THE LORIMER CASE

SPEECH

OF

HON. JOSEPH W. BAILEY

OF TEXAS

IN THE

SENATE OF THE UNITED STATES

FEBRUARY 13 AND 14, 1911

WASHINGTON
1911

80595—9673

SPEECH

OF

HON. JOSEPH W. BAILEY.

Monday, February 13, 1911.

The Senate having under consideration the report of the Committee on Privileges and Elections relative to certain charges relating to the election of WILLIAM LORIMER, a Senator from the State of Illinois, by the legislature of that State, made in obedience to Senate resolution 264—

Mr. BAILEY said:

Mr. PRESIDENT: Before addressing myself to the results of this investigation. I think it advisable to say something about the methods which the committee employed in making it. I am not moved to do this by any objection on my own part to those methods, or because I doubt in the least that they were best calculated to evolve the truth, but as several Senators, and particularly the Senator from Iowa [Mr. CUMMINS] and the Senator from New York [Mr. ROOT], have criticized the investigation as lacking in thoroughness, I feel that in justice to the committee I ought to make some reply to that criticism.

I can easily understand how a Senator who feels that the testimony elicited by the committee leaves him in doubt as to his duty might complain, and it would be for the committee to answer whether the doubt of such a Senator could have been removed by any testimony within their reach. If any Senator should describe himself as in that mental condition and he could indicate any witness who might enlighten him on any disputed point, I would, without hesitating a moment, vote to recommit this report to the committee, with instructions to procure such additional evidence. But, sir, it is utterly impossible for me to comprehend how any Senator can complain at the committee for having taken, or for having omitted to take, any testimony, and then in the next breath declare that on this record as now made up he does not hesitate to pronounce a judgment which will undo what the legislature of a great State has done, deprive Illinois, for a time at least, of a seat in the Senate, and drive one who holds the commission of a great Commonwealth from the Senate Chamber with a stigma upon his name which neither his children nor his children's children can outlive.

But, Mr. President, without intending to be offensive, I am constrained to believe that neither the criticism of the Senator from Iowa nor the criticism of the Senator from New York against the committee is entitled to our serious consideration, because their speeches show that they have not studied this record with sufficient diligence to pass an intelligent judgment upon it. I say that because in both of their speeches they have misstated the testimony on material points, and I

80595—9673

know that neither of them would have done that to save his own seat in the Senate, and much less would either have done so to vacate the seat of another Senator. With these misstatements of the testimony before me and knowing the high character of the Senators who have made them, the only explanation possible to my mind is that they are due to a lack of familiarity with the record. Not only, Mr. President, were these Senators mistaken as to the language and the effect of certain testimony, but the Senator from New York was mistaken about the appearance of a witness whose testimony he deemed essential. The Senate has not forgotten that in enumerating the witnesses whom the committee ought to have called before it, but did not, the Senator from New York included Mr. Shurtleff, the speaker of the Illinois House of Representatives, and he did not leave us in any doubt as to Mr. Shurtleff's importance as a witness, because to give emphasis to his criticism against the committee for its failure to call him, he made this statement:

> Mr. President, they would have called Mr. Shurtleff, the speaker of the house, who was the leader of the campaign on the Republican side to secure the election of Mr. LORIMER. They would have called him, because the testimony shows that day by day and night by night he was closeted with Mr. LORIMER and with Mr. Lee O'Neil Browne.

The Senate will also remember that the Senator from New York had scarcely concluded that criticism when he was interrupted by the Senator from Kentucky [Mr. PAYNTER] and the Senator from South Dakota [Mr. GAMBLE], who reminded him that this record shows that the committee did call the honorable Mr. Shurtleff and that he did testify touching all of the most important matters under investigation.

Not only did the Senator from New York complain at the committee for its dereliction in respect to Mr. Shurtleff, but he complained also that it did not call the Yarborough brothers; and here again I find, Mr. President, a circumstance which compels me to believe that the Senator from New York relied upon somebody else to examine the record for him, because a lawyer of his great ability and of his accuracy could not have overlooked the fact that this record makes its own explanation of why the Yarborough brothers were not called. Those witnesses were called on the trial of Lee O'Neil Browne, and they swore, corroborating White, that they were in White's room on the night of May 24 when Browne called there and took White to his own apartments, where he made the corrupt contract with him for White's vote.

