

April 28, 1949.

MEMORANDUM to Senator Wirtz

FROM John Connally

Last night in discussing the memo which you wrote, Senator Johnson suggested that the following thoughts might be incorporated on page 2 in the second paragraph. He suggests something like this:

"There is no evidence before the Committee connecting Johnson with any alleged irregularities."

Somewhere in the memo he suggests inserting "In the last case in point when the Senate acted in the case of Heflin vs. Bankhead, the Senate stated:

Senator Johnson thinks it might be well to include a sentence as follows:

"Of the 32 Senators sworn in on January 3rd, Johnson received the largest majority of any Senator after the people had heard all of the charges and after Stevenson had endorsed the Republican candidate."

REPORT CONCERNING PROTESTS OF TEXAS'

PRIMARY ELECTION OF 1948

Honorable Lyndon B. Johnson was elected United States Senator from Texas in the General Election of 1948, and on presenting his certificate of election at the convening of the 81st Congress, he took the oath of office and assumed his seat in the United States Senate for a full six year term. He received 807,266 votes to 387,258 votes for his opponent in the General Election, a majority of more than two to one. No contest of such election has been presented and no question has been raised with respect to the conduct and regularity of the election.

The only matter before the Committee concerning Senator Johnson relates to the Second Primary election of the Democratic Party held in Texas on August 28, 1948, in which Johnson defeated his opponent, former Governor Coke Stevenson, by a narrow margin. Stevenson charged irregularities in counting and returning votes in five counties of South Texas, claiming that, as a result thereof, he was wrongfully deprived of several hundred votes. Johnson claimed that he was wrongfully deprived of several thousand votes as the result of irregularities in a large number

of other counties. The Committee fully investigated the charges made by Stevenson and impounded the ballots in the five counties named by him, with the exception of one county where they had been destroyed.^{1/}

No investigation was made by the Committee of the charges presented by Johnson, and his request that all ballots, particularly those in a number of named counties, be impounded, was not complied with.

The laws of Texas governing party primary elections provide that the several County Executive Committees of the political party shall meet at stated times, shall canvass the returns as made by the election officials of the several voting precincts of the county, and certify the returns to the State Executive Committee of the party; that the State Executive Committee shall meet at a stated time, shall canvass the returns as certified by the County Executive Committees, and shall certify the result to the State Convention of the party for its approval or disapproval. Stevenson appeared before the State Executive Committee and presented his charges. The Committee heard all the charges, and pursuant to its statutory function and duty certified to the State Convention that Johnson had received a majority of the votes in the Primary Election. The State Convention of

^{1/} No significance is to be given to the destruction of the ballots, as such occurred in other counties and was for the purpose of making the ballot boxes available for holding the General Election, and was not ~~unusual~~ *of law an unusual occurrence.*

the Democratic Party convened on the day following the meeting of the Executive Committee, received its report, ^{and} ~~which was~~ ^{it} referred to the convention's Committee on Party Nominations. The Convention adopted the report of that committee, and declared Johnson to be the nominee of the Democratic Party of Texas as its candidate for the office of United States Senator from Texas. The party officers certified his name, as such nominee, to the Secretary of State of the State of Texas, for inclusion on the official ballot to be voted in the ensuing General Election, all in accordance with state law.

The laws of Texas further provide that the results of a party primary election may be contested by the losing candidate by suit in a District Court, which, in Texas, is a court of general jurisdiction. In the case of a contest of a statewide race, the venue of the contest is fixed in any of the three District Courts of Travis County, the seat of the State Capital. In such a suit the court has authority to impound and open ballot boxes, make a recanvass, reject all illegal votes, and ascertain and declare the result. Stevenson did not pursue the remedy plainly provided by State law and frequently resorted to in other instances. Instead, he selected a United States District Court in Fort Worth, Texas, in which to

file a suit in equity seeking to enjoin the election officials of the State from placing Johnson's name on the official ballot to be voted in the General Election. Both the Supreme Court and Court of Appeals of the Fifth Circuit held that the District Court was without jurisdiction, and by direction of the Court of Appeals the suit was dismissed.^{2/}

Having presented his contest and having obtained an adverse decision from the State Executive Committee and the State Convention of his party, and having declined to present his case to a court of competent jurisdiction, Stevenson then submitted his case to the electorate by appeals to the voters to vote in the General Election for Johnson's opponent, the nominee of the opposition party. Having again lost, he now asks the Senate to conduct an investigation of the party primary election in Texas to the limited extent of the conduct of the election in the five South Texas Counties.

^{2/} The Presiding Judge of one of the District Courts of Travis County had been appointed to the Bench by Stevenson when Governor. Both Stevenson and Johnson resided in the Western District of Texas. The U. S. District Judge of that district was available, as was a Judge of the Northern District and two of the Southern District, and all more easily accessible than the one from whom the injunction was obtained. The latter, according to press reports, signed the temporary restraining order during the early morning hours, on his farm near the Louisiana border. These facts are not mentioned for the purpose of indicating a pre-conceived opinion of the Judge, but to indicate the evaluation of the merits of the case by Stevenson and his attorneys, all of whom were able lawyers and prominent members of the State Bar.

If it be assumed, contrary to precedent, that the Senate should properly inquire into the results of a nominating primary election conducted by a political party, and should set aside decisions of duly constituted party officials as authorized by state law, it must be obvious that such inquiry would be ineffectual in the instant case. If illegal votes were cast and improper returns made in the Primary Election in Texas, in order to determine whether such had the effect of changing the result of the race between Johnson and Stevenson it would be necessary to eliminate all illegal votes and all votes improperly counted and returned for each candidate. It would be necessary to go into the ballots and returns in those counties where Johnson claimed illegalities and irregularities resulting in added votes for Stevenson.^{3/} As a matter of fact, the margin of votes between the two candidates was so slight as that the result might be affected by honest mistakes and clerical errors. Therefore, in order to arrive at a correct determination of the results of the election, it would be necessary to have a full re-count of all the ballots and to check all returns. This might have been accomplished if

^{3/} Johnson claimed that a contest in a local race in one county resulted in a court decree establishing that some _____ illegal votes were cast and counted in that county, of which Stevenson obtained a majority of _____ of such illegal votes. In another county, in which Stevenson received a majority of two to one, a Grand Jury investigation disclosed that there were some 2000 illegal votes, represented by prostitutes who had been run out of the county and names taken from tombstones.

It was also charged that illegalities and irregularities in many other counties resulted in giving Stevenson several thousands votes more than were legally cast for him.

or by court order if Stevenson had filed a contest in a district court of Travis County, as provided by state law. Johnson, being the winning candidate could not invoke the jurisdiction and powers of the court for the purpose of effecting a recount or impounding the ballots.

the Committee had acted promptly to impound all ballot boxes and returns, as requested by Johnson. Practically all of them, in all the 254 counties of Texas, have now been destroyed pursuant to the provisions of State law.

In justice to all parties, it should be stated that the charges presented by Stevenson were fully investigated by agents of this Committee. They secured written statements from the witnesses to whom they were referred by Stevenson's attorneys. They have made written reports of their findings. The charges have been investigated by Grand Juries in three of the counties involved. If the charges were true it would follow that the criminal laws were violated and indictments should be returned. No indictments were returned by any of the Grand Juries. Their reports showed, in substance, that the election was conducted legally, fairly and impartially and that the election officials were diligent in the performance of their duties. The charges would indicate a violation of Federal Law. The Department of Justice, through the FBI, has investigated the charges, and we are confident that had evidence existed to establish the truth of the charges it would have been presented to a Federal Grand Jury, and, if sufficient, ^san indictment would have been returned. Therefore, the Committee is justified in stating that an examination of all factual specifications and evidence presented to the Committee fail to make out a prima

facie case of fraud or illegalities. But if we were warranted in holding that the charges brought by Stevenson deserve further investigation, such would be fruitless unless we could ascertain whether Stevenson was the beneficiary of fraud and irregularity, and what the result would be if all votes illegally or irregularly cast and returned for each candidate were eliminated.

It is traditional that the Senate will not inquire into a party nomination except to determine whether an elected member of the Senate was guilty of such conduct in securing the nomination as to render him unfit for a seat in the United States Senate.^{4/} Not only is there no evidence that Johnson had any connection with or guilty knowledge of the alleged irregularities, but the record contains no factual allegations tending to connect him in any manner with the conduct of the Primary Election in the five South Texas counties involved.

It is recommended that the protests be dismissed and that no further proceedings be taken in respect thereof.

^{4/} It has been asserted on good authority, and strenuously argued, that the Senate is authorized to determine ^{only} the Constitutional qualifications of its members (i.e. age, citizenship and residence) and that the electorate determines their mental, moral and other qualifications. See Warren, "The Making of the Constitution"; The Federalist

(Hamilton) LX. On this theory the Senate inquired into the actual election only, and refused to inquire into party nomination, whether by Primary Election or otherwise. See The Case of Stephenson, Senate Doc. 1036, 62nd Congress; Newberry vs. United States, 256 U. S. 232. In cases where it did make inquiries into the conduct of party nominations, such as the Smith and Vare cases, it did so only for the purpose of determining whether the elected candidate was himself guilty of fraud or corruption in obtaining party nomination, as made clear in the case of Heflin vs. Bankhead (Hays, 470).

1st Draft ~~th~~
June 14th

REPORT OF THE
SUB-COMMITTEE ON PRIVILEGES AND ELECTIONS
TO THE COMMITTEE ON RULES AND ADMINISTRATION
RE: STEVENSON VS. JOHNSON

Introduction

The Junior Senator from Texas, ^{Honorable} Lyndon B. Johnson ("Johnson") was elected a Senator for a full six year term in the November 1948 General Election, receiving 807,266 votes to his opponents 387,258 votes, a majority of over 420,000 votes. When the 81st Congress convened, Johnson presented his credentials, took the oath of office and was thereupon seated.

It is particularly emphasized that no charges with respect to the conduct of the General Election have been made either to the Senate or directly to the Senate Sub-Committee on Privileges and Elections ("Sub-committee"). ^{1/}

There is in no sense therefore any contest pending before the Senate with respect to the ^{General} Election in which Johnson was the ^{clear} victor.

The only matters which are pending are various charges of irregularities with respect to the conduct of the second or "run-off" ^{held on August 28, 1948,} primary in which Johnson defeated his opponent, the Honorable Coke

1/ Sub-Committee of the Senate Committee on Rules and Administration.

Stevenson ("Stevenson") by a close margin for the Democratic nomination. Charges were made by both Johnson and Stevenson immediately after the holding of the run-off primary, continued intermittently for sometime, and were pending before the Sub-committee when Johnson took oath of office.

The Charges

18

Under date of October/1948 Stevenson, the defeated candidate for the Democratic nomination for United States Senator from Texas in the run-off primary, lodged a communication with the Sub-committee in which, generally speaking, he charged that various election frauds and other irregularities had occurred in certain specified South Texas Counties, [including particularly Jim Wells, Duval and Zapata Counties.] Stevenson requested the Sub-committee to investigate these charges and, as indicated hereinafter, this investigation was held.

Under date of October 25, 1948 Johnson, the successful candidate for the Democratic nomination in the run-off primary, lodged a communication with the Sub-committee in which he charged, generally speaking, that various election frauds and irregularities had taken place in ~~eleven~~ eleven (11) specified counties in the State of Texas, as well as in numerous other unnamed counties. Johnson requested that all the

ballots cast in the run-off primary in all the counties of Texas be impounded by the Sub-committee so that in the event a complete recount ^{was} necessary of said ballots, they would be available for that purpose. ^{2/} Johnson's charges were not investigated and his request was not acceded to.

Conduct of Party Primaries in Texas

^{THE}
Inasmuch as no charges have been made with respect to the conduct of the General Election but only with respect to the run-off primary, it is desirable briefly to describe the manner in which the laws of Texas require party primaries to be conducted and to indicate what actually transpired thereunder.

^{petitions bearing the letterhead of}
^{there was anonymously}
^{a group of}
2/ It is also to be noted that a ~~petition was~~ filed ~~with~~ with the Senate by an organization calling itself the "Citizens Committee Against Political Fraud." The petitions in substance charged that at the time of the run-off primary, and as a consequence of the manner in which it was conducted, the Republican form of Government guaranteed to the State of Texas by Article IV, Section 4, of the Constitution of the United States, was abridged and nullified. It was charged, in effect, that an unnamed candidate or candidates engaged in "insurrection or rebellion against the (United States and gave) aid or comfort to the enemies thereof" These charges are manifestly not worthy of credence, and accordingly the petitions are dismissed as clearly frivolous.

