between whites and Negroes and their ideas of the law in that State as regards participation by Negroes in Democratic primaries, and it would have been the same irrespective of who the candidates might have been. And we further feel that nothing that Senator Bilbo actually said was responsible in any way for any illegality shown in the evidence presented to the committee to have taken place in the Mississippi registration or voting.

We find that the law in Mississippi, as administratively and traditionally interpreted by the local election officials, constituted a white primary and that Senator Bilbo, in realization and understanding of this fact, did nothing further than earnestly and sincerely seek to uphold Mississippi law, custom, and tradition. Considerable of the more vituperative remarks uttered by Senator Bilbo in his campaign we deem to be justifiably directed at the attempted and unwarranted interference with the internal affairs of the State of Mississippi by outside agitators, seeking not to benefit the Negroes but merely to further their own selfish political ends.

RECOMMENDATION

The majority of the committee do find that Theodore G. Bilbo, duly accredited Senator-elect from the State of Mississippi, is entitled to his seat in the Senate from the State of Mississippi; that his renomination and reelection was proper and legal and expresses the will of the qualified electorate of the State of Mississippi; and we do recommend that Senator-elect Theodore G. Bilbo be seated in the Eightieth Congress of the United States.

ALLEN J. ELLENDER.
ELMER THOMAS.
BURNET R. MAYBANK.

MINORITY VIEWS OF MR. BRIDGES AND MR. HICKENLOOPER

The undersigned members of the Special Committee To Investigate Senatorial Campaign Expenditures, 1946, to which was referred for investigation a sworn complaint and protest to the seating of Senator Theodore G. Bilbo, a Senator from the State of Mississippi, do not agree with the conclusions of the majority of such committee. Feeling the matter to be one of grave import, it is deemed appropriate that our views be set forth herein.

I

On November 16, 1946, public hearings on the issues presented by the sworn complaint submitted by T. B. Wilson, of Jackson, Miss., were ordered to be held in Mississippi by the committee. These hearings occupied a period of 4 days, during which time 102 witnesses testified before the committee, 68 of these witnesses being colored and 34 white. The decision of the committee to hold public hearings in Mississippi was based upon a report submitted to the committee by three investigators, which summarizes the results of 6 weeks' preliminary investigation. While this report itself consisted of 33 pages, it incorporated by reference a considerable body of documentary evidence, including a large number of affidavits and statements on the part of prospective witnesses and extended newspaper clippings covering the primary campaign of Senator Bilbo as conducted in Mississippi. At the request of counsel for Senator Bilbo and in accordance with previous committee decision, this report became a part of the official record of the hearings held in Mississippi, and, accordingly, is entitled to consideration by the committee in arriving at ultimate findings of fact.

We feel that the record as compiled and all evidence considered by the committee and upon the admissions of Senator Bilbo as to the content of his campaign speeches, establishes that Senator Bilbo has violated section I of the Hatch Act (Sec. 61, title 18, U. S. C. A.). This section reads substantially as follows:

"* * * it shall be unlawful for any person to intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of * * * Member of the Senate, * * * at any election held solely or in part for the purpose of selecting * * * any Member of the Senate."

Senator Bilbo testified before the committee that the prevention or discouragement of the Negro from participating in the Democratic primary was consistent in his speeches leading up to the primary, and if he could have legally prevented Negroes from voting not one would have voted. He further admitted having made in his campaign for renomination statements of the following tenor, except that where the phrase "any means" occurs he testified he said "any lawful means":

"We are faced with the issue and it must be met and it must be met now. If you let a handful go to the polls on July 2, there will be two handfuls in 1947 and from there on it will grow into a mighty surge.

"The white people of Mississippi can't afford to let this happen where one-half the population is Negro.

"The white people of Mississippi are sleeping on a volcano, and it is left up to the red-blooded men to do something about it. The white men of this State have a right to resort to any means at their command to stop it.

"The circuit clerks are under oath to protect the provisions of that Constitution, and if there is a single man or woman serving in this important office who can't think up questions enough to disqualify "undesirables,"¹ then write Bilbo or any good lawyer and there are a hundred good questions which can be furnished.

"Use whatever means at your command to preserve and protect the custom, in the southern Democratic primary.

"This is one of the most damnable and destructive drives against the principles of the South since the carpetbaggers of the Civil War. * * *

"I call upon every red-blooded white man to use any means to keep the nigger away from the polls. If you don't understand what that means you are just plain dumb.

"Mississippi is white. We got the right to keep it that way and I care not what Tom Clark and Hugo Black may * * *. I am calling on every red-blooded American who believes in the superiority and integrity of the white race to get out and see that no nigger votes * * * and the best time to do it is the night before.

"Try and keep the white people of this State from running the white Democratic primary as we think it should be run."