After Sidney Yarborough had sworn to that as a fact, the defense called a number of witnesses who overwhelmingly contradicted him. One of those witnesses was a Mrs. Ella Gloss, who swore that on the night of the 24th of May—which was the night of which White swore before the committee that Yarborough was in his room and the night on which Yarborough himself had sworn before the court that he was in White's room at Springfield—Sidney Yarborough took supper in her home; that he took breakfast there the next morning; that he went to Wheaton that day, returned that night, and left Chicago on the night of the 25th day of May for the city of Springfield.

The learned attorney in that case interrogated Mrs. Gloss, as he did before the committee, about Yarborough's other visits to her home. She said that he had visited her home at other

times, and when asked to specify them she could not do so. I freely say to the Senate that when she could remember this particular time and could not remember the other times, it strongly discredited her testimony with me. But finally they asked her how it happened that she could remember this particular visit and fix the day, but could not recall the other visits of Yarborough to her home; and then she satisfactorily explained it by saying that it was the day before her boy's birthday and that the little fellow had been begging her for a baseball bat and a baseball mitt, and Mr. Yarborough gave him 25 cents that morning with which to buy the baseball mitt the next day. Mr. President, no man needs any further confirmation of that good woman's story, because she locates the day by a circumstance which never fails a woman's memory.

But, sir, that was not all. The defense called the husband of Mrs. Gloss, and he corroborated his wife's testimony. They also called a street car conductor by the name of Bell, who testified that he met Gloss and Sidney Yarborough on Monday, the 24th day of May, as Gloss and Yarborough were on their way to Gloss's home. In order to discredit Bell they demanded of him to identify Yarborough in the crowded courtroom and he did it.

Mrs. Gloss had testified that at her table Sidney Yarborough had declared that his railroad fare did not cost him anything, as he rode on the pass of Charles White, who is the principal witness in this case, and who had known Sidney Yarborough when they both lived at O'Fallon, Ill. The conductor of the Illinois Central Railroad train which left Chicago at 10 o'clock on the night of the 25th of May was called, and identified a coupon pass which he had punched and taken up on his train that night. The clerk of the assistant to the president of the Illinois Central Railroad was called and required to bring into the court the coupon passes which had been issued to and used in the name of Charles White. He brought 41 of them, and he was required to lay those coupons on a table in the open court with their faces down, so that no one could see the date, and only the signature on the back of each would be exposed. They called on Mr. Gloss, who claimed to know the handwriting of Sidney Yarborough, to pick out of these 41 coupon passes bearing the name of Charles White the one signed by Sidney Yarborough. Gloss picked a particular coupon, and when they turned its face over it was the very one which had been used on the Illinois Central Railroad on the night of the 25th of May, thus corroborating Mr. and Mrs. Gloss, and contradicting absolutely and beyond all question the testimony of Sidney Yarborough.

But, Mr. President, there is still another circumstance which I am surprised that the Senator from New York has overlooked. When they had White on the stand and under direct examination they did not ask him who was in his room that night when Browne repaired to his apartments for the purpose of making the bribery contract with him. They had asked him that question on the trial of Browne, and he had answered that the Yarborough brothers were in his room; but he had been so completely discredited and contradicted that the attorneys for the petitioners in this case did not dare to repeat that question; and when the attorney for Senator LORIMER asked him who was in

his room the attorney for the petitioner objected. Exactly how he could have expected his objection to be sustained I have not been able to understand, because it was clearly competent under the strictest rules of evidence; and over the protest of the attorney for the prosecution White answered the question, and again said that the Yarboroughs, both Otis and Sidney, were in his room. Then Gloss and Mrs. Gloss, and Bell, the street car conductor, and the conductor of the Illinois Central Railroad, and the clerk of the assistant to the president of the Illinois Central Railroad were all called and testified before this committee what I have just related.

Mr. President, could any Senator complain at the committee for not calling a witness like that and under those circumstances? The prosecution called him in the court below, and he was so thoroughly discredited that they abandoned him. But when White was compelled to answer that question before the committee, he perfectly understood that if he made a different answer he would be contradicted by his testimony given in the court on the Browne trial, and though he knew that he would then be contradicted by other witnesses he thought that better than to be contradicted by his own testimony. He therefore swore that the Yarboroughs were in his room and he was again contradicted, as he and Yarborough both had been on the Browne trial. If there were any need to call Sidney Yarborough, it certainly did not rest with the committee or with Senator LORIMER.