The laws of Texas governing party primary elections provide ~~that the~~

that the several County Executive Committees of ^a ~~the~~ political party

shall meet at stated times, shall canvass the returns as made by the

election officials of the several voting precincts of the county, and *shall*

certify the returns to the State Executive Committee of the party;

that the State Executive Committee shall meet at a stated time,

shall ~~can~~ canvass the returns as certified by the County Executive

Committees, and shall certify the result ~~at the~~ to the State Conven-

this procedure was scrupulously followed in the Texas Primary.
tion of the party for its approval or disapproval. Stevenson appeared

On Sept. 13, 1948 in Fort Worth Texas
before the State Executive Committee and presented his charges.

The Committee heard all the charges, and, pursuant to its statutory

function and duty, certified to the State Convention that Johnson had

received a majority of the votes in the primary election. The State

Convention of the Democratic Party convened on *Sept. 14, 1948* the day following

the meeting of the Executive Committee, received its report, and *immediately*

referred it to the Convention's Committee on Party Nominations.

The Committee on Party Nominations recommended to the
The Convention adopted the report of that committee, and declared *convention*

Johnson to be the nominee of the Democratic Party of Texas as its

that Johnson's name has been certified as
candidate for the office of United States Senator from Texas. The party

*the Dem.
nominee for U. S.
Senator.*

officers certified his name as such nominee to the Secretary of State of the State of Texas, for inclusion on the official ballot to be voted in the ensuing General Election, all in accordance with state law.

The laws of Texas further provide that the results of a party primary election may be contested by the losing candidate by suit in a District Court, which, in Texas, is a court of general jurisdiction. In the case of a contest of a statewide race, the venue of the contest is fixed in any of the three District Courts of Travis County, the seat of the State Capitol. In such a suit the court has authority to impound and open ballot boxes, make a recanvass, reject all illegal votes, and ascertain and declare the result.

Stevenson did not pursue the remedy provided by State law. ³ Instead, he filed a suit in equity in a United States District Court in Fort Worth, Texas, seeking to enjoin the election officials of the State from placing Johnson's name on the official ballot to be voted in the General Election. We will now turn our attention to a consideration of the litigation engendered by the primary.

³ as the winning candidate Johnson was unable to avail himself of this remedy, inasmuch as he had no standing to contest his own election.

Litigation Over Nomination

The above referred to suit by Stevenson was commenced on September 15, 1948 in the District Court of the United States for the Northern District of Texas (Ft. Worth Division) against Johnson and Tom L. Tyson and Vann M. Kennedy.^{4/} Stevenson presented his complaint to the Honorable T. Whitfield Davidson, as United States District Judge for the Northern District of Texas, at a point outside the District, at 6:25 AM on September 15, 1948. Stevenson charged in substance that numerous irregularities had transpired in certain South Texas counties and as a result thereof he was deprived of the Democratic nomination. He asked the Court for the following:

1. An injunction to prevent ~~the certification by~~ officers of the Democratic Party in Texas, ^{from certifying} of the name of Johnson as Democratic nominee for United States Senator as a result of the primary election.

2. An injunction to prevent Johnson's name as such nominee from being placed on the official ballot for the general election to be held on November 2, 1948.

^{4/} Tom L. Tyson was Chairman of the Democratic State Convention held at Fort Worth, Texas, on September 14, 1948, and Vann M. Kenedy was Secretary of said Convention.

3. Cancellation of the certificate if already made.

4. A declaration that Stevenson was the true nominee.

Immediately following the presentation of the complaint to Davidson, District Judge Davidson forthwith endorsed thereon a temporary restraining order as requested.

On September 17, 1948, Stevenson amended his original complaint and added as defendants Paul H. Brown, Clarence O. Kraft, Melvin Faulk, and Sully Montgomery. Upon the filing of the amended complaint an amended enlarged temporary restraining order was also issued. The restraining order was made returnable on September 21, 1948 at Fort Worth, Texas.

Thereafter, Johnson filed a motion to dismiss the complaint for want of jurisdiction and, on September 21, 1948, a hearing on the application for a temporary injunction took place. On September 22, 1948, the temporary injunction was continued in effect.

Brown was Secretary of State of the State of Texas. Kraft, Faulk and Montgomery were County Judge, County Clerk and Sheriff, respectively, of Tarrant County, Texas. These ~~the~~ last three individuals were added as defendants inasmuch as they constituted the members of the Election Board of Tarrant County and were alleged to be properly representative of all the Election Board Members of the 253 other counties of the State.

~~special Masters to conduct an investigation into the factual basis for~~

~~Stevenson's allegations. Thereafter~~ On September 24, 1948, Johnson

lodged an appeal before Honorable Joseph C. Hutchison, Jr., Circuit Judge

~~Court~~ ^{of} for the United States Court of Appeals, 5th Circuit, seeking

an order "setting aside and staying the temporary injunction order

issued by the Court below, pending the determination of this appeal."

Judge Hutchison denied the motion "without prejudice to the right to

present the motion to the (full) Court."

Thereupon, On September 29, 1948, Johnson filed a motion for a stay of the temporary restraining order theretofore issued, which motion was addressed to the Honorable Hugo L. Black, Associate Justice of the Supreme Court of the United States and Supervising Justice for the 5th Circuit. On the same day Justice Black issued an order providing "that the temporary injunction issued by the United States District Court for the Northern District of Texas (Ft. Worth Division) on September 23, 1948, in the case entitled Coke R. Stevenson v. Lyndon B. Johnson, et al, Civil Number 1640, be and the same hereby is stayed

and that the said temporary injunction is and shall be of no force and effect until further order of the Supreme Court. // Thereafter, on October 2, 1948, Coke R. Stevenson filed a motion with the Supreme Court of the United States requesting that the order of Mr. Justice Black of September 29, 1948, be vacated. On October 5, 1948, the Supreme Court issued an order denying the above mentioned motion and dismissed the proceedings.

Meanwhile, the Court of Appeals for the 5th Circuit proceeded *on the merits* with a consideration of Johnson's appeal from the District Court's decision ~~on the merits~~, and, on October 7, 1948, in a unanimous decision, held that the District Court was without jurisdiction to consider the cause. It *in part* stated that: "We are of opinion that there is here no case for interference by a Federal court of equity in a Senatorial primary; that the injunction ought not to have been granted; and that the motion to dismiss ought now to be sustained

Indent

"The order of injunction is set aside and the cause is remanded with direction to dismiss the petition." *5*

Subsequently,

On 1948 Stevenson filed with the

Supreme Court a petition for certiorari. On January 31 1949,

such petition was denied.

of the United States.

Investigation by ^{Sub-}Committee of Stevenson's charges

Immediately after Stevenson's request for an investigation was made, the Subcommittee sent its investigators into Duval, Jim Wells, Zapata, Starr and Jim Hogg Counties. ^{All Complaining witnesses, as well as election} A County and precinct officials, were interviewed and specific information was sought as to where, in their opinion, irregularities may have transpired and, if so, of what nature. All leads were followed up. As might be expected, much of the information obtained was opinion, hearsay, and of a violently partisan character. Some signed statements were obtained by the investigators, and they prepared written reports of the results of their interviews.

As previously noted, the charges made by Johnson were not then nor have they since been investigated by the Subcommittee. In view of the conclusion hereafter indicated that Johnson was duly elected United States Senator from the State of Texas, no investigation of his charges is now necessary.

Results of Investigation Requested by Stevenson

The scope of the investigation of Stevenson's allegations has previously been indicated. Not a shred of evidence has been presented to the committee or discovered by the committee's investigators which would suggest that Johnson was in any way connected with any election irregularities occurring in the run-off primary. The investigation disclosed, however, ^{some} laxness on the part of ^{some} election officials.

For example, some ballot boxes were insecurely fastened while others, though locked, had the keys attached to the box ^{themselves.} ~~in~~. In at least one case election records were lost as a result of careless handling

by the ^{local} officials charged with their custody and protection. There is no evidence of any kind whatsoever which would connect Johnson directly or indirectly with any of the aforementioned irregularities.

None of the irregularities were such as could possibly vitiate the results of a State-wide primary and subsequent election. In this connection it should be borne in mind that under its precedents uni-

formly applied in the past, the Senate has investigated primary elections only when it has been affirmatively shown that the nomination was secured by the fraud and corruption of the successful candidate. ⁷ See Heflin v.

Bankhead, Hays, Compilation of Senate Election Cases, 1913-1940, Senate Doc. 147, 76th Congress, 3rd Session, 470.

The conclusions of your ^{Sub-}Committee are buttressed by the findings of three grand juries called to consider the same charges made to the *in the General Election* Sub-Committee which were also publicly made during the campaign throughout the State of Texas. As a result thereof, and at various dates subsequent to the run-off primary, grand juries were convened in Duval, Jim Wells and Zapata Counties for the purpose of investigating the conduct of the run-off primary in said counties.

Extensive investigations were made, many witnesses were called, and voluminous testimony was taken. No fraud was found by any of the grand juries and no indictments were returned.

On the contrary, we are advised that the investigation of one Grand Jury, while revealing only minor irregularities of the kind

17

referred to above, also revealed an unusual amount of personal opinions and political animosity. Another Grand Jury commended the election officials on the fairness with which the election was conducted. The third Grand Jury found that the overwhelming evidence showed that the election was conducted legally, fairly and impartially, and that the election officials were diligent and zealous in their duties.

Under the circumstances your ^{Sub} Committee has concluded that further investigation of Stevenson's charges is entirely unwarranted.

But even if we were to assume, contrary to precedent, that the Senate should properly inquire into the results of a nominating primary election conducted by a political party, and should set aside decisions of duly constituted party officials as authorized by State law, it must be obvious that Stevenson himself has frustrated the proper conduct of such an inquiry in the instant case. If, unknown to the ^{Sub} Committee, illegal votes were actually cast and improper returns actually made in the run-off primary in Texas, in order to determine whether such conduct had the effect of changing the result of the race between Johnson

and Stevenson it would be necessary to eliminate all illegal votes
and all votes improperly counted and returned for each candidate.

It would be necessary, among other things, to examine the ballots
and returns in those counties where Johnson claimed illegalities and
irregularities resulting in large numbers of added votes for Stevenson. 4

Therefore, in order to arrive at a correct determination of the results
of the ^{primary} election, it would be necessary to have a full re-count of all
the ballots and a check of all returns.

This might have been accomplished if the Committee had impounded
all ballot boxes and returns, as requested by Johnson, ^{sub} by Court order if
It might also have been accomplished

-
4. Johnson claimed that a contest in a local race in one county resulted in a court decree establishing that some 1,736 illegal votes were cast and counted in that county, of which Stevenson obtained a majority of 466 of such illegal votes. In another county, in which Stevenson received a majority of two to one, a Grand Jury investigation disclosed that there were some 2,000 illegal votes, cast in the names of prostitutes who had been run out of the county and in the names of deceased persons taken from tombstones. Johnson also charged that illegalities and irregularities in many other counties resulted in giving Stevenson several thousand more votes than were legally cast for him.

Stevenson had filed a contest in a Texas district court, as provided by State law. Johnson, being the winning candidate, could not invoke the jurisdiction and powers of the Court for the purpose of effecting a recount or impounding of the ballots. Practically all of the ballots in all the 254 counties of Texas have now been destroyed pursuant to the provisions of State law.

~~22.~~ Lack of Investigation of Johnson's Charges →

As heretofore noted, your ^{Sub-}Committee has concluded that inasmuch as Stevenson's charges have not been sustained no investigation of Johnson's charges need be made. In any event, since Johnson's charges were not investigated at the time when the supporting evidence, if any, was still in existence, an investigation at this time would ^{no doubt} be fruitless.

CONCLUSIONS

1. *There is no contest pending before the Senate with*
1. That study of the petition of the "Citizens' Committee" reveals that it is entirely frivolous and need not be considered further.
respect to the General Election in which Johnson was the clear victor
2. That the investigation of Stevenson's charges has failed to support the same, only minor irregularities which could not possibly

vitiating a state-wide primary and subsequent general election having been discovered.

B. 1. That further investigation is unwarranted.

4. b. That Lyndon B. Johnson was duly elected United States Senator from the State of Texas.

Therefore your Subcommittee on Privileges and Elections recommends the adoption of the following resolution:

"RESOLVED, That Lyndon B. Johnson is hereby declared to be a duly elected Senator of the United States from the State of Texas for the term of 6 years, commencing on the 3rd day of January 1949, and is entitled to be seated as such."

Respectfully submitted,

Francis J. Meyers, Chairman

Guy M. Gillette

William F. Knowland

(Suggested Reply)

Honorable Francis J. Myers, Chairman
Senate Sub-Committee on Elections
Senate Office Building
Washington, D. C.