The record established that Senator Bilbo, on or about June 16, 1946, wrote a letter (which was given to the press and made public) to the other four primary candidates in Mississippi, requesting that they join Bilbo in making every effort to prevent Negroes from voting in the approaching primary. This letter is set out in full as follows:

"GENTLEMEN: Under the wise provisions of the Constitution of 1890, which has been approved by the Supreme Court of the United States, no Negro citizen has attempted to participate in our State nominating conventions or white Democratic nominating primary elections for 56 long years.

"Upon the advice and persuasion of certain northern leaders of the Communist Party and others, white control and white supremacy will be threatened in the white Democratic primary to be held on July 2, 1946, in which each of you is a candidate for the United States Senate.

"Thousands of Negroes, especially Negro soldiers who are exempt from paying poll taxes by an act of the Mississippi Legislature, are registering or attempting to register for the announced purpose of voting for the first time in 56 years in our white Democratic primary. This these Negroes have no right to do, and they must not and should not be permitted to do.

"I am, therefore, writing you this open letter to ask that you promptly join through the public press in a request to these Negroes to refrain from any attempt to participate in our white Democratic nominating primary on July 2, and that you also join me and other white people of the State in every effort to prevent this first step, under the leadership of northern Negroes, white Socialists, white Communists, and white advocates of social and political equality, to destroy white control and white supremacy in the State of Mississippi.

"Of course, you will understand that any straddling or dodging or equivocation on this important issue in refusing to join in this request to the Negro to stay out of our white Democratic primary and to use every effort in preventing this awful thing from happening to our beloved State must necessarily be construed as a desire on your part not only to secure the Negro vote in your campaign but an open approval of Negro voting and Negro control of the political life of our State.

"Cordially and sincerely yours,

"THEO. G. BILBO"

We feel that this letter constitutes one of the many instances of violation on the part of Senator Bilbo of section 19 of the United States Criminal Code entitled "Conspiracy to Injure Persons in Exercise of Civil Rights," and that when this letter is considered in connection with the open, notorious, and admitted efforts on the part of Senator Bilbo to procure, abet, and effect the prevention of participation by Negroes as a class and for reason of color, in the primary, that such action on the part of a United States Senator is inexcusable, reprehensible, culpable, and unavoidably taints with deliberate and calculated fraud the election as a result of which Senator Bilbo became the party nominee.

¹ Meaning Negroes.

Section 19 of the Criminal Code (sec. 51, title 18, U. S. C. A.) is as follows:

"If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same, or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than \$5,000 and imprisoned not more than 10 years, and shall, moreover, be thereafter ineligible to any office, or place of honor, profit, or trust created by the Constitution or laws of the United States."

By decision of the Supreme Court, sections 19 and 20 of the Criminal Code have been held applicable to primary elections.

We feel, further, and find as a fact, that Senator Bilbo in his extemporaneous stump advocacy preceding the July 2, 1946, primary election in Mississippi advocated the use of any means to prevent Negroes from registering or voting therein as distinct from confinement of the phrase to "any lawful means." We base this finding upon unanimous reports as contained in newspapers throughout Mississippi and the Nation, which reports in many cases were written by correspondents who personally attended his campaign and which, without exception, uniformly reported the speeches of Senator Bilbo as including the statement "by any means" as distinct from "by any lawful means." In this connection it is noted that Senator Bilbo contended that his speeches were approved by legal counsel before they were delivered, but the Senator testified that commencing on May 3, 1946, he discarded prepared script and for nearly 2 months spoke extemporaneously in many parts of Mississippi. The only written speech delivered by Senator Bilbo and made a part of the record of the Mississippi hearings which contained the phrase "lawful means" was delivered in a State-wide radio broadcast on the evening of July 1, 1946, the night before the primary, and it was not shown to the committee that this speech was followed verbatim in its actual delivery. Senator Bilbo himself testified before the committee in Mississippi in connection with his disclaimer of the advocacy of "any means" that if he had advocated the use of "any means" he would be subject to impeachment or dismissal in the following language (record, p. 771):

"Now, you see—let me call your attention to the last paragraph of Time there. 'I call on every red-blooded white man to use any means'—any lawful means, any means within the law. They were trying to destroy me, that is what they were trying to do, because I was a United States Senator. *If I was going to go out here and tell the people to use the shotguns and use anything in the world to keep the nigger from voting I would be subject to impeachment or dismissal.* I didn't say that." [Emphasis ours.]

We are firmly of the opinion that the individual statements and cumulative result intended was the barring of all Negroes from the polls, by any means, lawful or unlawful, including the use of violence, if necessary, and we repeat the portion from the excerpt italicized above:

"*If I was going to go out here and tell the people to use the shotguns and use anything in the world to keep the nigger from voting I would be subject to impeachment or dismissal.*" [Emphasis ours.]

To further illustrate that the use of violence was intended, anticipated, and recommended as requisite to Senator Bilbo's ultimate aim to exclude the Negro from the polls by any means, we quote from two excerpts from Senator Bilbo's speeches as reported by the Jackson (Miss.) Daily News and admitted by Senator Bilbo before the committee:

"In the first place they would have to get a grand jury of Mississippians to indict a man, and, second, they would have to get a jury of 12 good and true Mississippi white men to convict them.