The Senator from New York also complained that this committee did not call the clerk of the Holstlaw Bank, at Iuka, Ill.; and in all fairness I must say that if I had been a member of the subcommittee and had known what I now know I would have thought it important to call the officers of that bank. But as the record was then made up I might not have deemed it important.

THE TESTIMONY.

The Senators on the committee who have preceded me have reviewed the testimony with such ability and with such clearness that I would not deem it necessary to occupy the attention of the Senate in repeating any of the things which they have said, except for the fact that it has been misstated in a way which, to say the least, is most remarkable, when we remember that Senators were speaking from a printed record. I easily understand that lawyers engaged in the trial of a case, and hearing the testimony as it falls from the lips of witnesses, when they come to discuss it before the court may differ about it; but in a case like this, where the words as they fell from the lips of the witnesses were taken down by a stenographer, transcribed and then reduced to print, it passes my comprehension, sir, how Senators could have misstated it. Yet these speeches have been delivered here, impeaching the right of Senator LORIMER to his seat, are filled with misleading extracts from the testimony, as I shall abundantly show before I conclude.

In discussing the testimony I shall, following the order pursued by Senators on the other side, first consider the testimony of the three members of the legislature who were, according to the Senator from New York, "approached." The

first witness the Senator from New York produced in support of this general and wholesale charge of bribery was a member of the legislature by the name of Groves, of whom he speaks as follows:

> Mr. Groves, a reputable and unimpeached witness, testified that shortly before the election a former member of the legislature came to his room in the hotel, approached him upon the subject of voting for Mr. LORIMER, and said to him "It might be a good thing for both of us." Groves retorted that "there is not money enough in Springfield to buy my vote for LORIMER."

Groves does testify to such a circumstance, but I want to show the Senate what else this "reputable and unimpeached witness" swore to, and then I will leave the Senator from New York to take care of his reputation. On page 416 of this record Groves testified:

> Q. State what, if any, conversation you had with Terrill?—A. Mr. Terrill told me he got a thousand dollars for voting for LORIMER.

After Groves left the stand, Terrill was called and swore that he did not vote for LORIMER at all; that he had voted for Hopkins for 18 ballots, and then left Hopkins and voted for Lawrence Y. Sherman until the last two ballots, when he again returned to Hopkins.

The next morning Groves appeared at the committee room and asked to correct his testimony, and he then said that what he had sworn or that what he intended to swear was that Terrill told him that "there was a thousand dollars or something like that in sight if he would vote for LORIMER." Groves testified a third time that Terrill had told him that he "could have earned a thousand dollars by voting for LORIMER." Groves also testified to a conversation with Representative Shaw, which I think the latter's testimony abundantly contradicts. Mr. President, if any Senator wants to vouch for a witness who swears as recklessly as that, he can have a monopoly on that proceeding.

The next witness introduced to us by the Senator from New York is Mr. Terrill, for whom he also vouches as "unimpeached and reputable."

I will show you how unimpeached and how reputable Terrill was. Terrill swears that he asked a man by the name of Griffin, who solicited him to vote for LORIMER, what there was in it, and that Griffin told him, "There is a thousand dollars anyway." Griffin swears distinctly, pointedly and unequivocally that he never told Terrill any such thing. That is Griffin's oath against Terrill's oath. It is the oath of a man who swears that he did not offer a bribe as against the oath of a man who solicited a bribe, although it is fair to say that Terrill testified that when he asked "what there was in it," he was actuated by curiosity and not by avarice.

Mr. President, any man who will take this testimony and read what Griffin said and read who Griffin is would never believe that he was sent out to bribe anybody. But that is not all; that is not the end of this "reputable and unimpeached witness." They asked Terrill, who testified that he had gone to the support of Sherman, if it were not true that he went to Sherman as a sort of a decoy, pretending to be for him, so that having secured the good will of the Sherman men he might lead some of them back to the support of Hopkins, and he

mildly admitted the charge. I will read to the Senate these questions and the answers:

Q. You were an adherent of former Senator Hopkins, weren't you?—A. Yes, sir.

Q. And you were there actively and energetically for him, weren't you?—A. I voted the first 18 times for Senator Hopkins. From that I went to Lawrence Y. Sherman, and stayed there until the last two ballots, and then went back to Senator Hopkins.