Alex Campbell
Asst. Atty. Gen.

My dear Senator Myers:

I have your letter of _____ in which you request specific information concerning the Grand Jury investigations in Jim Wells and Duval Counties.

It is a pleasure to give you such of the information as you request as is available. Since District Judge L. Broeter ordered the investigations in both Jim Wells and Duval Counties, and since I, as District Attorney of both of the above named counties, assisted in the Grand Jury investigation, I am attaching hereto two separate reports, one on Duval County and one on Jim Wells County, in order that there may be no confusion of the two.

The information contained in the reports is, I believe, complete, but should you require or want additional information, please do not hesitate to call on me.

Sincerely,

Report of Grand Jury Investigation of the
August 28 Primary in Duval County

The Grand Jury of Duval County was impaneled October 4, 1948 having been called by District Judge L. Broeter and being charged by him to make a "thorough investigation" of the Primary because "allegations of fraud and irregularities" have been made concerning it.

During the course of the Duval County Grand Jury investigation investigating the August 28 primary, _____ witnesses were called, including Mr. Campbell King, Chairman of the County Executive Committee, Carroll Kelly, Precinct Chairman at Freer, Texas (list others called before Grand Jury).

All in all, the Grand Jury heard the testimony of _____ witnesses. In every case the witnesses heard were reliable witnesses. There was no question raised as to the truth and veracity of the testimony of any one of the witnesses. After hearing testimony for _____ days, Mr. Jose Tovar made his report as follows: "We have made a careful investigation in the manner in which the August Primary was conducted. We have called many witnesses and have found no evidence of improper conduct. On the contrary, we wish to congratulate the election officials on the orderly manner in which the election was handled."

It might be pointed out that the Federal Bureau of Investigation also made an investigation in Duval County, as did investigators for the Committee then acting under orders from Senator William E. Jenner, Chairman of the Committee. The results of those investigations are, of course, not available to me.

* { It may be pointed out that the only suspicion regarding the vote in Duval County arose from the fact that one candidate in each of the races on the ballot (not alone the race for United States Senator) received a great preponderance of the vote in Duval County. Without fear of contradiction, I might say that this fact was a surprise to no one who is in the least versed in Texas politics. The situation has obtained for approximately forty years, and an examination of the records will show that the complainant before your Committee now has received the great preponderance of these votes in other races in Texas in the past. Other investigations in other years have been conducted in Duval County which have revealed substantially no irregularities as this investigation revealed none.

{ For your personal information, and for the information of the Committee, the situation in Duval County is an unusual one

and one not based upon irregularities of any kind, but rather a fierce determination of a minority (Latin-Americans) to remain banded together for their own betterment and advancement.

Respectfully,

SAM REAMS
~~Reams, Lloyd~~
~~Reams~~ District Attorney

Report of Grand Jury Investigation of the
August 28 Primary in Jim Wells County

The Grand Jury of Jim Wells County was impaneled on _____ and was charged by Judge L. Broeter, District Judge of the 79th Judicial District, to make a "thorough investigation" of alleged irregularities of both the July 24 and August 28 Primaries in Jim Wells County.

During the course of the Jim Wells County Grand Jury investigation investigating the July 24 and August 28 primaries, _____ witnesses were called, including (list ones called before Grand Jury).

All in all, the Grand Jury heard the testimony of _____ witnesses. In every case the witnesses heard were reliable witnesses. There was no question raised as to the truth and veracity of the testimony of any one of the witnesses.

I am enclosing photostatic copy of the Grand Jury report as filed by Mr. J. E. Hughes, Foreman of the Grand Jury, as presented to Honorable L. Broeter, Judge of the 79th District Court.

The Honorable W. R. Smith Jr., Special Master appointed by order of the Honorable T. Whitfield Davidson, United States District Judge for the Northern District of Texas, also conducted an investigation as to the facts with regard to the Democratic Primary election held in Jim Wells County, Texas, August 28, 1948, insofar as it affected the nomination by the Democratic Party of Texas of a candidate for the Office of United States Senator from Texas.

On the 27th day of September, 1948, the Special Master began hearings in the County Court House of Jim Wells County in the city of Alice, Texas. This hearing was conducted from its commencement from approximately 2:15 P.M. on the 29th day of September, 1948, at which time the United States District Judge for the Northern District of Texas terminated the hearings. The report of the Special Master was as follows: "After hearing the evidence offered and received prior to the time of final adjournment, I find the following: 'Findings of Fact: none, Conclusions of Law: none.'"

Respectfully,

~~Paul Lloyd~~ **JAM REAMS**
~~Reams~~ District Attorney

COPY

(Suggested Reply)

Honorable Francis J. Myers, Chairman
Senate Sub-Committee on Elections
Senate Office Building
Washington, D. C.

My dear Senator Myers:

I have your letter of _____ in which you request specific information concerning the Grand Jury investigations in Jim Wells and Duval Counties.

It is a pleasure to give you such of the information as you request as is available. Since District Judge L. Broeter ordered the investigations in both Jim Wells and Duval Counties, and since I, as District Attorney of both of the above named counties, assisted in the Grand Jury investigation, I am attaching hereto two separate reports, one on Duval County and one on Jim Wells County, in order that there may be no confusion of the two.

The information contained in the reports is, I believe, complete, but should you require or want additional information, please do not hesitate to call on me.

Sincerely,

COPY
Report of Grand Jury Investigation of the
August 28 Primary in Duval County

The Grand Jury of Duval County was impaneled October 4, 1948 having been called by District Judge L. Broeter and being charged by him to make a "thorough investigation" of the Primary because "allegations of fraud and irregularities" have been made concerning it.

During the course of the Duval County Grand Jury investigation investigating the August 28 primary, _____ witnesses were called, including Mr. Campbell King, Chairman of the County Executive Committee, Carroll Kelly, Precinct Chairman at Freer, Texas (list others called before Grand Jury).

All in all, the Grand Jury heard the testimony of _____ witnesses. In every case the witnesses heard were reliable witnesses. There was no question raised as to the truth and veracity of the testimony of any one of the witnesses. After hearing testimony for _____ days, Mr. Jose Tovar made his report as follows: "We have made a careful investigation in the manner in which the August Primary was conducted. We have called many witnesses and have found no evidence of improper conduct. On the contrary, we wish to congratulate the election officials on the orderly manner in which the election was handled."

It might be pointed out that the Federal Bureau of Investigation also made an investigation in Duval County, as did investigators for the Committee then acting under orders from Senator William E. Jenner, Chairman of the Committee. The results of those investigations are, of course, not available to me.

It may be pointed out that the only suspicion regarding the vote in Duval County arose from the fact that one candidate in each of the races on the ballot (not alone the race for United States Senator) received a great preponderance of the vote in Duval County. Without fear of contradiction, I might say that this fact was a surprise to no one who is in the least versed in Texas politics. The situation has obtained for approximately forty years, and an examination of the records will show that the complainant before your Committee now has received the great preponderance of these votes in other races in Texas in the past. Other investigations in other years have been conducted in Duval County which have revealed substantially no irregularities as this investigation revealed none.

For your personal information, and for the information of the Committee, the situation in Duval County is an unusual one

~~2~~
COPY

and one not based upon irregularities of any kind, but rather a fierce determination of a minority (Latin-Americans) to remain banded together for their own betterment and advancement.

Respectfully,

Frank Lloyd
Former District Attorney

COPY
Report of Grand Jury Investigation of the
August 28 Primary in Jim Wells County

The Grand Jury of Jim Wells County was impaneled on _____ and was charged by Judge L. Broeter, District Judge of the 79th Judicial District, to make a "thorough investigation" of alleged irregularities of both the July 24 and August 28 Primaries in Jim Wells County.

During the course of the Jim Wells County Grand Jury investigation investigating the July 24 and August 28 primaries, _____ witnesses were called, including (list ones called before Grand Jury).

All in all, the Grand Jury heard the testimony of _____ witnesses. In every case the witnesses heard were reliable witnesses. There was no question raised as to the truth and veracity of the testimony of any one of the witnesses.

I am enclosing photostatic copy of the Grand Jury report as filed by Mr. J. E. Hughes, Foreman of the Grand Jury, as presented to Honorable L. Broeter, Judge of the 79th District Court.

The Honorable W. R. Smith Jr., Special Master appointed by order of the Honorable T. Whitfield Davidson, United States District Judge for the Northern District of Texas, also conducted an investigation as to the facts with regard to the Democratic Primary election held in Jim Wells County, Texas, August 28, 1948, insofar as it affected the nomination by the Democratic Party of Texas of a candidate for the Office of United States Senator from Texas.

On the 27th day of September, 1948, the Special Master began hearings in the County Court House of Jim Wells County in the city of Alice, Texas. This hearing was conducted from its commencement from approximately 2:15 P.M. on the 29th day of September, 1948, at which time the United States District Judge for the Northern District of Texas terminated the hearings. The report of the Special Master was as follows: "After hearing the evidence offered and received prior to the time of final adjournment, I find the following: 'Findings of Fact: none, Conclusions of Law: none.'"

Respectfully,

Frank Lloyd
Former District Attorney

Processing Note:

1/31/2025

There are 4 copies of the following four-page document. Only one copy has been scanned.

Robert Mar

Digitization Technician

MEMORANDUM ON PETITION
FILED WITH THE UNITED STATES SENATE
REGARDING ELECTION OF
LYNDON B. JOHNSON
UNITED STATES SENATE FROM THE STATE OF TEXAS

On or about January 3, 1949, subsequent to the election on November 2 1948 of Lyndon B. Johnson to the office of United States Senator from the State of Texas, there was filed by an organization of Stevenson supporters called "Citizens Committee Against Political Fraud" in the United States Senate a Petition which was duly referred to the Sub-committee on Privileges and Elections.

The printed petitions contained the following at the top of each page:

- "1. Under the provisions of Article 1, of Amendments to the Constitution of the United States, we, the undersigned, citizens of the State of Texas, do humbly petition the members of the United States Senate to investigate and publicly divulge the actions and policies of the candidates for nomination for United States Senator in the Democratic Run-Off Primary Election in Texas held on 28 August, 1948, in which election the guarantee to the citizens of this state of a free and unmolested form of government, as set out in Section 4, of Article IV, of the Constitution of the United States, was abridged and nullified in this State, and,

2. We, the undersigned, citizens of the State of Texas, do further humbly petition, under Section 3, of Article XIV, of the Constitution of the United States, that no Democratic nominee for United States Senator be seated until and after the investigation petitioned above shall be complete."

The two paragraphs of the printed petition appearing above refer respectively to the following two articles of the Constitution:

The first paragraph refers to Article IV, Section 4 of the Constitution which provides that

"The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence."

The second paragraph of the quoted petition above makes reference to Article XIV, Section 3 of the Constitution of the United States which provides in part that

"No person shall be a Senator * * * in Congress * * *, who, having previously taken an oath, as a member of Congress, * * * to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof * * *."

The petition above referred to seeks to have the United States Senate "to investigate and publicly divulge the actions and policies of the candidates for United States Senator in the Run-Off Primary Election in Texas held on 28 August, 1948" on the basis that the Republican Form of Government in the State of Texas was "abridged and nullified", or on the basis that one or more of the candidates engaged in the Run-Off Primary engaged in "insurrection or rebellion against the (United States) or (gave) aid or comfort to the enemies thereof."

Insofar as the first allegation is concerned, no evidence has been presented to this Committee that the Republican Form of Government in the State of Texas was "abridged and nullified" by the Run-Off Primary held on the 28th of August, 1948, but in any event we must ask whether Federal action can be taken under Article IV, Section 4 of the Constitution at the request of private citizens in the face of the Constitutional requirement of an "Application of the Legislature, or the Executive (when the Legislature cannot^{be}/convened)?" We think the answer is clearly in the negative, but irrespective of this answer, we must consider allegations to the effect that the State of Texas at the time^{of} the Primary above referred to did not have a Republican Form of Government and that Federal action was necessary to protect against domestic violence as being frivolous and unworthy of the Senate's consideration.

The allegation set out in paragraph 2 of the above referred to petition is even more frivolous and more unworthy than the allegations of paragraph 1 of the petition. In fact, the allegations contained in paragraph 2 of the petition surpass the credence of this Committee.

Therefore, our conclusion and recommendation is that Lyndon B. Johnson was duly elected and duly sworn in as United States Senator from the State of Texas and ^{is} entitled to his seat.

Processing Note:

1/31/2025

There are 2 copies of the following four-page document. Only one copy has been scanned.