"Senator Bilbo volunteered his 'legal services to anybody that gets in trouble,' and he said, 'I'm a damn good lawyer. I've defended people in 11 murder cases in my life and got them off free. How I did it is my business.'"

II

We feel that the record further establishes that Senator Bilbo openly and notoriously violated section 20 of the Criminal Code of the United States (sec. 52, title 18, U. S. C. A.). This section reads as follows:

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Terri-

tory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than \$1,000, or imprisoned not more than one year, or both."

Senator Bilbo openly urged the subjection of Negroes as a class to the deprivation of the right to vote by reason of color, a right secured to all citizens of the United States by the fourteenth and fifteenth amendments of the Federal Constitution. He maintained that he was acting in this regard under Mississippi law which constituted the Democratic primary a white primary, and under custom long maintained in Mississippi which was to the effect, admittedly, that the Democratic primary therein was white. It will be noted that section 20, above, specifically covers actions allegedly under color of law or custom and it is felt by us, on the opinion of legal counsel, that there is no law in the State of Mississippi, fairly administered, providing that the Democratic primary is confined to whites alone. The record is replete with evidence that Senator Bilbo vigorously aggravated dormant embers of racial hatred in Mississippi in his campaign oratory, and shows instance after instance of the violation of these sections of the Federal law on the part of local election officials in that State following and in conjunction with his advocacy of such violations and his advice to officials so to do. It is an established fact, in our opinion, that the prevention and deterrence of the Negro from registering and voting in the Mississippi primary by means of artifice, deception, fraud, and outright refusal was a pattern, which pattern was cut out by Senator Bilbo in his recommendations to these officials as plainly as the English language is able to convey ideas from one person to another.

Registration in Mississippi does not properly show party affiliation and aside from the usual requirements applicable to registrants, such as age and residence, the Mississippi law simply requires under the constitution of 1890 that a registrant should be able to read the constitution or understand it when read to him. An opinion of the attorney general in Mississippi, introduced at the hearings in Jackson, showed that under this law if an applicant for registration could read any section of the constitution that it was improper to question him concerning its meaning. Through the artifice of spurious questioning, clearly improper under the afore-mentioned opinion (which, of course, was merely an interpretation of the law as it previously existed), large numbers of Negro applicants for registration were rejected. The record shows that special emphasis in this regard was laid upon the disqualification of Negro veterans, of whom some 66,000 Negroes from the State of Mississippi had been discharged prior to June 30, 1946. This illegal and spurious questioning was advocated in the clearest of language by Senator Bilbo by his own admission, as follows:

"The circuit clerks are under oath to protect the provisions of that constitution, and if there is a single man or woman serving in this important office who can't think up questions enough to disqualify 'undesirables' then write Bilbo or any good lawyer and there are a hundred good questions which can be furnished."

Circuit clerks testified before the committee that in some cases they deliberately made it harder for the Negroes to register than for the whites, and in other cases that they, in their official capacity or otherwise, advised Negroes not to try to register and to stay away from the polls. The circuit clerk from Louisville, Miss., in answer to a question concerning the effect of Senator Bilbo's speeches in this regard upon him, answered (record, p. 381):

"Well, of course, it didn't do me any good to hear those things, but I didn't hear any. * * *"

Section 3129 of the Mississippi Code was relied upon by Senator Bilbo as the basis for his contention that the Democratic primary in Mississippi was confined to whites. Section 3129 reads as follows:

"Who are eligible to participate in primaries—*person offering to vote may be challenged.*—No person shall be eligible to participate in any primary election unless he intends to support the nominations in which he participates, has been in accord with the party holding such primary within the two preceding years, and is not excluded from such primary by any regulation of the State executive committee of the party holding such primary. Any member of the party holding such primary, or any primary election officer, may challenge any person offering to vote, and cause him to answer, under oath, questions relating to his qualifications. Any election officer of the precinct may administer oath to such

"Undesirables" in the testimony referred to Negroes.

challenged person; and false testimony given upon such inquiry shall be perjury and punishable as such; nor shall any elector be allowed to vote who has sold or offered to sell his vote or influence, directly or indirectly, for the support or defeat of any candidate or measure voted on that year, nor any who that year has paid or offered to pay anything for another's vote or influence for or against any candidate or measure."

The record shows not only that the State Democratic executive committee had not promulgated any regulations purporting to exclude Negroes from the Democratic primary but on the contrary testimony of a member of the State Democratic executive committee showed that at some time previous to the commencement of Senator Bilbo's campaign for renomination that the State executive committee had met and unanimously decided that under the decisions of the Supreme Court in *Smith v. Allwright* and *U. S. v. Classic* together with a Federal decision in Georgia that the Negro had a legal right to vote in the Mississippi Democratic primary. The portion of Mr. Butler's testimony dealing with this was as follows (record, p. 826):

"The law was plain and we wouldn't pass any regulation excluding them, and we felt that it was the responsibility of the local election officers to determine whether or not they should be—they were eligible to vote.

