

REPORT

OF

THE COMMITTEE ON THE JUDICIARY,

ON THE

Protests of certain members of the Legislature of Pennsylvania against the election of the Hon. Simon Cameron as a Senator in Congress.

MARCH 11, 1857.—Submitted and ordered to be printed with the views of the minority of the committee.

The Committee on the Judiciary, to whom was referred the protest of certain members of the senate and house of representatives of the State of Pennsylvania, alleging certain irregularities and illegalities in the election of the Hon. Simon Cameron, a senator from said State, report:

That the grounds of protest are stated as follows, viz:

1st. That there was not a concurrent majority of each house in favor of the candidate declared to be elected.

2d. That the senate did not comply with the requirements of the act of 2d July, 1839, by appointing a teller and making a nomination of persons to fill said office, and giving notice of said appointment and nomination at least one day previous to the meeting of said convention.

In addition to the two grounds aforesaid, the protest presented by the members of the house of representatives charges,

3dly. "That the election of the said Simon Cameron was procured, as they are informed and believe, by corrupt and unlawful means, influencing the action and votes of certain members of the house of representatives of this State; and they request that an investigation be ordered by your honorable body, not only into the regularity of the said election, but into the charges herein presented, in order that an opportunity may be afforded of submitting the proof upon which they rest."

In relation to the first two grounds of protest, the committee are unanimously of opinion that no facts are presented tending in the slightest degree to impair the validity of the election of Mr. Cameron.

It is true that the law of Pennsylvania on the subject of the election of senators requires that each branch of the legislature shall appoint one teller, and nominate at least one person to fill such office, and communicate to the other house the names of the persons so appointed participated in the use of such corrupt means or, indeed, had any know-

and nominated at least one day previous to the joint meeting; but the same law also provides, that at the hour of twelve, on the second Tuesday in January, next preceding the expiration of the constitutional term of a senator, the members of both houses shall meet in convention in the chamber of the house of representatives, and choose a senator *viva voce* from the persons so nominated, as aforesaid; and also expressly provides that the person who shall receive the votes of a majority of the members present shall be declared duly elected.

From the extracts furnished by the protesting parties, taken from the journals of the two houses, it appears that the two houses did meet in joint convention on the day and at the place appointed by law, and in accordance with resolutions passed in each house separately, and that one hundred and thirty-three members, composing the entire legislature of Pennsylvania, were present and voted, and that Simon Cameron received sixty-seven votes, and sixty-six votes were given for all the other candidates; and that Simon Cameron having thus obtained a majority of the votes of all the members present was declared duly elected senator.

It appears from the journal of the senate that the appointment of a teller and the nomination of candidates, and the communication to the other house of the appointment and nomination so made, all took place on the day of the election, instead of one day previous to the election, as required by the law of the State; but your committee regard this provision of law as purely directory in its nature, and are of opinion that a failure to comply with this formality would, under no circumstances, suffice to vitiate an election otherwise legal and valid; but where, as in the present case, both houses proceeded without objection from any source to perform their constitutional duty of electing a senator, the necessity of complying with any particular forms required by law may fairly be considered as waived by common consent, and it is entirely too late, after the result of the voting has been ascertained, to raise a question as to the mode of proceeding.

The objection that there was not a concurrent majority of each house in favor of the candidate declared to be elected, is equally untenable under the statute of Pennsylvania, and the uniform practical construction of the Federal Constitution for the last half century.

The third ground of protest is signed by members of the house of representatives of Pennsylvania, but not by the members of the senate of that State.

It is a general allegation "that the election of the said Simon Cameron was procured, as they are informed and believe, by corrupt and unlawful means, influencing the action and votes of certain members of the house of representatives," and the Senate of the United States is asked to investigate the charge.

The committee cannot recommend that this prayer be granted. The allegation is entirely too vague and indefinite to justify such a recommendation. Not a single fact or circumstance is detailed as a basis for the general charge. Neither the nature of the means alleged to be corrupt and unlawful, nor the time, place, or manner of using them is set forth, nor is it even alleged that the sitting member par- ledge of their existence. Under no state of facts could your committee

deem it consistent with propriety, or with the dignity of this body, to send out a roving commission in search of proofs of fraud in order to deprive one of its members of a seat to which he is, *prima facie*, entitled, still less can they recommend such a course when the parties alleging the fraud and corruption are themselves armed with ample powers for investigation. If it be, indeed, true that members of the house of representatives of Pennsylvania have been influenced by corrupt considerations or unlawful appliances, the means of investigation and redress are in the power of the very parties who seek the aid of the Senate of the United States. Let their complaint be made to the house of which they are members, and which is the tribunal peculiarly appropriate for conducting the desired investigation. That their complaint will meet the respectful consideration of that house your committee are not permitted to doubt. If upon such investigation the facts charged are proven, and if they, in any manner, involve the character of the recently elected member of this body from the State of Pennsylvania, the Constitution of the United States has not left the Senate without ample means for protecting itself against the presence of unworthy members in its midst. In the meantime your committee see no reason for initiating any proceeding on the subject, and submit the following resolution:

Resolved, That the Committee on the Judiciary be discharged from the further consideration of the subject.

VIEWS OF THE MINORITY.

The undersigned, a member of the Committee on the Judiciary, dissents from the conclusion at which his colleagues have arrived in reference to the contested election of a senator for the State of Pennsylvania.

In the protest submitted by forty-four members of the House of Representatives in that State will be found an allegation in these words:

"The undersigned further charge that the election of the said Simon Cameron was procured, as they are informed and believe, by corrupt and unlawful means influencing the action and votes of certain members of the House of Representatives of this State; and they request that an investigation be ordered by your honorable body, not only into the regularity of the said election, but into the charges herein presented, *in order 'hat an opportunity may be afforded of submitting the proof upon which they rest.'*"

It is objected, by the majority of the committee, that this paragraph does not specifically relate the facts on which a charge of corruption can be predicated.

If the case were only between contestor and contestee, as individuals, there might be some force in the objection; but it is one in which a number of the qualified electors, themselves public agents, inform the Senate that corrupt as well as unlawful means have been used in the election.

The accusation comes from a responsible source, and is too serious, too distinctly and directly made, to be treated with indifference. It concerns the honor of the Senate and the security of the government, that no rule of merely technical character, applicable as between individuals, should prevent a thorough investigation of the case. This would seem to be a duty the more imperative in view of the statute, enacted at the late session, in which very stringent and unusual provisions have been made for the detection of corrupt practices by members of Congress.

The undersigned concurs with the majority in reference to the other points of contest.

G. E. PUGH.