Robert Mar

Digitization Technician

TO THE _____ COMMITTEE:

There have been filed with this Sub-committee numerous letters, telegrams and petitions claiming that false election returns were made in three counties in Texas in the Second Democratic Primary election held in August, 1948, wherein the Honorable Lyndon B. Johnson, opposed by the Honorable Coke Stevenson, was declared to be the Democratic Nominee for the United States Senate.

Upon receipt of the first of such communications, the Sub-committee authorized a preliminary investigation of these charges. Sufficient factual data was developed to disclose the basis of the complaints and to afford sufficient information for disposition of the matter.

It appears from all available information that the matters and things of which complaint is made by the Honorable Coke Stevenson and his supporters were subsequently submitted for determination as to the truth thereof before the State Democratic Executive Committee, which, by majority vote, after a full hearing and after argument by counsel for the respective parties, determined that the Honorable Lyndon Johnson was entitled to the certificate of nomination to be issued by the Democratic Convention, which had been duly and regularly convened under the primary election laws of the State of Texas. No one claims that this Committee, chosen under the Administration of Governor Beauford Jester of Texas, was partial to Lyndon Johnson or biased against Coke Stevenson.

It further appears that after such contest before the State Democratic Executive Committee an opportunity was afforded to those challenging the regularity of the primary election count to present their contentions before the appropriate committee of the aforesaid Democratic Convention, but that such opportunity was not accepted by the aggrieved supporters of the Honorable Coke Stevenson who thereafter elected to present substantially the same charges in an election contest filed in the United States District Court for the Northern District of Texas rather than in the State Forum prescribed by the laws of the State of Texas for the determination of primary election contests.

Under the laws of the State of Texas governing primaries, a method of recount of ballots is prescribed, and the Honorable Lyndon Johnson, through his attorneys, urged those challenging the election to present their grievances in the State Court as prescribed by the laws of Texas governing primary elections, but for some reason, best known to themselves, these aggrieved parties decided to file their contest in the United States District Court for the Northern District of Texas and thus waive, by lapse of time, the statutory remedies prescribed by State law, including the right to impound ballot boxes and have a recount.

It further appears that the contest filed in the United States District Court for the Northern District of Texas by the Honorable Coke Stevenson, after a certain amount of testimony had been taken therein, was subsequently dismissed by the final judgment of the United States Court of Appeals for the Fifth Circuit, and that an application for a Writ of Certiorari was denied by the Supreme Court of the United States. It was determined that the Federal Courts had no jurisdiction of such a contest.

It further appears that Grand Jury investigations of these charges were made by regularly convened Grand Juries of the State District Courts in Duval and Jim Wells Counties, Texas, and that said charges were not substantiated since said Grand Juries failed to take penal action authorized by the laws of the State of Texas covering the matters of which the Honorable Coke Stevenson and his supporters complained.

It further appears that when the supporters of the Honorable Coke Stevenson claimed election irregularities in three specific counties in Texas, wherein the said Honorable Lyndon Johnson secured large majorities, the said Lyndon Johnson specifically named numerous Texas counties wherein the said Coke Stevenson was claimed to have been credited with many thousands of votes to which he was not entitled; and the said Lyndon Johnson requested that this Sub-committee impound all ballot boxes to the end that if any recount of votes in the particular counties named by Stevenson and his supporters was contemplated, a recount of all the ballots cast in the election should be made. The Sub-committee did not undertake to impound all of said boxes for the reason, among others, that it was impracticable to do so as, pursuant to the laws of the State of Texas, such primary ballots had been destroyed in many counties before any action could be taken by the Sub-committee in respect to this request. In fact, the situa-

tion was such that it was impossible to effectively carry out an order impounding the election boxes in the two hundred and fifty-four counties in Texas. Such an order could have been secured under the laws of the State of Texas governing primary elections if the Honorable Coke Stevenson and his supporters had elected immediately to avail themselves of the remedies prescribed by said laws rather than endeavoring to conduct a primary election contest in the United States District Court, which was wholly lacking in jurisdiction over such a matter.

It further appears that in the subsequent general election, wherein the Honorable Lyndon Johnson was opposed by the Republican Nominee, Honorable Jack R. Porter, that the said Johnson overwhelmingly defeated his opponent, who was supported by the Honorable Coke Stevenson. In this general election all of said charges were submitted to the voters of Texas in an intensive campaign conducted by Porter and Stevenson. The voters of Texas, fully apprised of the charges and all supporting data, overwhelmingly voted for Johnson; and the said Johnson has now been seated as the Junior Senator from Texas. No complaint or charge of any kind has been made or preferred by his Republican opponent, nor does anyone claim any irregularities with reference to the general election as a result of which the said Johnson received a proper certificate of election upon the basis of which he was administered his oath as a Senator from Texas. Thus, the Texas Democratic Executive Committee, the State Democratic Convention, and an overwhelming majority of Texas voters have considered the charges and have rejected them.

It further appears that no charges are made that the said Lyndon Johnson was personally connected with any of the alleged primary election irregularities mentioned in the letters and petitions filed with the Committee. In fact, there is nothing before this Committee which, under any of the precedents of the Senate of the United States, justifies any further hearing on this matter or action on the part of the Sub-committee.

In view of the generality of the charges made to the Sub-committee and in view of all of the foregoing, considered in the light of Senate precedents, it is the unanimous recommendation of the Sub-committee that no further

action be taken by this Committee or by the United States Senate with reference to the matters and things mentioned in the letters and telegrams on file with the Sub-committee.

Respectfully submitted,

Chairman of the Sub-committee.

Processing Note:

1/31/2025

There are 2 copies of the following two-page document. Only one copy has been scanned.

Robert Mar

Digitization Technician

MEMORANDUM: Petition Regarding Election of
Sen. Lyndon B. Johnson of Texas

On January 3, 1949, the Secretary of the Senate received in a brown manila envelope postmarked "Junction, Texas" several printed petitions from an organization known as "Citizens Committee Against Political Fraud". The petitions were duly referred to the Sub-committee on Privileges and Elections.

The plea of the petitions is two-fold:

First, that the United States Senate "investigate and publicly divulge the actions and policies of the candidates for United States Senator in the Run-Off Primary Election in Texas held on 28 August, 1948" on the basis that in this election "the guarantee to the citizens of this state of a free and unmolested form of government, as set out in Section 4, of Article IV, of the Constitution of the United States, was abridged and nullified...".

Second, that "...no Democratic nominee for United States Senator be seated until and after the investigation petitioned above shall be complete" on the basis of Section 3, Article XIV, of the Constitution of the United States.

Article IV, Section 4 of the Constitution, mentioned in the first paragraph of the petition, provides that the Federal Government shall guarantee every State a Republican Form of Government, protect each State against invasion, and "on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence."

Article XIV, Section 3 of the Constitution, mentioned in the second paragraph of the petition, provides that no person shall be a Senator who has engaged in "insurrection or rebellion against the (United States), or given aid or comfort to the enemies thereof..."

Insofar as the first allegation is concerned, no evidence has been presented to this Committee that the Republican Form of Government in the State of Texas was "abridged and nullified" by the August 28, 1948, Primary. It is doubtful Federal action can be taken at the request of private citizens in view of the Constitutional requirement for an "Application of the Legislature, or the Executive..."

The allegations set out in paragraph 2 of the above referred to petition are wholly frivolous and unworthy of the Committee's attention.

MEMORANDUM: Authority of Sub-Committee to Inquire
Into Texas Democratic Primary of Aug. 28, 1948

Lyndon B. Johnson was selected as the nominee of the Democratic Party in Texas for United States Senator in the Democratic Run-Off Primary held in Texas on August 28, 1948. Individuals have petitioned the Senate to inquire into the results of this Run-Off Primary to determine whether Lyndon B. Johnson was duly chosen as the Democratic nominee.

Article I, Section 3, Clause 3 sets out requirements of age, citizenship, and residency for Senators. Article I, Section 5, Clause 1, provides, "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members..."

While it has been argued that Article I, Section 3, Clause 3 restricts the Senate's inquiries to the minimum requirements and qualifications, the Senate has in the long line of cases repeatedly considered other matters pertaining to the "elections" of its own members. There have been instances in which the Senate, while investigating results of a General Election, considered certain aspects of the Primaries leading up to the General Election under investigation. This was true in Peddy vs. Mayfield (Hays, 200), a Texas case; Stock vs. Brookhart (Hays, 216), an Iowa case; Johnson vs. Scholl (Hays, 256), a Minnesota case; and in Ford vs. Newberry (Hays, Compilation of Senate Election Cases, page 99). However, with respect to this latter case Justice McReynolds in Newberry vs. United States stated that primaries

"are in no sense elections for an office, but merely methods by which party adherents agree upon candidates whom they intend to offer and support for ultimate choice by all qualified electors ***the two things are radically different."

The rule of the Senate, as stated in Heflin vs. Bankhead (Hays, 481) states that the action of the electorate in the general election "eliminates from consideration the question of the legality of the primary."

The Senate cannot, of course, be judicially restrained from examining any and every aspect of a primary election, but it is our belief -- based on Constitutional powers and precedents of 160 years -- that the Senate should concern itself with a primary election only when it is affirmatively shown that the nomination was secured by the fraud and corruption of the successful candidate.

On this basis, no facts nor even allegations submitted to the Sub-committee would bring this Texas controversy within the purview of the rule stated above. Lyndon B. Johnson was elected in the November 1948 general election by a majority of more than 420,000 votes. No charges of any kind with respect to the General Election have been made to the Senate. There are no facts or allegations that either of the Run-Off Primary Candidates were in any wise connected with any alleged fraud or irregularities in the primary.

Processing Note:

1/31/2025

There are 4 copies of the following four-page document. Only one copy has been scanned.

Robert Mar

Digitization Technician

AUTHORITY OF THE SUB-COMMITTEE TO INQUIRE INTO
THE DEMOCRATIC RUN-OFF PRIMARY IN THE STATE OF TEXAS
HELD ON AUGUST 28 , 1948

In the August 28 Run-Off Primary held in Texas by the Democratic Party to select a Democratic nominee to represent the Democratic Party in the November 2nd General Election, Lyndon B. Johnson emerged victorious over his opponent, Coke R. Stevenson.

The Senate has been petitioned by individuals in the State to inquire into the results of this Run-Off Primary to determine whether or not Lyndon B. Johnson was duly chosen as the Democratic nominee.

In such consideration we must first determine the power and authority of this Committee or of the Senate to inquire into the qualifications of its members.

Article I, Section 3, Clause 3, provides that

"No person shall be a Senator who shall not have attained to the Age of thirty years, and been nine years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen."

Article I, Section 5, Clause 1, provides in part

"Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members *****."

The Federal Convention refused to establish qualifications for members otherthan those set forth above and refused to give Congress power to establish qualifications. It has been seriously contended that the

Senate under Article I, Section 5, Clause 1 of the Constitution is restricted by Article I, Section 3, Clause 3 to a determination of whether a Senator has the qualifications required by Article I, Section 3, Clause 3 (See Warren, The Making of the Constitution (1928)). However, the Senate has in the long line of cases repeatedly considered matters regarding its members other than those merely pertaining to age, citizenship or residence. Therefore, irrespective of Article I, Section 3, Clause 3 of the Constitution, we must examine the Senate precedents on the assumption for present purposes that the Senate has power to inquire fully into the "elections of its own members."

Proceeding on this assumption we must next inquire into what is an "election" and whether or not the Senate has or has assumed the power to look into party primaries.

There have been several instances in which the Senate, while investigating the results of a General Election, has likewise considered certain aspects of the Primaries leading up to the General Election under investigation. This was true in the case of Ford vs. Newberry (Hays, Compilation of Senate Election Cases, page 99). However, with respect to this same case Justice McReynolds in Newberry vs. United States stated that primaries

"are in no sense elections for an office, but merely methods by which party adherents agree upon candidates whom they intend to offer and support for ultimate choice by all qualified elections. * * * the two things are radically different."

In Peddy vs. Mayfield (Hays, 200), a Texas case; Stock vs. Brookhart (Hays, 216), an Iowa case; and in Johnson vs. Scholl (Hays, 256), a Minnesota case; various aspects of primaries were considered, but only in connection with an investigation of the respective General Elections. Thus, it seems to have been the practice of the Senate to inquire into primaries only in connection with contests involving the General Election. The rule of the Senate in connection with a primary is stated in Heflin vs. Bankhead (Hays, 481) as follows:

"We have not deemed it a matter of sufficient importance to present (the argument made by Heflin) for the reason that the action of the electorate of Alabama in the general election eliminates from consideration the question of the legality of the primary.