"The opinion of the majority of the committee—I think all of them, in fact—certainly all those who were lawyers, who had studied these cases and listened to our report—thought that under the Texas case and the Georgia case that if the Negro possessed all the qualifications enumerated in the statute, was duly registered, and so forth and so on, that he had a legal right to vote. I think it was the unanimous opinion—although nothing was spread on in this about it—that they didn't want him to vote, therefore, he wouldn't vote, and we thought the best thing to do was to say nothing and not agitate the matter one way or another and let matters take their course, and so that course was pursued."

"Question. And that is why no action has been taken by the committee up to this moment?"

"Mr. BUTLER. Well, no, the committee didn't exclude them. They declined to pass such a resolution.

"Question. I say that is why you did not pass such a resolution?"

"Mr. BUTLER. That is right, because we thought they had a legal right to vote. * * *

"Now, we didn't tell the darkies that, the Negro that. We didn't tell them anything, because we thought that with all this agitation from outside sources going on in the State, if we told the darkey that, that he would consider that an invitation to vote. He had a legal right to vote but, as I say, we thought that he ought not to vote. Nobody was inclined to take any steps to prevent him from voting. So he had a perfect legal right to vote in the election, so far as the State law was concerned, if he was otherwise qualified and met the statutory requirements."

The remaining provisions of section 3129 above are not confined to whites or colored. It is plain from even a cursory perusal of this statute that provisions of this type constitute merely a basis for challenge at the polls, and it is common knowledge that a valid challenge must be based upon evidence demonstrating to the appropriate election officials that the requirements of the statute have not been met. The question of intention to support the party nominee is directed at a state of mind, incapable of discernment by an election official, and in the case of a voter whose response to a question based upon this section of the statute is in the affirmative, disqualification is legally impossible in the absence of specific evidence that the would-be voter is lying. The same reasoning is applicable to that provision in the statute which requires that the voter in the primary shall have been in accordance with the party holding the primary within the two preceding years.

The extraordinary situation that obtained in Mississippi at the time of this primary, arising from the fact of the return to the State after protracted absence and broadening education on the part of many thousands of Negro veterans, gave rise to the clamor accentuated by Senator Bilbo that Negroes must be barred under the provisions of this statute. There is no question in our mind but that Senator Bilbo was fully cognizant of the provisions of the Federal Constitution, specifically the fifteenth amendment; the decision of the Supreme Court in the *Allwright* case; and the fact that under the law of Mississippi it was legal for Negroes to vote in the July 2 primary. We also feel that there is little doubt but that Senator Bilbo was apprised of the decision of his own State executive committee in this regard. Yet, in spite of the law and in spite of the provisions

of the Federal statutes prohibiting the denial of the right to vote under color of law or established custom, statutes specifically directed at such abridgment of the rights of citizens of the United States, Senator Bilbo nevertheless used his high position and leadership in the State as United States Senator in giving weight in his campaign speeches to his recommendation to all the white people in Mississippi, including officialdom, to keep the Negroes from the polls by any means. This type of campaign oratory, openly advocating the suppression of constitutional rights for reason of white supremacy, tradition, or otherwise, in the face of express constitutional and statutory prohibition, is condemned as immoral, inflammatory, dangerous to the principles upon which our Government is established, and unavoidably tainting with fraud and corruption a nomination secured by such means.

Considerable emphasis was laid by Senator Bilbo upon the fact that Negroes in Mississippi are essentially Republicans, and that for this reason their statement of intent to support the party nominee was under suspicion and might be rejected by the election officials. In this connection no adequate reason was afforded the committee by any witness of exactly how a voter could be disqualified if he answered questions of his intention in the affirmative and stated he was a Democrat, where there was no evidence to the contrary before polling officials. One of the witnesses called for Senator Bilbo repudiated the idea of disqualifying Negro veterans wholesale on the theory that they were traditionally Republican in cases where they had returned to attempt to vote after more than 2 years of service in the armed forces, as follows:

"Question. Judge, do you think it is legal after *Smith v. Allwright* was handed down to bar Negroes from the Democratic primary here on a wholesale basis, subscribing to the theory that they are Republicans?"

"Answer (Judge STEVENS). Well, if they are genuinely in good faith, they are returning veterans and never voting any ticket before, if they have been converted by the New Deal and want to come in and be Democrats, why, the way is open for them to do that, but my point is that we have never known of them being Democrats before."