Q. Well, you were all of the time an adherent of former Senator Hopkins, even when you were voting for Lawrence Sherman?—A. Yes, sir; I was.

Q. You changed your voting to Sherman to try and draw somebody else out from there, from the parties they were voting for, so that you might induce them to go to Hopkins when you went; is that not a fact?—A. Yes; that is partially true; yes, sir.

Q. And there never was a time when you were not a strong, active, energetic, and strenuous adherent of Senator Hopkins?—A. That is true.

Thus this "reputable and unimpeached witness" admits under oath that he was in the Sherman camp as a spy, or at least as a decoy. Mr. President, if men of that kind are to be received as reputable and unimpeached witnesses, I have nothing to say about poor White. He was a degenerate; but if a decoy and a spy is to be received as a reputable and unimpeached witness, then poor White may have some excuse for his infamous misconduct.

The third man who was "approached," according to the Senator from New York, was Mr. Meyers, a Democratic member of the house. The testimony upon which that charge is predicated is this: Mr. Meyers swore that just before the roll call on which LORIMER was elected, Lee O'Neil Browne sent for him; that he went to Browne's seat, and that Browne urged him to vote for LORIMER. Meyers also swears that Browne said to him that "there are some good State jobs to give away and the ready necessary." Meyers further swears that he understood "the ready necessary" to mean that there was money for him if he would vote for LORIMER.

Mr. President, I do not believe what Meyers says, for two reasons. In the first place, it is wholly incredible that Browne would call a member of the legislature to his desk, and there in full view of everybody attempt to bribe him. The joint assembly was in open session, and if Meyers could hear the offer of a bribe, so could all of those about him. That, sir, is not the way a corruptionist would operate. In the second place, I do not believe what Meyers has said, because his answer, and his only answer was, "I can't help it; I can't go with you." Is that the answer which an honest man would make to an attempt to bribe him? There on the floor of the Illinois legislature, in full view of all the assembled people, is that the kind of an answer which an honest man would make to an attempt upon his honor?

George W. Alschuler, who sat one row behind Lee O'Neil Browne and three seats to the left of him, swears that he was watching Browne at that critical moment, and that Meyers did not go to his seat. If there were no testimony about it, if Browne did not deny it—and he does deny it in the most emphatic terms—if Alschuler did not say it was not true, if a page assigned to duty at Browne's desk, and who stood there through a roll call recording the vote, did not swear that Meyers did not go there, I would not believe him or any other man on

earth, whose only answer to an attempt to bribe him was: "I can't go with you."

Mr. President, I now dismiss those three witnesses upon whose integrity these attempts were made and come to White, Link, Beckemeyer and Holstlaw, who are so often described as the men who have admitted that they were bribed to vote for LORIMER; which is not true as to all of them, as I will show before I resume my seat.

WHITE.

The first witness called before the committee was Charles A. White, whose testimony I do not intend to review. By his own confession he is a perjurer and a bribe taker; and while such a man might tell the truth, it would be purely accidental if he did. The only thing I intend to do with reference to White's testimony is to show that it is flatly contradicted by reputable and unimpeached witnesses.

Recognizing that his story needed corroboration, White sought to corroborate it by locating two of his friends in his room on the night of the 24th of May when Browne went there for the purpose of corrupting him; and in order to give the story the appearance of truth, he even testified to certain comments made by Mr. Browne upon the occupancy of that small room by three men. I have already, in another connection, shown that White's story with respect to the Yarboroughs being in his room was proved to be so utterly false that even the prosecution itself, after one experience with it in on the trial of Browne, wholly abandoned it. White's testimony is not only discredited by the exposure of his falsehood with respect to the presence of the Yarboroughs in his room on the night of May 24, but it is further discredited by a conversation which he had with Homer E. Shaw before the election of LORIMER, and also by a conversation which he had with Mr. Thomas Curran after the election of Mr. LORIMER. The Senate will remember that White testified that he was induced to vote for LORIMER by a compensation which Browne promised him on the night of the 24th of May, though the exact amount was not agreed on until the next night, when White says he returned to Browne for a conference in order that a definite sum should be agreed on. Against this testimony of White stands the testimony of Homer E. Shaw, and, Mr. President, I will go out of my way to volunteer the statement that so far as I can judge by the printed page, a more intelligent and a more truthful witness did not appear before the committee. This is the same Shaw also about whom the Senator from New York made another mistake when he declared that—