"In our opinion the legality of the primary is not a proper matter for the consideration of the Senate of the United States. If it were * * * the action of the people in the general election has foreclosed consideration of it. For the fraud and corruption of the successful candidate in the election the Senate may go into the primary, as was done in Smith's case and Vare's case. Here the alleged infirmity is in the action of the party committee, not in Bankhead."

While the Senate cannot be judicially restrained from examining into any and every aspect of the conduct of a primary election, if it determines to do so, we believe the true rule governing its function in connection with primaries consistent both with the constitutional source of its power and with its precedents of over 160 years to be that it will investigate and take appropriate action in connection with a primary election only when it is affirmatively shown that the nomination was secured by the fraud and corruption of the successful candidate.

The view expressed above is consistent with the judicial decisions as well as the Senate's precedents.

In the light of this rule, we must apply it to the facts before us in the Johnson-Stevenson controversy.

There have been no facts nor even allegations submitted to the Sub-Committee which would bring this controversy within the purview of the rule stated above.

No charges of any kind with respect to the conduct of the General Election have been made to the Senate. On the other hand, Honorable Lyndon B. Johnson, the Junior Senator from Texas, was elected in the November 1948 General Election by a majority of over 420,000 votes. There are no facts nor even allegations that either of the two principal candidates, Johnson or Stevenson, were in any wise connected with any alleged fraud or irregularities in the primary. In view of these facts we conclude that the Honorable Lyndon B. Johnson was duly elected and sworn in as United States Senator from the State of Texas and is entitled to his seat.

Honorable Francis J. Myers
Chairman, Subcommittee on Privileges
and Elections
Committee on Rules and Administration
United States Senate
Washington 25, D. C.

My dear Senator Myers:

It is my understanding that certain undisposed of matters with respect to the recent Texas State Democratic Primary Election for United States Senator are pending before your Subcommittee. It is also my understanding that no contest of any kind is pending before your Subcommittee with respect to the subsequent general Senatorial election, in which I emerged the victor by over 418,000 votes. This majority, incidentally, is the largest received by any Senator taking oath of office in the 81st Congress.

In this connection I desire to call the following facts to your attention.

1. The Texas State Primary Election developed into a close race between myself and one other candidate. As is generally the case in such circumstances, various charges were made with respect to the conduct of the state primary.
2. The Texas State Democratic Executive Committee canvassed the results of the voting, heard all of the charges made with respect to the conduct of the state primary, and after careful consideration determined that I was the successful candidate. It so reported to the Texas State Democratic Convention which had been assembled for the purpose, among others, of receiving and considering the findings of the Democratic Executive Committee and of certifying to the Secretary of the State of the State of Texas the winning candidate thereof.
3. The Texas State Democratic Convention in open assemblage received and considered the Executive Committee's findings and voted to certify me to the Secretary of State of the State of Texas as the nominee of the Democratic party.

4. There were only two ways open to secure a recount of all of the ballots cast in the Texas State Primary:
 - (a) a contest petition filed by the defeated candidate in the State Courts of Texas, and
 - (b) impounding all of the ballot boxes in the State of Texas by the appropriate Committee of the United States Senate.
5. I repeatedly challenged the defeated candidate to file a contest petition in the State Courts of Texas, but he refused to do so.
6. The losing candidate litigated the validity of the certification of the State Democratic Convention in the Federal District Court for the Eastern District of Texas, the Circuit Court of Appeals for the Fifth Circuit and the Supreme Court of the United States. Both the Circuit Court of Appeals and the Supreme Court decided the questions involved in my favor and against the position of the defeated candidate.
7. The defeated candidate requested the Senate Subcommittee on Privileges and Elections, as then constituted, to impound the ballot boxes in only five counties in Texas. I formally requested on three separate occasions, namely on October 25, October 26 and October 29, 1948, that the Subcommittee impound all of the ballot boxes in all of the counties in Texas. The Subcommittee refused to do so and instead decided to impound the ballot boxes in only about thirteen counties in Texas.

In connection with my request for the impounding of all of the ballot boxes in all of the counties in Texas I pointed out in a sworn statement the following:

- (a) There had been a judicial determination by a Texas court, in connection with a contest involving the nomination of a local official, that in the Primary 1736 illegal votes were cast in Brown County, out of which my opponent received a lead of 466 votes;
- (b) The County Chairman of Dallas County, a kinsman of my opponent, amended his returns from that County some four or five times, each time increasing the vote of my opponent in that county, and that at least two of those certificates were without basis in law or fact;
- (c) Election officials in Harris County refused to count absentee ballots cast by perhaps 100 legally qualified voters, a majority of which I alleged to have been cast for me;
- (d) A Grand Jury investigation in Galveston County is reported to have disclosed that there were approximately 2,000 illegal votes cast in that county, in the names of persons who did not reside in the county and in the names of deceased persons, the names being obtained from tombstones;
- (e) Changes were made in the returns from Eastland, Wharton, Chambers and many other counties after the polls were closed; and
- (f) An election contest in Clay County disclosed that a number of illegal votes were cast in that county.

As a result of the failure to impound all of the ballot boxes in all of the counties in Texas a complete recount of the votes cast in the Primary was rendered impossible.

8. In two of the counties in which ballot boxes were impounded at the request of the defeated candidate, grand juries were convened and extensive investigations were made. Many witnesses were called, all of whom occupied positions giving their testimony great weight, and voluminous testimony was taken. At the conclusion of the investigation the foreman of each grand jury issued a statement to the general effect that the elections in their counties had been fairly and honestly conducted.
9. The special concern of the States and States' rights in connection with primary elections has been recognized and respected by the Congress and the Federal Courts from the inception of the primary election system.

On the basis of the foregoing, may I respectfully request that your Subcommittee report to the Senate Committee on Rules and Administration that the matters presently pending before your Subcommittee with respect to my recent victory as United States Senator from Texas do not merit any action.

Respectfully yours,

Lyndon B. Johnson

Honorable Sam G. Reams
District Attorney 79th Judicial District
Falfurrias, Texas

My dear Mr. District Attorney:

The Department of Justice has been conducting an investigation of the recent Texas State Primary Election for United States Senate for the purpose of determining whether in connection therewith any Federal laws were violated.

We are aware of the fact that following the Primary Election Judge Broeter of the 79th Judicial District ordered a Grand Jury investigation in Jim Wells and Duval Counties of Texas.

~~It is not an intention to obtain all available~~
~~information.~~ I would appreciate it very much if you would inform me as to the following matters with respect to such investigation:

1. The nature and extent of the investigation made.
2. The number of witnesses called; the matters as to which they testified; and if possible a statement of your opinion as to the weight to be accorded their testimony.
3. The findings and action of the Grand Jury.
4. Any other matters in this same connection you regard as pertinent.

We desire to complete our investigation as soon as possible and will be grateful if you will furnish this information within the near future.

Sincerely,

Alex Campbell

Processing Note:

1/31/2025

There are 4 copies of the following one-page document. Only one copy has been scanned.

Robert Mar

Digitization Technician

Honorable Sam C. Reams
District Attorney, 79th Judicial District
Falfurrias, Texas

My dear Mr. District Attorney:

The Department of Justice has been conducting an investigation of the recent Texas State Primary Election for United States Senate for the purpose of determining whether in connection therewith any Federal laws were violated.

We are aware of the fact that following the Primary Election Judge Broster of the 79th Judicial District ordered a Grand Jury investigation in Jim Wells and Duval Counties of Texas.

Inasmuch as we desire to exhaust all available sources of information, I would appreciate it very much if you would inform me as to the following matters with respect to such investigation:

1. The nature and extent of the investigation made.
2. The number of witnesses called; the matters as to which they testified; and if possible a statement of your opinion as to the weight to be accorded their testimony.
3. The findings and action of the Grand Jury.
4. Any other matters in this same connection you regard as pertinent.

We desire to complete our investigation as soon as possible and will be grateful if you will furnish this information within the near future.

Sincerely,

January 28, 1949

Senator Lyndon B. Johnson
Senate Office Building
Washington 25, D. C.

Re: Senate Election Contests Upon
Petition of Third Persons

Dear Lyndon:

Reference is made to my previous memorandum "Contested Senate Elections", and in particular its page 1 as to the abbreviations used hereafter, and pp. 9-10 as to the terms "Committee" and "Subcommittee".

The question discussed below is whether Senate election contests have been commenced and conducted upon petition of third persons as distinguished from contests either instituted by the opponent defeated in the Senate election, or from proceedings originating in the Senate itself. The great majority of Senate election contests fall into one of the two latter groups. But there are some cases which do not. There is, though, no case of a contest instituted solely by a defeated primary opponent. Nor has there been a closely analogous case. The nearest thing is the Overson case, discussed below.

Numerous cases in the "third person" group belong to the period before 1913 (enactment of the 17th Amendment), and originated with the state legislatures which chose the Senators according to Art. I, Sec. 3, Cl. 1 of the Constitution. There was apparently only one case, that of Stephenson (1911), WP 1114, where a formal joint resolution was adopted by the Wisconsin legislature asking the Senate to investigate the election and irregularities therein as well as in the primary. But it was quite common for a number of dissatisfied members of a state legislature to file a memorial with the Senate asking for an investigation and unseating of the Senator-

elect. Disregarding cases where the charges were considered insufficient to justify an investigation, there were five cases of this type.

In the Stockton case (1865), WP 322, a memorial of members of the New Jersey legislature led to an investigation and ultimately resulted in unseating the Senator-elect. The decisive question was whether the vote of Stockton himself could be properly counted.

In the Pomeroy and Caldwell case (1872), WP 426, a joint committee of the Kansas legislature investigated charges of bribery and corruption in the election, and sent a report to the U.S. Senate. The Senate took testimony, Caldwell resigned his seat before a vote was taken, the Committee Report stated that the charges against Pomeroy were not sustained, and no further action was taken.

A memorial of members of the state legislature was the basis for an investigation in the Ingalls case (1879), another Kansas case, WP 692. No further action was taken after testimony before the Committee since it found that, though there had been bribery, no decisive amount of votes had been switched thereby, and that Ingalls had had no knowledge thereof.

Similarly, in the Scott case (1899), WP 888, memorials of members of the West Virginia legislature (and others from private citizens) led to a lengthy legal discussion of alleged irregularities of the ballot in the state legislature.

Memorials from members of the Montana legislature, from the governor, and from private citizens, prompted, in the case of Clark (1899), WP 906, an investigation of charges of bribery. The Committee reported repeatedly that the charges (that the decisive votes in the state legislature had been obtained through illegal and corrupt practices), were justified. Clark resigned before the Senate took final action.

There were, moreover, two cases prior to 1913 where memorials of private citizens led to election contests. In the case of Grover (1877), WP 661, memorials from private citizens in Oregon demanded that Grover not be seated because of bribery. He was seated, however, and thereupon Grover himself moved for an investigation. On the basis

of the evidence taken the charges were held to be unsupported. While the Grover case is a weak precedent, the case of Smoot (1903), WP 928, is a rather strong one. Memorials by apparently only about 20 citizens of Utah led to one of the bitterest and longest Senate election contests, mainly on the basis of the charge that Smoot, a Mormon, advocated polygamy. A minority vote of little more than one-third saved Smoot from expulsion which had been recommended by the Committee.

Of the cases after enactment of the 17th Amendment, that of Steak v. Brookhart (1925), H 216, cannot be considered a precedent, although the Republican State Central Committee of Iowa filed a contest, H. 220-221, on the ground that Brookhart, successful in the Republican primary and in the general election, was not a member of the Republican party and had obtained the Republican nomination under false pretenses. The contest, however, was primarily by the defeated Democrat Steak who won the Senate seat in the contest. The Committee made it clear, H 228, that it considered the contest by the Republican state party only in connection with Steak's contest.

The famous LaFollette case (1917), H 49, one of the few genuine expulsion cases for reasons occurring subsequent to taking the seat, based on an allegedly seditious speech, was prompted by a memorial of the Minnesota Commission of Public Safety, H 50-51, composed of the governor and "eminent citizens" of that state, H 97. There were extended hearings and voluminous reports, briefs, and documentary evidence. Finally, the recommendation of the Committee to resolve that the speech did not justify any action by the Senate was adopted by the Senate, 57 Cong. Rec. 1527.

It would seem that the lengthy and highly controversial proceeding in the Langer case (1941; see previous memorandum, pp. 16-17), was brought about solely by protests of private citizens, 77th Cong., 2d Sess., Sen. Rept. 1010 (Pt. 1), p. 1, and (Pt. 2), p. 1, by "charges of various sorts from citizens of North Dakota", as then Senator Barkley put it, 87 Cong. Rec. 1.