IV

It is clearly shown in the record that a tense and strained atmosphere prevailed in Mississippi at the time of the July 2 primary. In such an atmosphere quite naturally white officialdom and citizens of Mississippi looked to the leadership of the incumbent Senator for guidance. The type of guidance that was given by Senator Bilbo is spread upon the record in scurrilous, vile, incendiary, terroristic, and illegal language. Minute determination of precisely how deep into the political structure of Mississippi the influence of leadership of this type extended cannot be exactly determined since this would involve a probe within the minds and consciences of the white citizens of Mississippi, but the record establishes convincingly that many thousands of Negroes, by their own testimony and by the testimony of leaders of Negro groups, were afraid to even essay an attempt to register in Mississippi. Many of these Negroes in testifying before the committee stated that their own fear and the fear of persons with whom they were acquainted was due principally to Senator Bilbo's speeches and the effect that such incendiary language had upon the poor, white element of Mississippi whose marginal economic necessities of life brought them into conflict in their daily living with the Negroes. Other Negroes testified that they feared to register or to vote because of the traditional antipathy of the whites toward the Negroes in Mississippi as regards voting and particularly because of the fact that this traditional antipathy had been irritated and aggravated by Senator Bilbo's speeches.

T. B. Wilson, president of the Negro Mississippi Progressive Voters League, and principal complainant, testified in this regard as follows (Record, p. 19):

"They were afraid—it has always been that registrars of the State were unwilling to register many colored people, always, ever since I have known and been old enough to go to the registrar's office. But this year that opposition was increased, in this special election that opposition was increased, it was intensified.

"Question. Just how was it increased, now?"

"Answer. On account of the people were afraid that Mr. Bilbo's advices to the white people to refuse to register them, and the people knew, knowing the people as they do, they thought they would take that instruction not to register them, and they found that they were doing that to some extent, and they feared to go.

"Question. Did Mr. Bilbo's statement refer to voting or to registration? I thought it was as to voting.

"Answer. To voting and registration, yes, sir, both."

Mr. Percy Green, editor of the leading Negro newspaper in Mississippi, the Jackson Advocate, questioned concerning the fear engendered by Senator Bilbo's speech testified:

"Mr. GREEN. I listened to the speeches over the radio and read them in the newspapers, and I think the question of intimidation and the possibility of the call for violence and intimidation to keep people from voting is the basis on which the complaint is made. I heard the speeches and saw them in the press releases, and I felt some of the fear that I think was engendered by the speeches.

"Question. And it is your view that the speeches made by Senator Bilbo caused a lot of colored people not to register and not to vote?

"Mr. GREEN. I am as certain as I can be about that."

The record further shows that many Negroes who mustered enough courage to present themselves to register, were prevented from registering by artifice, procrastination, deceit, and outright refusal to register them on the part of white election officials, which course of action was not only approved by Senator Bilbo but recommended in his stump speeches as outlined above. Of those Negroes who succeeded in registering but a small fraction actually went to the polls to vote; and of those that went to the polls several were beaten up by whites; others were prevented from placing their ballots in the ballot box and were forced to hand their ballots to an election official, such ballots then being placed in envelopes on the pretext that they were challenged, under the provisions of Mississippi law dealing with challenges, election officials making the statement to the Negro voter that acting upon instructions of their superiors all Negro ballots would be challenged. In Greenwood, Miss., a committee of white townsmen, including the mayor, called in 2 Negroes and requested them to contact personally the 32 Negro voters who were registered in that county and ask them not to present themselves at the polls. As a result of this not one of these Negroes voted. The reasons assigned by the whites, according to the testimony of the two Negro agents, were that Senator Bilbo had stirred up the poor whites and that to avoid violence, it would be better if none of the registered Negroes tried to vote. This was denied by the whites concerned in their subsequent testimony. In Magnolia, Miss., the testimony showed that in consequence of similar statements by the town marshal a Negro by the name of Moore also contacted registered Negro voters with the end result that none of them voted. In many cases the record shows by the testimony of Negroes and of whites that Negroes were advised by election officials and by white citizens that it would be unhealthy for them to attempt to register, or, if registered, to show up at the polls. We feel that it is impossible to find that this course of action, this State-wide pattern of discrimination against the Negro, was not due at least in part to the advocacy of Senator Bilbo. Much of the testimony on the part of Negroes as well as a few whites demonstrates the contrary.

Of the 22 counties covered by the committee's investigators in their preliminary investigation, the following statistics are indicative of the condition prevailing:

County	White population	Colored population	Total registered	Negro registered	Negroes voted
Adams.....	10,344	16,885	3,371	147	0
Harrison.....	40,742	10,046	11,000	340	12
Hinds.....	51,826	55,445	27,386	414	195
Lauderdale.....	35,435	22,810	12,000	188	27
Leflore.....	14,394	38,970	4,345	26	0
Marshall.....	7,556	17,965	2,370	17	5
Washington.....	18,568	48,831	5,200	126	25
Winston.....	13,638	9,062	5,000	25	0

The above figures from counties investigated conclusively show the end result of the campaign to keep the Negro from the polls.