> Mr. Groves testifies also to a conversation before the election with Mr. Shaw, one of the men who voted for Mr. LORIMER, who was then about to vote for Mr. LORIMER, in which Mr. Groves, his suspicions excited by the attempt made upon him—

That statement is another evidence that the Senator from New York did not examine this record with that care which the importance of our decision demands. I again say that I know he would not misstate the testimony of any witness or misrepresent the vote of any member of the legislature; and yet, sir, Shaw did not vote for LORIMER, and so distinctly testified when he was on the witness stand. In order that there may be

no mistake about that, let me read the very first questions he was asked and to which he replied:

Mr. AUSTRIAN. What is you full name, please?—A. Homer E. Shaw.
Q. Where do you reside?—A. Bement, Ill.
Q. What is your business, Mr. Shaw?—A. I am a banker.
Q. Will you be kind enough to speak loud and address the chairman. Were you a member of the Illinois House in the Forty-sixth General Assembly?—A. I was.
Q. Republican or Democrat?—A. Democrat.
Q. Do you remember the election of Mr. LORIMER on the 26th of May?—A. Yes, sir.
Q. Did you vote for Mr. LORIMER?—A. I did not.
Q. At any time were you approached with reference to voting for Mr. LORIMER—at any time?—A. I believe I was at one time asked if I could do so.
Q. Anything further?—A. No, sir.

Further on in his testimony Mr. Shaw was asked if he had ever engaged in any conversation with White about the senatorial election, and he answered in the affirmative, stating that the conversation in question had occurred about a week before LORIMER was elected, and that he had endeavored during that conversation to dissuade White from voting for LORIMER. In order to avoid any question about whether or not I am accurate in my statement on this particular matter, I will now read the questions and answers:

Q. Do you know Charles A. White?—A. I do.
Q. A member of the same legislature?—A. Yes, sir.
Q. Did you have a talk with him before the election of WILLIAM LORIMER for United States Senator?—A. I did.
Q. When?—A. Well, I would not attempt to fix the date, but my recollection is about a week before.
Q. What was the conversation?—A. The conversation was—the matter came up—something came up, as I remember it—now, it is quite a little while ago, and I would not like to state positively just the nature of it, but I think that White made this remark to me: That if he got a chance to vote for BILL LORIMER for Senator he was going to do it.
Q. What was the rest of it?—A. Shall I go ahead and state it all?
Q. Yes; tell what he said to you and what you said to him.—A. I said to him, "Charlie, I think you will make a great mistake if you do anything of the sort." I said, "You know you are a young man; you are new in your district, and undoubtedly stand high with the people down there or they would not have put you here, and I believe it will be your political death if you do anything of that sort," and I told him what I thought would be the condition down there in O'Fallon, where he came from, if he did do this. I told him I did not believe his best political friends would speak to him when he went home, and I remember that he made the remark that he "didn't care a damn," but that he "intended to do it if he got the chance." This, to my best recollection, was about a week before.
Q. Did you say anything to him about the locality from which he came being in southern Illinois, and a strong Democratic district?—A. I did. I mentioned the fact to him that his people were largely foreign; they were French, German, and Irish, very largely.
Q. Did you talk to Mr. White after that?—A. I did.

Shaw's testimony, as I have just recited, conclusively disproves White's statement that he was influenced to vote for LORIMER by Browne's promise to pay him for his vote, made on the night of the 24th day of May. But, Mr. President, not only does this conversation with Shaw before LORIMER was elected establish the perjury of White, but the very day after the election he made statements to Mr. Thomas Curran which are equally as conclusive of his perjury. Mr. Curran was chairman of the committee on Labor and Industrial Affairs and a Republican. He swears that on the day after Mr. LORIMER was elected to the Senate he met White in the corridor of the statehouse at Springfield and that among other things White asked him if

"there was anything doing in that senatorship election of LORIMER yesterday," and expressed a belief that he had been "double-crossed." In order that Senators may have before them the exact language, I will read the questions and answers:

Q. At the same time and at the same conversation did White say to you, "Was there anything doing on that senatorship election of LORIMER yesterday?"—A. Yes, sir.
Q. And did you say, "Not that I know of. I heard of nothing of the kind. You are a Democrat and voted for him, and you ought to know if there was. Why do you ask?"—A. Yes, sir; that was our conversation.
Q. Did White then say to you, "Well, I don't know; I thought there was. I thought that Browne was double crossing us. I thought I was being double crossed."—A. Yes, sir.
Q. Did you say, "I know nothing about it at all? I have heard nothing?"—A. Yes, sir.