Also the voluminous and somewhat confused case of the "Senators from Louisiana" (1932), i.e. Overton and Huey Long, H 654, belongs to this same group. The significance of the case is obscured by the fact that, for a long time,

Senator Connally, chairman of the Subcommittee, contended, H 674, that he had jurisdiction exclusively to investigate campaign expenditures, but not other irregularities, and that there was no election contest before the Committee. There had been numerous charges, however, and evidence as to these charges was actually taken. Finally, there was a formal notice of contest by a "Woman's Committee of Louisiana", and thereupon a formal proceeding was started. It suffices, for our purposes, to state that a comprehensive investigation was launched on the basis of charges by third persons. The most interesting thereof were those brought by the former Senator Broussard who intended to run for re-election and was defeated in the primary by Overton. Broussard filed comprehensive charges, H 658-660, alleging irregularities in the primary, but he never filed a formal contest and never claimed that he had been nominated, H 657-660, 667. Moreover, there were charges by an "Honest Election League", H 660-666, and many other papers were filed by private Louisiana citizens, H 655 (see also 73rd Cong., 2d Sess., Sen. Rept. 499), questioning the validity of the primary and of the election of Overton and particularly Long. The end of the whole proceeding was that the Committee, after taking voluminous evidence, considered all the charges as insufficient and recommended that the Senate take no further action. The Senate adopted a resolution to this effect, 78 Cong. Rec. 12015-12016.

There seem to be only two cases where a single private citizen filed a Senate contest, and both were abortive. In the Erickson case (1933), H 651, a federal judge in Montana, acting as a private citizen, filed a protest against the seating of Erickson as Senator because Erickson, formerly governor of Montana, resigned his governorship upon the death of a Senator from that state, and had himself appointed Senator by his successor, the former Lieutenant Governor. The letter from the federal judge, H 652, would indicate that he was a sort of crank; and Senator Wheeler contended that the letter writer intended to run for the Senate when leaving the bench. The letter was referred to the Committee, and an investigation authorized by resolution, H 652-653; but no further action was ever taken on the resolution.

In the case of Lowry v. Berry (1937), H 727, Lowry, a private citizen, filed charges against the character of the Senator-elect and petitioned that Berry not be seated. The Committee announced unanimously that the allegations were insufficient to warrant any Senate action.

In genuine contests the contestant has almost the position of a party in a lawsuit, and the proceeding before the Committee resembles litigation in a court. See, e.g., the case of Fritchard v. Bailey (1931), H 610. It is not the same in cases of the type dealt with in this memorandum. However, memorials and petitions from private persons or organizations have been received by the Senate and acted upon. And to some extent such third persons have been granted rights of a party in a proceeding, especially in more recent cases. The resolution in the LaFollette case, H 50, read:

"That the resolution of the Minnesota Commission of Public Safety petitioning the Senate * * * to institute proceedings looking to the expulsion * * * be, and the same hereby are, dismissed * * *."

In the Long case, the petitioner Woman's Committee of Louisiana was advised that its allegations were insufficient, and invited to make its allegations more specific, H 654. Thereupon public hearings were conducted. Even the treatment of hopeless cases as those of Erickson, H 651, and Lowry v. Berry, H 727, suggests that the Senate is not inclined to disregard completely any "contest" even though it comes only from a single citizen, in no way connected with the Senate race.

The conclusion, particularly on the basis of the Smoot, LaFollette, Overton, Long and Langer cases, is therefore that there is some precedent for the statement that the Senate may take action (if justified by the merits of the case), in an election contest even though the proceeding is prompted by the petition of a person other than the defeated opponent in the general election.

Sincerely yours,

Donald C. Cook

9 13

REPORT CONCERNING PROTESTS OF TEXAS'
PRIMARY ELECTION OF 1948

Honorable Lyndon B. Johnson was elected United States Senator from Texas in the General Election of 1948, and on presenting his certificate of election at the convening of the 81st Congress, took the oath of office and assumed his seat in the United States Senate for a full six year term. He received 807,266 votes to 387,258 votes for his opponent in the General Election, a majority of more than two to one. No contest of such election has been presented and no question has been raised with respect to the conduct and regularity of the election.

The only matter before the Committee concerning Senator Johnson relates to the Second Primary election of the Democratic Party held in Texas on August 28, 1948, in which Johnson defeated his opponent, former Governor Coke Stevenson, by a narrow margin. Stevenson charged irregularities in counting and returning votes in five counties of South Texas, claiming that, as a result thereof, he was wrongfully deprived of several hundred votes. Johnson claimed that he was wrongfully deprived of several thousand votes as the result of irregularities in a large number of other counties. The Committee fully investigated the charges made by Stevenson and impounded the ballots in the five

counties named by him, with the exception of one county where they had been destroyed.^{1/} No investigation was made by the Committee of the charges presented by Johnson, and his request that all ballots, particularly those in a number of named counties, be impounded, was not complied with.

The laws of Texas governing party primary elections provide that the several County Executive Committees of the political party shall meet at stated times, shall canvass the returns as made by the election officials of the several voting precincts of the county, and certify the returns to the State Executive Committee of the party; that the State Executive Committee shall meet at a stated time, shall canvass the returns as certified by the County Executive Committees, and shall certify the result to the State Convention of the party for its approval or disapproval. Stevenson appeared before the State Executive Committee and presented his charges. The Committee heard all the charges, and pursuant to its statutory function and duty certified to the State Convention that Johnson had received a majority of the votes in the Primary Election. The State Convention of the Democratic

^{1/} No particular significance is to be given to the destruction of the ballots (done by a long-employed court house janitor), as such occurred in other counties and was for the purpose of making the ballot boxes available for the ensuing General Election, and was not an unusual occurrence.

Party convened on the day following the meeting of the Executive Committee, received its report, and referred it to the convention's Committee on Party Nominations. The Convention adopted the report of that committee, and declared Johnson to be the nominee of the Democratic Party of Texas as its candidate for the office of United States Senator from Texas. The party officers certified his name, as such nominee, to the Secretary of State of the State of Texas, for inclusion on the official ballot to be voted in the ensuing General Election, all in accordance with state law.

The laws of Texas further provide that the results of a party primary election may be contested by the losing candidate by suit in a District Court, which, in Texas, is a court of general jurisdiction. In the case of a contest of a statewide race, the venue of the contest is fixed in any of the three District Courts of Travis County, the seat of the State Capitol. In such a suit the court has authority to impound and open ballot boxes, make a recanvass, reject all illegal votes, and ascertain and declare the result. Stevenson did not pursue the remedy plainly provided by State law and frequently resorted to in other instances. Instead, he selected a United States District Court in Fort Worth, Texas, in which to file a suit in equity seeking

to enjoin the election officials of the State from placing Johnson's name on the official ballot to be voted in the General Election. Both the Court of Appeals of the Fifth Circuit and the Supreme Court held that the District Court was without jurisdiction, and by direction of the Court of Appeals the suit was dismissed.^{2/}

Having presented his contest and having obtained an adverse decision from the State Executive Committee and the State Convention of his party, and having declined to present his case to a court of competent jurisdiction, Stevenson then submitted his case to the electorate by appeals to the voters to vote in the General Election for Johnson's opponent, the nominee of the opposition party. Having again lost, he now asks the Senate to conduct an investigation of the party primary election in Texas to the limited extent of the conduct of the election in the five South Texas Counties.

^{2/} The Presiding Judge of one of the District Courts of Travis County had been appointed to the Bench by Stevenson when Governor. Both Stevenson and Johnson resided in the Western District of Texas. The U.S. District Judge of that district was available, as was a Judge of the Northern District and two of the Southern District, and all more easily accessible than the one from whom the injunction was obtained. The latter, according to press reports, signed the temporary restraining order during the early morning hours, on his farm near the Louisiana border. These facts are not mentioned for the purpose of indicating a pre-conceived opinion of the Judge, but to indicate the evaluation of the merits of the case by Stevenson and his attorneys, all of whom were able lawyers and prominent members of the State Bar.

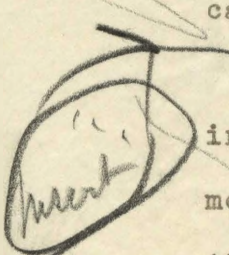
If it be assumed, contrary to precedent, that the Senate should properly inquire into the results of a nominating primary election conducted by a political party, and should set aside decisions of duly constituted party officials as authorized by State law, it must be obvious that Stevenson himself has frustrated the proper conduct of such an inquiry in the instant case. If illegal votes were cast and improper returns made in the Primary Election in Texas, in order to determine whether such had the effect of changing the result of the race between Johnson and Stevenson it would be necessary to eliminate all illegal votes and all votes improperly counted and returned for each candidate. It would be necessary, among other things, to go into the ballots and returns in those counties where Johnson claimed illegalities and irregularities resulting in added votes for Stevenson.^{3/} Therefore, in order to arrive at a correct determination of the results of the election, it would be necessary to have a full re-count of all the ballots and a check of all returns. This might have been accomplished if the Committee had impounded all ballot boxes and returns,

^{3/} Johnson claimed that a contest in a local race in one county resulted in a court decree establishing that some _____ illegal votes were cast and counted in that county, of which Stevenson obtained a majority of _____ of such illegal votes. In another county, in which Stevenson received a majority of two to one, a Grand Jury investigation disclosed that there were some 2000 illegal votes, cast in the names of prostitutes who had been run out of the county and in the names of deceased persons taken from tombstones. It was also charged that illegalities and irregularities in many other counties resulted in giving Stevenson several thousand more votes than were legally cast for him.

as requested by Johnson or by Court order if Stevenson had filed a contest in a district court of Travis County, as provided by State law. Johnson being the winning candidate could not invoke the jurisdiction and powers of the Court for the purpose of effecting a recount or impounding of the ballots. Practically all of the ballots in all the 254 counties of Texas, have now been destroyed pursuant to the provisions of State law.

In justice to all parties, it should be stated that the charges presented by Stevenson were fully investigated by agents of this Committee. They secured written statements from the witnesses to whom they were referred by Stevenson's attorneys. Much of the data secured was either violently partisan in character, rumor, speculation or pure hearsay. The charges have been investigated by Grand Juries in the three counties principally complained about by Stevenson. If the charges were true it would follow that the criminal laws were violated and indictments would have been returned. No indictments were returned by any of the Grand Juries. On the contrary, their reports showed, in substance, that the election in those counties was conducted legally, fairly and impartially and that the election officials were diligent

in the performance of their duties. The charges, if true, would also have indicated a violation of Federal law. The Department of Justice, through the FBI, has investigated the charges. Had evidence existed to establish the truth of the charges it would have been presented to a Federal Grand Jury, and, if sufficient, indictments would have been returned. Therefore, on the basis of the above, as well as on the basis of a consideration of the data before it, this Committee concludes that there has been a failure to make out a prima facie case of fraud or other illegality, and that further investigation is not warranted. But even if we were warranted in holding that the charges brought by Stevenson deserve further investigation, such would be fruitless unless we could ascertain whether and to what extent Stevenson himself was the beneficiary of fraud and irregularity, and what the result would have been if all votes illegally or irregularly cast and returned for each candidate were eliminated.



It is traditional that the Senate will not inquire into a party nomination except to determine whether an elected member of the Senate was guilty of such conduct in securing the nomination as to render him unfit for a seat in the

That further proceedings are not justified is conclusively established by Senate precedent. In the very recent case of Heflin vs. Bankhead involving alleged irregularities and illegalities in the conduct of a party primary, the following principles were affirmed:

"We have not deemed it a matter of sufficient importance to present (the argument made by Heflin) for the reason that the action of the electorate of Alabama in the general election eliminates from consideration the question of the legality of the primary.

"In our opinion the legality of the primary is not a proper matter for the consideration of the Senate of the United States. If it were * * * the action of the people in the general election has foreclosed consideration of it. For the fraud and corruption of the successful candidate in the election the Senate may go into the primary, as was done in Smith's case and Vare's case. Here the alleged infirmity is in the action of the party committee, not in Bankhead." 4/

4/ See report of Heflin vs. Bankhead, (Hays 481). It has been asserted on good authority, and strenuously argued, that the Senate is authorized to determine the only Constitutional qualifications of its members (i.e. age, citizenship and residence) and that the electorate determines their mental, moral and other qualifications. See Warren, "The Making of the Constitution"; The Federalist (Hamilton) LX: On this theory the Senate has inquired into the actual election only, and refused to inquire into party nomination, whether by Primary Election or otherwise. See The Case of Stephenson, Senate Doc. 1036, 62nd Congress; Newberry vs. United States, 256 U. S. 232. In cases where it did make inquiries into the conduct of party nominations, such as the Smith and Vare cases, it did so only for the purpose of determining whether the elected candidate was himself guilty of fraud or corruption in obtaining party nomination. This position is strongly reaffirmed in the more recent case of Heflin vs. Bankhead (Hays, 470).