V

We feel that upon this record the conclusion that the primary campaign in Mississippi was illegally and unconstitutionally inflamed by advocacy of Senator Bilbo is inescapable. Assuming it to be a fact that white supremacy has long been the traditional pattern in Mississippi and perhaps many of the Southern States, nevertheless, the ordinary type of southern campaign oratory does not include the impertinent, illegal, and indiscreet type of speech consistently used by Senator Bilbo during May and June 1946. In addition to the quotations

admitted by Senator Bilbo, as outlined in the earlier portion of this report, the following relevant and contemptible language formed a part of his campaign speeches:

"* * * I think Fred Sullen's 'friendly' warning to Mississippi Negroes is aptly stated: 'Staying away from the polls on July 2 will be the best way to prevent unhealthy and unhappy results.'

"* * * Congresswoman Clare Booth Luce is the greatest nigger lover in the North except Old Lady Eleanor Roosevelt. Yep, Old Lady Roosevelt is worse. * * * In Washington she forced our southern girls to use the stools and the toilets of darn syphilitic nigger women. * * *

"The nigger is only 150 years from the jungles of Africa, where it was his great delight to cut him up some fried nigger steak for breakfast. * * * Over in Georgia a pambly-wambly Governor named Ellis Arnall has sold his State down the river. There are 200,000 niggers registered and Georgia has gone to hell."

In his testimony before the committee Senator Bilbo stated (record, p. 774):

"You know, we stopped 50,000 copies of the book entitled 'Race of Mankind' from being scattered in the armed forces. We stopped social equality. But they slipped around and hired the editors of that paper to write the orientation courses that were taught in the Army. That's where some of these niggers got the wrong idea about their proper status."

And on page 783:

"Question. * * * the cumulative result of all those statements that you wished to acquire was the result in fact that the Negroes did not come to the polls and cast their ballots in the primary?"

"Senator BILBO. No, sir, I didn't want any of them to vote."

Perhaps the most concise expression of the gist of Senator Bilbo's position taken before the committee may be found in an extract from his prepared statement (record, pp. 753-754):

"By all statements I made to the effect that the best way to keep the Negro from voting was to see him the night before. I simply meant for 56 years no Negro has participated in the Democratic primaries in Mississippi; that because of these outside influences, which I have already referred to, many Negroes were registering or attempting to register, and apparently intended to vote in the primary; that if the Negro attempted to participate in the primary, there would likely be violence, bloodshed, and other unlawful acts by irresponsible persons not identified with the better citizenship of Mississippi, nor with my campaign. This element is not confined to Mississippi but will be found in every State in the Union. Therefore, if they were called on the night before, and it was explained to them that they were not entitled to vote by the right sort of citizens, I felt they would abandon this unlawful purpose; whereas, if not so advised and they appeared at the polls, acts by irresponsible persons might occur. It was my purpose to prevent any such occurrences in order to protect the people as well as the white primary system of Mississippi."

It will be noted from this statement that there might be violence and bloodshed if the Negro tried to vote and that it was still contended before this committee that their purpose to vote was unlawful. We are unable to find any basis for the contention, persisted in by Senator Bilbo, that such a purpose was in fact unlawful. On the contrary, under the Federal Constitution and the law of Mississippi the right to vote was open to all qualified citizens, white or colored, and a campaign based upon such a position is deemed improper, illegal, and harmful to the interests not only of Mississippi but of the Nation. The fourteenth and fifteenth amendments to the Constitution constitute the law of the United States, and all citizens of the United States, colored or white, are entitled to the protection of the Federal Constitution. To sanction a campaign or an election based upon open violation of the law of the land for reason of traditional geographical sensitivity is a mockery of the democratic process and a prostitution of majority rule in the name of expediency.

Without doubt there are serious historic, and traditional, social, and economic problems in existence in the State of Mississippi and in other Southern States between the white and colored populations. We are of the opinion that these problems are of great concern to the thinking members of both races and that considerable effort is being put forth by the leadership of both races in an attempt at orderly and progressive solution. It is not our desire to discuss the philosophy of local attitudes or to attempt to interfere with the lawful free exercise of the right of the sovereign State of Mississippi to elect representatives of its own choosing, but when individuals who submit themselves for election to the Senate so far transgress the limits of the Constitution and Federal statutes, then those

acts in and of themselves, we believe, violate the sovereignty of the State itself and become of grave concern to the Senate.

We cannot avoid the conclusion that the acts and conduct of Senator Bilbo have seriously damaged and retarded the sound efforts of the thinking people of his own State, of both races, toward orderly and progressive solution of problems which they believe to be most vital.

CONCLUSION

Never to the knowledge of the undersigned has such vile, contemptible, inflammatory, and dangerous language been uttered in a campaign for the purpose of procuring nomination and election by an incumbent and Member of the United States Senate, sworn to uphold the Constitution. Where, as in the case of Senator Bilbo, it goes far beyond mere crudeness and strikes with disturbing force at the bastions of our national solidarity, such speech constitutes a corrupt and flagrant abuse of the right of free speech. It cannot be justified on the basis of expediency or tradition, and after the decision of the Supreme Court in *Smith v. Allwright*, the illegality of advocating exclusion of Negroes from the polls for reason of color or race is apparent. The evidence presented to the committee clearly demonstrates that Senator Bilbo in his primary campaign in Mississippi has violated the Federal Constitution, the Federal Criminal Code, and the Hatch Act, and has aided, abetted, and urged the violation of these laws by officials of his own party in that State.