Here we find this man White the very day after the election inquiring of another member of the legislature, a Republican, who had also voted for LORIMER, whether "there was anything doing," and complaining that he thought he had been "double-crossed." Does not this, Mr. President, assuming that Curran swore the truth, show that White perjured himself when he swore that Browne had promised to pay him a thousand dollars to vote for LORIMER? If Browne had made such a promise as that White would not have been in the corridors of the capitol asking if there "was anything doing" and complaining that he had been "double-crossed." No, sir; Curran's testimony as to what occurred between him and White on the 27th day of May is utterly irreconcilable with White's testimony as to what occurred between him and Browne on the night of the 24th day of May.

But, Mr. President, there is additional testimony to disprove what White has said. Two witnesses, a Mr. Stermer, the assistant manager of the Briggs House in Chicago, and a Mr. Zentner, who is a traveling salesman, both testified to a statement which White made to them in the barroom of the Briggs House on the 19th of August, 1909. In that conversation White indicated his plan to blackmail LORIMER, and in reply to the direct question, if he had anything on them, admitted that he did not, but said:

I voted for LORIMER, and I am a Democrat, and I can say I got money for voting for LORIMER. Do you suppose they can stand for it a moment? I guess they will cough up when I say the word to them.

Although, Mr. President, there is nothing in this record to impeach the character or veracity of either Stermer or Zentner, and although their occupations are useful and honorable, and although their story, taken in connection with what we know of White and what he had said to others, is in itself entirely probable, still, sir, the Senator from Iowa [Mr. CUMMINS] has declared that he does not believe one word of their testimony and gave his reason for disbelieving it. Let me read to the Senate exactly what the Senator from Iowa said:

The next contradiction comes from Stermer and Zentner. Stermer, you will remember, was the companion of Mr. Browne and Mr. White upon these visits across the lake; visits which consumed a large part of these profits, not only from the ordinary jack pot, but from the election of Mr. LORIMER as well.

The Senator from Iowa read that testimony so hastily that he described Stermer as the man who took the trip across the

lake with White and Browne, though the testimony distinctly shows that it was Zentner. That, however, is not vital, and the important part of the Senator's statement is found in what follows, when he said:

> They say, and this is the only materiality of their testimony, that one day after Mr. White and Mr. Browne had come back from one of these trips, White was drunk, as usual, and that he said to them, after reciting what he was going to do, that they then immediately asked him whether he was going to turn against his friends, and then asked him whether he had anything on them, and he said, "No, I have nothing on them, but I am out for what is in it for White."
>
> I do not believe a word of that evidence for two reasons. In the first place, the testimony shows that it was repeated word for word without variation by the two men. More than that, it was repeated word for word before the committee as it was given at one of the trials of Mr. Browne on his indictment for bribery. Every man here knows that that can not be honestly done. It has been attempted a great many times. I have seen it attempted a great many times, and I never saw it succeeed.

I was following the argument of the Senator from Iowa closely when he made that declaration, and I felt impatient at myself to think that I had overlooked the circumstance which he then related. I thoroughly agreed with him in thinking that no statements of the same transaction, made by two different men, were apt to be word for word alike unless they had been reduced to writing and committed to memory. I therefore felt vexed at myself for having attached much weight to the testimony of Stermer and Zentner. Without any thought that I would find the statement of the Senator from Iowa incorrect, and purely with the expectation of having it confirmed, the very first thing I did that night when I sat down at my table to work, was to take this volume of evidence and turn to the testimony of Stermer and Zentner. You can hardly imagine my surprise sir, when I found that, so far from the two statements being identical, word for word, there were just such discrepancies between them as tended to give them credibility, and in order that the Senate may now see how badly mistaken the Senator from Iowa was in that most confident assertion, I will point out several instances in which the two statements differ.