That precedent is particularly controlling here. The electorate of Texas in the General Election overwhelmingly "eliminate(d) from consideration the question of the legality of the Primary."^{5/} There is no evidence that Johnson had any connection with or knowledge of any irregularities in the Primary Election. Nor do any of the protests on file with the Committee contain any factual allegations tending to connect him in any manner with the conduct of the Primary Election.

It is recommended that the protests be dismissed and that no further proceedings be taken in respect thereof.

^{5/} Johnson received the largest majority of any of the thirty-two Senators who took their seats at the convening of the 81st Congress. This vote was given him by the electorate of Texas, notwithstanding that his opponent in the Primary had made an issue of the charges now before the Committee and had endorsed Johnson's opponent in the General Election, the nominee of the opposition party.

United States Senate. ^{4/} Not only is there no evidence that Johnson had any connection with or guilty knowledge of the alleged irregularities, but the record contains no factual allegations tending to connect him in any manner with the conduct of the Primary Election in the five South Texas counties involved.

It is recommended that the protests be dismissed and that no further proceedings be taken in respect thereof.

^{4/} It has been asserted on good authority, and strenuously argued, that the Senate is authorized to determine the only Constitutional qualifications of its members (i.e. age, citizenship and residence) and that the electorate determines their mental, moral and other qualifications. See Warren, "The Making of the Constitution"; The Federalist (Hamilton) LX: On this theory the Senate has inquired into the actual election only, and refused to inquire into party nomination, whether by Primary Election or otherwise. See The Case of Stephenson, Senate Doc. 1036, 62nd Congress; Newberry vs. United States, 256 U.S. 232. In cases where it did make inquiries into the conduct of party nominations, such as the Smith and Vare cases, it did so only for the purpose of determining whether the elected candidate was himself guilty of fraud or corruption in obtaining party nomination. This position is strongly reaffirmed in the more recent case of Heflin vs. Bankhead (Hays, 470).

COPY

REPORT CONCERNING PROTESTS OF TEXAS'

PRIMARY ELECTION OF 1948

Honorable Lyndon B. Johnson was elected United States Senator from Texas in the General Election of 1948, and on presenting his certificate of election at the convening of the 81st Congress, took the oath of office and assumed his seat in the United States Senate for a full six year term. He received 807,266 votes to 387,258 votes for his opponent in the General Election, a majority of more than two to one. No contest of such election has been presented and no question has been raised with respect to the conduct and regularity of the election.

The only matter before the Committee concerning Senator Johnson relates to the Second Primary election of the Democratic Party held in Texas on August 28, 1948, in which Johnson defeated his opponent, former Governor Coke Stevenson, by a narrow margin. Stevenson charged irregularities in counting and returning votes in five counties of South Texas, claiming that, as a result thereof, he was wrongfully deprived of several hundred votes. Johnson claimed that he was wrongfully deprived of several thousand votes as the result of irregularities in a large number of other counties. The Committee fully investigated the charges made by Stevenson and impounded the ballots in the five counties named by him, with the

COPY

- 2 -

exception of one county where they had been destroyed.^{1/} No investigation was made by the Committee of the charges presented by Johnson, and his request that all ballots, particularly those in a number of named counties, be impounded, was not complied with.

The laws of Texas governing party primary elections provide that the several County Executive Committees of the political party shall meet at stated times, shall canvass the returns as made by the election officials of the several voting precincts of the county, and certify the returns to the State Executive Committee of the party; that the State Executive Committee shall meet at a stated time, shall canvass the returns as certified by the County Executive Committees, and shall certify the result to the State Convention of the party for its approval or disapproval. Stevenson appeared before the State Executive Committee and presented his charges. The Committee heard all the charges, and pursuant to its statutory function and duty certified to the State Convention that Johnson had received a majority of the votes in the Primary Election. The State Convention of the Democratic Party convened on the day following the meeting of the Executive Committee, received its report, and referred it to the convention's Committee on Party Nominations. The Convention adopted

^{1/} No particular significance is to be given to the destruction of the ballots (done by a long-employed court house janitor), as such occurred in other counties and was for the purpose of making the ballot boxes available for the ensuing General Election, and was not an unusual occurrence.

COPY

- 3 -

the report of that committee, and declared Johnson to be the nominee of the Democratic Party of Texas as its candidate for the office of United States Senator from Texas. The party officers certified his name, as such nominee, to the Secretary of State of the State of Texas, for inclusion on the official ballot to be voted in the ensuing General Election, all in accordance with state law.

The laws of Texas further provide that the results of a party primary election may be contested by the losing candidate by suit in a District Court, which, in Texas, is a court of general jurisdiction. In the case of a contest of a statewide race, the venue of the contest is fixed in any of the three District Courts of Travis County, the seat of the State Capitol. In such a suit the court has authority to impound and open ballot boxes, make a re-canvass, reject all illegal votes, and ascertain and declare the result. Stevenson did not pursue the remedy plainly provided by State law and frequently resorted to in other instances. Instead, he selected a United States District Court in Fort Worth, Texas, in which to file a suit in equity seeking to enjoin the election officials of the State from placing Johnson's name on the official ballot to be voted in the General Election. Both the Court of Appeals of the Fifth Circuit and the Supreme Court held that the District Court was without jurisdiction, and by direction of the Court of Appeals

COPY

- 4 -

the suit was dismissed.^{2/}

Having presented his contest and having obtained an adverse decision from the State Executive Committee and the State Convention of his party, and having declined to present his case to a court of competent jurisdiction, Stevenson then submitted his case to the electorate by appeals to the voters to vote in the General Election for Johnson's opponent, the nominee of the opposition party. Having again lost, he now asks the Senate to conduct an investigation of the party primary election in Texas to the limited extent of the conduct of the election in the five South Texas Counties.

If it be assumed, contrary to precedent, that the Senate should properly inquire into the results of a nominating primary election conducted by a political party, and should set aside decisions of duly constituted party officials as authorized by State law, it must be obvious that Stevenson himself has frustrated the proper conduct of such an inquiry in the instant case. If

^{2/} The Presiding Judge of one of the District Courts of Travis County had been appointed to the Bench by Stevenson when Governor. Both Stevenson and Johnson resided in the Western District of Texas. The U. S. District Judge of that district was available, as was a Judge of the Northern District and two of the Southern District, and all more easily accessible than the one from whom the injunction was obtained. The latter, according to press reports, signed the temporary restraining order during the early morning hours, on his farm near the Louisiana border. These facts are not mentioned for the purpose of indicating a pre-conceived opinion of the Judge, but to indicate the evaluation of the merits of the case by Stevenson and his attorneys, all of whom were able lawyers and prominent members of the State Bar.

COPY

- 5 -

illegal votes were cast and improper returns made in the Primary Election in Texas, in order to determine whether such had the effect of changing the result of the race between Johnson and Stevenson it would be necessary to eliminate all illegal votes and all votes improperly counted and returned for each candidate. It would be necessary, among other things, to go into the ballots and returns in those counties where Johnson claimed illegalities and irregularities resulting in added votes for Stevenson.^{3/} Therefore, in order to arrive at a correct determination of the results of the election, it would be necessary to have a full re-count of all the ballots and a check of all returns. This might have been accomplished if the Committee had impounded all ballot boxes and returns, as requested by Johnson or by Court order if Stevenson had filed a contest in a district court of Travis County, as provided by State law. Johnson being the winning candidate could not invoke the jurisdiction and powers of the Court for the purpose of effecting a recount or impounding of the ballots. Practically all of the ballots in all the 254 counties of Texas, have now been destroyed pursuant to the provisions of State law.

3/ Johnson claimed that a contest in a local race in one county resulted in a court decree establishing that some _____ illegal votes were cast and counted in that county, of which Stevenson obtained a majority of _____ of such illegal votes. In another county, in which Stevenson received a majority of two to one, a Grand Jury investigation disclosed that there were some 2000 illegal votes, cast in the names of prostitutes who had been run out of the county and in the names of deceased persons taken from tombstones. It was also charged that illegalities and irregularities in many other counties resulted in giving Stevenson several thousand more votes than were legally cast for him.

COPY

In justice to all parties, it should be stated that the charges presented by Stevenson were fully investigated by agents of this Committee. They secured written statements from the witnesses to whom they were referred by Stevenson's attorneys. Much of the data secured was either violently partisan in character, rumor, speculation or pure hearsay. The charges have been investigated by Grand Juries in the three counties principally complained about by Stevenson. If the charges were true it would follow that the criminal laws were violated and indictments would have been returned. No indictments were returned by any of the Grand Juries. On the contrary, their reports showed, in substance, that the election in those counties was conducted legally, fairly and impartially and that the election officials were diligent in the performance of their duties. The charges, if true, would also have indicated a violation of Federal law. The Department of Justice, through the FBI, has investigated the charges. Had evidence existed to establish the truth of the charges it would have been presented to a Federal Grand Jury, and, if sufficient, indictments would have been returned. Therefore, on the basis of the above, as well as on the basis of a consideration of the data before it, this Committee concludes that there has been a failure to make out a prima facie case of fraud or other illegality, and that further investigation is not warranted. But even if we were warranted in holding that the charges brought

COPY

- 7 -

by Stevenson deserve further investigation, such would be fruitless unless we could ascertain whether and to what extent Stevenson himself was the beneficiary of fraud and irregularity, and what the result would have been if all votes illegally or irregularly cast and returned for each candidate were eliminated.

That further proceedings are not justified is conclusively established by Senate precedent. In the very recent case of Heflin vs. Bankhead involving alleged irregularities and illegalities in the conduct of a party primary, the following principles were affirmed:

"We have not deemed it a matter of sufficient importance to present (the argument made by Heflin) for the reason that the action of the electorate of Alabama in the general election eliminates from consideration the question of the legality of the primary.

"In our opinion the legality of the primary is not a proper matter for the consideration of the Senate of the United States. If it were * * * the action of the people in the general election has foreclosed consideration of it. For the fraud and corruption of the successful candidate in the election the Senate may go into the primary, as was done in Smith's case and Vane's case. Here the alleged infirmity is in the action of the party committee, not in Bankhead." W

W/ See report of Heflin vs. Bankhead, (Hays 481). It has been asserted on good authority, and strenuously argued, that the Senate is authorized to determine the only Constitutional qualifications of its members (i.e. age, citizenship and residence) and that the electorate determines their mental, moral and other qualifications. See Warren, "The Making of the Constitution"; The Federalist (Hamilton) LX: On this theory the Senate has inquired into the actual election only, and refused to inquire into party nomination, whether by Primary Election or otherwise. See The Case of Stephenson, Senate Doc. 1036, 62nd Congress; Newberry vs. United States, 256 U. S. 232. In cases where it did make inquiries into the conduct of party nominations, such as the Smith and Vane cases, it did so only for the purpose of determining whether the elected candidate was himself guilty of fraud or corruption in obtaining party nomination. This position is strongly reaffirmed in the more recent case of Heflin vs. Bankhead (Hays, 470).

COPY

- 8 -

That precedent is particularly controlling here. The electorate of Texas in the General Election overwhelmingly "eliminate(d) from consideration the question of the legality of the Primary."^{5/} There is no evidence that Johnson had any connection with or knowledge of any irregularities in the Primary Election. Nor do any of the protests on file with the Committee contain any factual allegations tending to connect him in any manner with the conduct of the Primary Election.

It is recommended that the protests be dismissed and that no further proceedings be taken in respect thereof.

^{5/} Johnson received the largest majority of any of the thirty-two Senators who took their seats at the convening of the 81st Congress. This vote was given him by the electorate of Texas, notwithstanding that his opponent in the Primary had made an issue of the charges now before the Committee and had endorsed Johnson's opponent in the General Election, the nominee of the opposition party.

Processing Note:

1/31/2025

There are 3 copies of the following eight-page document. Only one copy has been scanned.

Robert Mar

Digitization Technician

REPORT CONCERNING PROTESTS OF TEXAS'

PRIMARY ELECTION OF 1948

Honorable Lyndon B. Johnson was elected United States Senator from Texas in the General Election of 1948, and on presenting his certificate of election at the convening of the 81st Congress, took the oath of office and assumed his seat in the United States Senate for a full six year term. He received 807,266 votes to 387,258 votes for his opponent in the General Election, a majority of more than two to one. No contest of such election has been presented and no question has been raised with respect to the conduct and regularity of the election.