We also are of the opinion, based upon the inescapable conclusion that must be drawn from the entire record, that Senator Theodore G. Bilbo by his own deliberate acts and upon his individual responsibility is guilty of such acts and conduct in connection with the 1946 primaries and election in the State of Mississippi as are contrary to sound public policy, harmful to the dignity and honor of the Senate, dangerous to the perpetuity of free government, and tainted with fraud and corruption the credentials for a seat in the Senate presented by the said Theodore G. Bilbo.

STYLES BRIDGES, U. S. S.

BOURKE B. HICKENLOOPER, U. S. S.

B. ELECTION CAMPAIGNS

1. Delaware

On October 9, 1946, in an unsworn letter addressed to the chairman, Senator James M. Tunnell (Democrat, Delaware) requested that the committee conduct an investigation of alleged registration irregularities in Delaware. On October 22, 1946, the committee informed Senator Tunnell that his complaint would be considered if sworn to in accordance with the policy of the committee under Senate Resolution 224. This was not done and no further action was taken upon Senator Tunnell's unsworn complaint.

On October 23, 1946, Mr. Noble Downes filed a sworn complaint with the committee, stating that he was employed temporarily as a United States Senate doorkeeper; that he was a legal resident of the Third Election District in the County of Sussex, Del.; that his name was stricken from the books, and that upon his personal appearance before this registration board on October 19, 1946, he was not permitted to re-register for the assigned reason that he was no longer a resident of that district.

Upon receipt of this complaint in sworn form, committee investigators were immediately assigned to Delaware. These investigators reported that a State-wide purge of 5-year delinquents and nonresidents had been conducted in Delaware during 1946, and on November 19, 1946, on the orders of the chairman, two investigators were sent to Delaware for the express purpose of determining whether this purge improperly militated against any particular senatorial candidate.

The report of these investigators showed that complainant's name had been stricken from the alphabetical register of Gumboro Hundred, Del., where he was born, without notifying him by a registered letter as required by Delaware law; that complainant had paid taxes on property owned by him in Gumboro Hundred, as well as income taxes in 1943, but that due to complainant's protracted absence from Gumboro Hundred in Delaware, question arose as to whether or not he had abandoned residence in this district. Further investigation showed that complainant's wife had been permitted to vote absentee from Gumboro Hundred and that complainant had registered and voted in another county (Indian River) where he and his wife last resided when in Delaware and where they had recently purchased a cottage. Information furnished by complainant to the investigators, that certain other persons at Indian River had been illegally purged, proved to be without merit.

Under the Permanent Registration Act passed by the Delaware Legislature in 1941, the year 1946 was the first year in which a purge of 5-year delinquents was mandatory. Upon information furnished the appropriate bureaus of registration in the three counties in Delaware—Newcastle, Sussex, and Kent—notice were sent out to these delinquents as well as to alleged nonresidents. These notices totaled 36,572. The canvass of Newcastle County, for the purpose of ascertaining nonresidents, was made under the direction of Mr. Thomas E. Peeney, secretary of the Newcastle Department of Elections, the members of this department having been appointed by the Governor and having a Republican majority. The canvass was paid for by the Republican State committee and these expenditures were reported with the committee's expenditures as required by law. The registered notices to 5-year delinquents and nonresidents were mailed by the bureaus of registration in accordance with Delaware law and upon the authority of an opinion of the attorney general of Delaware. The cost of postage and clerical help was approved by the bureaus of registration and paid by the levy court, an elective body with a Democratic majority and Democratic counsel. Under the law of Delaware, a new general registration was open to all residents on October 19, 1946, and large numbers registered at that time. One hundred and thirteen thousand five hundred and thirteen ballots were cast for Senator in the November 5, 1946, general election in Delaware, of which number Senator-elect Williams received an 11,693 majority.

Since voters in Delaware were not listed according to party affiliation, lists of all purged names obtained from the bureau of registration were transmitted to Republican and Democratic ward chairmen alike in Newcastle County. Complete results from five representative wards (1, 2, 6, 10, 11) totaling 4,228 stricken names, received from both Democratic and Republican sources, indicate that of the names stricken 17.5 percent were Republicans and 19.4 percent Democrats.

The names stricken in the three normally Democratic wards amounted to 45.1 percent of the total notices mailed, while in wards 1 and 6, normally Republican, the percentage was approximately the same. Ward 3, normally Republican, where the purge was the highest (70 percent of the votes cast at the preceding general election), went Democratic on November 5, 1946.

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

committee" in the Federal Corrupt Practices Act is sufficiently ambiguous as perhaps to justify this contention. But from the viewpoint of public policy the distinction is not sound and the duty to file of all committees which seek to influence the election of candidates for Federal office should be made specific.