Stermer's statement appears on page 533 of the printed testimony and Zentner's on page 541. In the second line of Stermer's statement he says White declared that he "was going to take a big trip in the fall and winter," while Zentner represents White as saying that he was "going to take a trip that fall." Zentner omits the adjective "big," which was used by Stermer, and also omits the words "and winter." Again, in the very next clause of the same sentence Stermer declares that White said that—

> First, he was going to his home, to his home in O'Fallon, and from there he was going to New Orleans, from New Orleans to Cuba, from Cuba to New York City, where he expected to have a big time, and then he would come back home again.

As Zentner repeats White's statement, it was that—

> He was going to his home, in O'Fallon, down to New Orleans, over to Cuba, up to New York, where he was going to have a good time, and then he was going home.

There are no less than 10 differences in this part of a single sentence, and similar immaterial discrepancies run through every sentence. A close examination of those statements, in-

stead of discrediting Stermer and Zentner, will serve to strengthen and fortify their testimony, and I am sure that the Senator from Iowa, after having his attention directed to his mistake, will cheerfully withdraw his serious reflection upon those two witnesses; and in order that he may see his mistake I will here reproduce the two statements:

STERMER'S STATEMENT.

Q. Will you just repeat the conversation once more?—A. He said he was going to take a big trip in the fall and winter; that first he was going home, to his home in O'Fallon, and from there he was going to New Orleans, from New Orleans to Cuba, from Cuba to New York City, where he expected to have a big time, and then he would come back home again. One of us asked him, or said to him, rather, that he must have a lot of money to take a trip of that kind. He said that he didn't have the money, but he was going to get it, and he said he was going to get it without working for it, too. Mr. Zentner asked him how he was going to do that. Well, he says: "That LORIMER crowd and our old friend, Browne, has got to 'come across' good and strong with me when I say the word, and I am going to say it, too." Mr. Zentner asked him if he had anything on him, or them, rather. He says, "No, he hadn't." He said he got the worst of it at Springfield, but that didn't make no difference, he was a Democrat, and had voted for LORIMER, and he could say that he got money for it. He said: "Do you think they could stand for that game?" Mr. Zentner said: "My God, you wouldn't treat Browne that way, would you?" "Well," he said, "I am looking out for White, and besides," he said, "Browne wouldn't have to pay; the bunch back of him would have to do that; it wouldn't hurt Browne." That is about all that was said at that time.

ZENTNER'S STATEMENT.

Q. Now, will you tell this committee exactly that conversation, as you remember it, and as you have testified to it on the two Browne trials?—A. The entire conversation?

Q. Yes, sir.—A. We were talking about this trip that we just returned from, from Michigan. We had been over to Michigan, and the little experiences, numerous experiences that happened on this trip, we were relating them to Mr. Stermer, and Mr. Brown said, or Mr. White said, then, he was going to take a trip that fall, he was going to his home in O'Fallon, down to New Orleans, over to Cuba, and up to New York, where he was going to have a good time, and then he was going home, and one of us asked him, we said, "You must have quite a lot of money to make a trip like that, haven't you, Mr. White?" He said, "No; I haven't, but I'm going to get it, and I am going to get it without working, too." I asked him then, I said, "How are you going to do that?" "Well," he said, "You know that LORIMER crowd and their old pal Browne will have to 'come across' when I say the word, and I am going to say it, too." I asked him then what he meant; I said, "What do you mean?" "Well," he said, "I got the worst of it down at Springfield. I am a Democrat and I voted for LORIMER and I can say I got money for it, can't I? Can they stand for that kind of game?" I said, "God, you wouldn't treat Browne that way?" White said, "No; I am looking out for White, and besides Browne wouldn't have to stand for it, anyway; it would be the bunch behind him." And that was about all the conversation. About 1 o'clock they closed the bar, promptly at 1, and we went out in the lobby of the hotel then and left Mr. Stermer.

Mr. President, with these statements before the Senate, I will leave White to the contempt which he has richly earned, and I will proceed to consider the testimony of Link.

LINK.