The only matter before the Committee concerning Senator Johnson relates to the Second Primary election of the Democratic Party held in Texas on August 28, 1948, in which Johnson defeated his opponent, former Governor Coke Stevenson, by a narrow margin. Stevenson charged irregularities in counting and returning votes in five counties of South Texas, claiming that, as a result thereof, he was wrongfully deprived of several hundred votes. Johnson claimed that he was wrongfully deprived of several thousand votes as the result of irregularities in a large number of other counties. The Committee fully investigated the charges made by Stevenson and impounded the ballots in the five

counties named by him, with the exception of one county where they had been destroyed.^{1/} No investigation was made by the Committee of the charges presented by Johnson, and his request that all ballots, particularly those in a number of named counties, be impounded, was not complied with.

The laws of Texas governing party primary elections provide that the several County Executive Committees of the political party shall meet at stated times, shall canvass the returns as made by the election officials of the several voting precincts of the county, and certify the returns to the State Executive Committee of the party; that the State Executive Committee shall meet at a stated time, shall canvass the returns as certified by the County Executive Committees, and shall certify the result to the State Convention of the party for its approval or disapproval. Stevenson appeared before the State Executive Committee and presented his charges. The Committee heard all the charges, and pursuant to its statutory function and duty certified to the State Convention that Johnson had received a majority of the votes in the Primary Election. The State Convention of the Democratic

^{1/} No particular significance is to be given to the destruction of the ballots (done by a long-employed court house janitor), as such occurred in other counties and was for the purpose of making the ballot boxes available for the ensuing General Election, and was not an unusual occurrence.

Party convened on the day following the meeting of the Executive Committee, received its report, and referred it to the convention's Committee on Party Nominations. The Convention adopted the report of that committee, and declared Johnson to be the nominee of the Democratic Party of Texas as its candidate for the office of United States Senator from Texas. The party officers certified his name, as such nominee, to the Secretary of State of the State of Texas, for inclusion on the official ballot to be voted in the ensuing General Election, all in accordance with state law.

The laws of Texas further provide that the results of a party primary election may be contested by the losing candidate by suit in a District Court, which, in Texas, is a court of general jurisdiction. In the case of a contest of a statewide race, the venue of the contest is fixed in any of the three District Courts of Travis County, the seat of the State Capitol. In such a suit the court has authority to impound and open ballot boxes, make a recanvass, reject all illegal votes, and ascertain and declare the result. Stevenson did not pursue the remedy plainly provided by State law and frequently resorted to in other instances. Instead, he selected a United States District Court in Fort Worth, Texas, in which to file a suit in equity seeking

to enjoin the election officials of the State from placing Johnson's name on the official ballot to be voted in the General Election. Both the Court of Appeals of the Fifth Circuit and the Supreme Court held that the District Court was without jurisdiction, and by direction of the Court of Appeals the suit was dismissed.^{2/}

Having presented his contest and having obtained an adverse decision from the State Executive Committee and the State Convention of his party, and having declined to present his case to a court of competent jurisdiction, Stevenson then submitted his case to the electorate by appeals to the voters to vote in the General Election for Johnson's opponent, the nominee of the opposition party. Having again lost, he now asks the Senate to conduct an investigation of the party primary election in Texas to the limited extent of the conduct of the election in the five South Texas Counties.

2/ The Presiding Judge of one of the District Courts of Travis County had been appointed to the Bench by Stevenson when Governor. Both Stevenson and Johnson resided in the Western District of Texas. The U.S. District Judge of that district was available, as was a Judge of the Northern District and two of the Southern District, and all more easily accessible than the one from whom the injunction was obtained. The latter, according to press reports, signed the temporary restraining order during the early morning hours, on his farm near the Louisiana border. These facts are not mentioned for the purpose of indicating a pre-conceived opinion of the Judge, but to indicate the evaluation of the merits of the case by Stevenson and his attorneys, all of whom were able lawyers and prominent members of the State Bar.

If it be assumed, contrary to precedent, that the Senate should properly inquire into the results of a nominating primary election conducted by a political party, and should set aside decisions of duly constituted party officials as authorized by State law, it must be obvious that Stevenson himself has frustrated the proper conduct of such an inquiry in the instant case. If illegal votes were cast and improper returns made in the Primary Election in Texas, in order to determine whether such had the effect of changing the result of the race between Johnson and Stevenson it would be necessary to eliminate all illegal votes and all votes improperly counted and returned for each candidate. It would be necessary, among other things, to go into the ballots and returns in those counties where Johnson claimed illegalities and irregularities resulting in added votes for Stevenson.^{3/} Therefore, in order to arrive at a correct determination of the results of the election, it would be necessary to have a full re-count of all the ballots and a check of all returns. This might have been accomplished if the Committee had impounded all ballot boxes and returns,

^{3/} Johnson claimed that a contest in a local race in one county resulted in a court decree establishing that some _____ illegal votes were cast and counted in that county, of which Stevenson obtained a majority of _____ of such illegal votes. In another county, in which Stevenson received a majority of two to one, a Grand Jury investigation disclosed that there were some 2000 illegal votes, cast in the names of prostitutes who had been run out of the county and in the names of deceased persons taken from tombstones. It was also charged that illegalities and irregularities in many other counties resulted in giving Stevenson several thousand more votes than were legally cast for him.

as requested by Johnson or by Court order if Stevenson had filed a contest in a district court of Travis County, as provided by State law. Johnson being the winning candidate could not invoke the jurisdiction and powers of the Court for the purpose of effecting a recount or impounding of the ballots. Practically all of the ballots in all the 254 counties of Texas, have now been destroyed pursuant to the provisions of State law.

In justice to all parties, it should be stated that the charges presented by Stevenson were fully investigated by agents of this Committee. They secured written statements from the witnesses to whom they were referred by Stevenson's attorneys. Much of the data secured was either violently partisan in character, rumor, speculation or pure hearsay. The charges have been investigated by Grand Juries in the three counties principally complained about by Stevenson. If the charges were true it would follow that the criminal laws were violated and indictments would have been returned. No indictments were returned by any of the Grand Juries. On the contrary, their reports showed, in substance, that the election in those counties was conducted legally, fairly and impartially and that the election officials were diligent

in the performance of their duties. The charges, if true, would also have indicated a violation of Federal law. The Department of Justice, through the FBI, has investigated the charges. Had evidence existed to establish the truth of the charges it would have been presented to a Federal Grand Jury, and, if sufficient, indictments would have been returned. Therefore, on the basis of the above, as well as on the basis of a consideration of the data before it, this Committee concludes that there has been a failure to make out a prima facie case of fraud or other illegality, and that further investigation is not warranted. But even if we were warranted in holding that the charges brought by Stevenson deserve further investigation, such would be fruitless unless we could ascertain whether and to what extent Stevenson himself was the beneficiary of fraud and irregularity, and what the result would have been if all votes illegally or irregularly cast and returned for each candidate were eliminated.

It is traditional that the Senate will not inquire into a party nomination except to determine whether an elected member of the Senate was guilty of such conduct in securing the nomination as to render him unfit for a seat in the

United States Senate. ^{4/} Not only is there no evidence that Johnson had any connection with or guilty knowledge of the alleged irregularities, but the record contains no factual allegations tending to connect him in any manner with the conduct of the Primary Election in the five South Texas counties involved.

It is recommended that the protests be dismissed and that no further proceedings be taken in respect thereof.

^{4/} It has been asserted on good authority, and strenuously argued, that the Senate is authorized to determine the only Constitutional qualifications of its members (i.e. age, citizenship and residence) and that the electorate determines their mental, moral and other qualifications. See Warren, "The Making of the Constitution"; The Federalist (Hamilton) LX; On this theory the Senate has inquired into the actual election only, and refused to inquire into party nomination, whether by Primary Election or otherwise. See The Case of Stephenson, Senate Dec. 1036, 62nd Congress; Newberry vs. United States, 256 U.S. 232. In cases where it did make inquiries into the conduct of party nominations, such as the Smith and Vare cases, it did so only for the purpose of determining whether the elected candidate was himself guilty of fraud or corruption in obtaining party nomination. This position is strongly reaffirmed in the more recent case of Heflin vs. Bankhead (Hays, 470).

The attempt to have the Senate Committee investigate the Democratic Primary Election in Texas is motivated solely by a desire for publicity on the part of the losers and in the hope of making political capital.

The very close race brought fraud charges from both sides. The losing candidate, ^(Stevenson) assisted by a major oil company Special Ranger, entered

~~his charge~~ and conducted a personal investigation of the voting in ^{three} ~~Valley~~ counties.

^{carried by Johnson.} In four previous campaigns he had ^{stated} solicited and received large majorities in ^{Stevenson} these votes. Following ^{all of this} this private investigation these charges were presented to and considered by

1. The State Democratic Executive Committee -- result Johnson ^{before Johnson was certified as the Party nominee} certified ^{to the Convention}

2. The State Democratic Convention -- result Johnson certified ^{before the Convention certified the nominee as the Secretary of State for a place in the ballot by Voice Vote}

3. ^{Three} District Court Grand Juries -- no fraud found, no charges

brought.

4. F. B. I. -- No violations of Federal law developed. ^{Two Commissioners appointed by 2nd Court held hearings in 3 counties. Result - "Findings of fact - none" - "Conclusions of law - none". (80th Congress) found.}

5. Senate Investigating Committee -- no report filed.

6. Stevenson, losing candidate, endorsed Republican nominee and

took to radio repeating all charges previously made -- Republican candidate

^{assured} told all Texans Johnson would not be seated -- Result, Johnson 702,985,

Porter and Stevenson, 349,665

385,366
Difference 7413,195

798,561

In Galveston County, a ~~Stevenson~~ County, 14 indicted for political fraud.

In Brown County, a Stevenson County, after final tabulation by Executive Committee and State Convention; Johnson ^{would have} received 466 additional net votes, due to State ^{District} Court throwing out approximately 1700 ballots illegally counted.

Johnson asked for and welcomed any and all investigations, urged Senate Committee to impound and count all ballots, ^{in all counties if it counted any} urged opponent to file contest in State Court and have all ballots recounted ^{which Stevenson}

^{refused to do.} The only thing before the ^{senate} Committee are numerous "form" petitions which, on their face, show them to have been circulated by some form of organization seeking publicity or political advantage. They state no facts. They do not charge and do not even hint that the successful candidate was a party to or even had knowledge of any alleged fraud. Under these circumstances there is nothing before the Committee. It should not be made a party to a political smear for publicity purposes.

Processing Note:

1/31/2025

There are 5 copies of the following three-page document. Only one copy has been scanned.

Robert Mar

Digitization Technician

COPY

The attempt to have the Senate Committee investigate the Democratic Primary Election in Texas is motivated solely by a desire for publicity on the part of the losers and in the hope of making political capital.

The very close race brought fraud charges from both sides. The losing candidate (Stevenson), assisted by a major oil company Special Ranger, conducted a personal investigation of the voting in three Valley counties carried by Johnson. In four previous statewide campaigns Stevenson had received large majorities in these same three counties. Following Stevenson's investigation, all of his charges were presented to and considered by

1. The State Democratic Executive Committee before Johnson was certified as the Party nominee -- result Johnson certified to the Convention.

2. The State Democratic Convention before the Convention certified the nominee to the Secretary of State for a place on the ballot -- result Johnson certified by voice vote.

3. Three District Court Grand Juries -- no fraud found, no charges brought.

COPY

4. Two Commissioners appointed by Federal Court held hearings in three counties questioned -- result "Findings of facts, none;" "Conclusions of law, none."

5. F. B. I. -- no violations of Federal law found.

6. Senate Investigating Committee (80th Congress) -- no report filed.

7. Stevenson, losing candidate, endorsed Republican nominee and took to radio repeating all charges previously made and asking people to reject Johnson -- Republican candidate assured all Texans Johnson would not be seated; therefore if Texas was to have two Senators they should vote for Porter -- result Johnson 798,561, Porter and Stevenson, 385,366: difference of 413,195 with few counties not reporting.

In Galveston County, a county carried by Stevenson overwhelmingly, 14 indicted for political fraud.

In Brown County, a Stevenson County, after final tabulation by Executive Committee and State Convention; Johnson would have received 466 additional net votes, due to State District Court throwing out approximately 1700 ballots illegally counted.

Johnson asked for and welcomed any and all investigations, urged Senate Committee to impound and count all ballots in all counties if it counted any, urged opponent to file contest in State Court and have all ballots recounted, which Stevenson refused to do.

COPY

The only thing before the Senate Committee are numerous "form" petitions which, on their face, show them to have been circulated by some form of organization seeking publicity or political advantage. They state no facts. They do not charge and do not even hint that the successful candidate was a party to or even had knowledge of any alleged fraud. Under these circumstances there is nothing before the Committee. It should not be made a party to a political smear for publicity purposes.