In order to observe the continuing significance of these independent groups, a questionnaire was devised and sent out to a basic list of ostensibly independent nonparty organizations. No pretense is made that either all such or only such committees were included in the list. Organizations of this nature often have an ephemeral character and have closed up shop before their existence and significance have become publicly known. Our purpose in 1946 has been not so much to find out exactly how much was spent (the questionnaire called for an accounting of receipts and expenditures for the year 1946 only up to September 1) but to learn of the personnel, organizational arrangements, purposes, and fund-raising arrangements of a representative group of committees. A great deal of information has been assembled in the committee files and is available for public examination.

Set forth below are abstracts of data in the committee's files relating to a few selected independent committees:

American Action, Inc.

Address: Chicago, Ill.; Edward A. Hayes, chairman, Chicago, Ill.; W. Homer Hartz, treasurer, Chicago, Ill.; no affiliation; a Delaware corporation organized January 8, 1946; questionnaire recites American Action, Inc., "supported and opposed candidates for membership in the House of Representatives" and "did not participate in any senatorial campaigns"; organized permanently on a Nation-wide basis to "uphold and defend America against communism, fascism, anti-Semitism, and all alien or anti-American groups that are attempting to destroy our form of government and our American way of life"; financing is by individual voluntary contributions secured by private solicitation; contributions to September 1, \$77,456.46; expenditures to September 1, \$80,895.28; the organization uses newspaper advertisements, limited radio presentations, and public addresses.

Americans United for World Government, Inc.

Address: New York; Mrs. J. Borden Harriman, acting chairman; Raymond Swing, chairman, board of directors; incorporated under the laws of New York; organized June 22, 1944, as Americans United for World Organization, Inc., which name was changed to present one on April 2, 1946; unaffiliated; undecided as to permanency; purpose to "give unity of action in a Nation-wide nonpartisan campaign for the winning of the war and establishment of a just and enduring peace and through the consolidation of activities in this field"; supports Federal candidates by "printing voting records and by endorsements"; financing by public subscription, private solicitation, and membership of 9,000; fund-raising cost reported to be 15 percent; receipts to September 1, 1946: from contributions \$37,316.80, and membership dues \$22,985.95; expenditures to September 1, 1946, \$75,316.80; presents its program through statements, pamphlets, advertisements.

Committee for Constitutional Government, Inc.

Address: New York City; Dr. Willford I. King, president and chairman; Sumner Gerard, treasurer and secretary; Dr. E. A. Rumely, general manager and first assistant secretary; incorporated under the laws of the District of Columbia, March 5, 1941, as successor to the Committee to Uphold Constitutional Government founded in February 1937; unaffiliated; denies support of any political party, claiming to be an educational organization to support the Constitution and free enterprise against collectivism and Government control; literature furnished this committee appears to be of a definite political character so far as it supports one major party consistently and attacks the other consistently, though with considerable indirection; financing is through voluntary contributions and sales of literature; salesmen and field representatives receive an expense allowance of \$20 to \$75 a week, dependent upon the amount of travel and sales volume and a commission on the books and educational material and services sold by them, varying from 25 percent down to 8 percent; receipts to September 1, 1946: contributions \$139,789.21, from sale of books and literature \$178,176.47; expenditures to September 1, 1946, \$326,619.16.

Hollywood Independent Citizens' Committee of the Arts, Sciences, and Professions

Address: Hollywood, Calif.; John Cromwell, chairman, Los Angeles; Ernest Pascal, treasurer, Hollywood, Calif.; affiliated with Independent Citizens' Committee of the Arts, Sciences, and Professions with national headquarters in New York; organized on permanent basis; supports candidates for Federal office in both primaries and general elections; financed by public subscription, private solicitation, and 3,200 members; special events such as dinners, concerts, rallies, and public meetings in which screen celebrities are prominent are a major method of raising funds; receipts to September 1, 1946: from membership dues \$8,258.13, from contributions \$12,911.97, from projects \$80,801.24; expenditures to September 1, 1946, \$97,736.62; operates through radio program, mass rallies, newspaper advertising, and publication and distribution of political leaflets, literature, and books; contributed no direct funds to senatorial campaigns but backed candidates on its own sponsored radio programs.

Independent Citizens' Committee of the Arts, Sciences and Professions

Address: New York; Harold L. Ickes, chairman, Washington, D. C.; Hannah Dorner, executive director, New York City; State affiliates choose candidates to be supported and the general test applied to such candidates is their conformity to the social, economic and political program of the late President Franklin D. Roosevelt; present committee was started in December 1944 as an outgrowth of the Independent Voters' Committee for Roosevelt and it was incorporated under the laws of New York on January 9, 1945; financing is by membership, subscription, public solicitation, and public affairs such as dinners and rallies; receipts to September 1, 1946, \$153,046.35; expenditures to the same date, \$165,922.41.