But before I call attention to that part of it which I consider pertinent to this discussion it is proper for me to remind the Senate that both Link and Beckemeyer have been used to corroborate White, and, if we accept their testimony as true, they have corroborated him with respect to the payment of $1,000 at one time and $900 at another time. It will be remembered by those who have read the testimony that when White offered his story to the Chicago Tribune he was asked if

there were any members of the legislature who would corroborate it. This question makes it plain, sir, that those who were dealing with White and offering him a price to advertise his infamy to the world understood the necessity of supporting his testimony. White himself swears that while the Tribune people were negotiating with him for his story they asked him if he could be corroborated, as appears from these questions and answers:

Q. At any time; if you took it in there and left it and walked out, and then went back again, that is the time I want; the first conversation you had with him after he knew what it was.—A. I could not quote the first conversation verbatim, but he asked me if there were any of the members who would corroborate my story, and I told him I had no one's corroboration except my own story.

Q. Do you mean cooperation or corroboration?—A. Corroboration.

Q. Cooperation?—A. No, sir; corroboration.

Q. Corroboration?—A. Yes, sir.

The importance, Mr. President, of this matter is that it emphasizes the Chicago Tribune's understanding that White's story uncorroborated would impress no intelligent person, and they therefore stipulated in their contract with him that he should devote himself, so far as called upon by the Tribune people, to the work of corroborating his story. It was to meet the necessity for this corroboration that Link and Beckemeyer were finally prevailed upon to swear that they had received money in sums which corresponded to the payments which White swears were made to him.

Sir, I have my own theory of Link's testimony with reference to the $1,000 and the $900 which he said were paid to him in St. Louis on two different occasions. The testimony shows that Link was brought to the city of Chicago, and carried before the grand jury of Cook county, but did not furnish the testimony which the State's Attorney desired. That testimony, according to Link's statement, was that he should affirmatively answer just two questions—the one that he had received $1,000 from Browne and the other that he had received $900 from Wilson. When before the grand jury the first time Link would not give that testimony, and they called him back the second time to the grand jury room, and still he would not testify as the State's Attorney wanted him to do, and then they indicted him for perjury. With this indictment in their hands, they drew a picture of his home on one side and of the penitentiary on the other. They told him that if he would swear as they wanted him to swear they would dismiss the indictment for perjury and let him go home a free man without any charges resting against him. But they told him that if he did not testify as they desired, they would send him to the penitentiary and that he would lose his farm, and even lose his wife. Standing there with the door of the penitentiary opening before him, harried and distracted by the power and the threats of the State's Attorney, he finally yielded and cried out in the anguish of his narrow soul, "If I must tell a lie, I will do it, but I do not want to do it." In that frame of mind they took the wretched man a third time before the grand jury, and he then gave the testimony which has since oblfged him to corroborate White, at least as to these two payments of money.

But, sir, although Link does swear that at one time he received $1,000 from Browne and at another time he received

$900 from Wilson, he also swears distinctly and repeatedly that not one dollar of either sum was promised to him or paid to him on account of his vote for LORIMER. Here are his answers as they appear on page 301 of the printed testimony:

Q. Did you ever receive any money or any other thing of value from anybody—Browne, Wilson, or anybody else—on condition, or on the promise or agreement or understanding, directly or indirectly, that you were to vote for WILLIAM LORIMER for United States Senator?—A. I certainly did not.

Senator GAMBLE. Or after he had voted for LORIMER.

Q. Did you ever receive any money from Lee O'Neil Browne, Bob Wilson, or R. E. Wilson, whatever his name is, or anybody else, or from any source whatever, or did you receive any other thing of value at any time from anybody because you had voted for WILLIAM LORIMER for United States Senator?—A. No. sir.

Q. Was there ever any consideration moving to you, or to anybody for you, or for your benefit, in any place, from any source whatever, with the understanding that you were to vote for WILLIAM LORIMER for United States Senator, or if you had voted for WILLIAM LORIMER for United States Senator, any consideration of any kind?—A. None whatever.

BECKEMEYER.

I come now to the witness, Beckemeyer, who swears most positively that he was not promised anything as an inducement to vote for LORIMER. On page 234 of the printed testimony he was asked this question:

Did Lee O'Neil Browne, at any time or at any place before Senator LORIMER was elected on the 26th day of May, 1909, ever tell you that he or anybody else would give you any money or other thing of value afterwards if you did vote for Senator LORIMER?

And he answered:

No. sir.

Again he was asked:

Was there anything in the way of money or compensation or anything of value that was held out to you or promised to you or indicated to you in any way by Browne or anybody else or from any other source to induce you in any degree to vote for WILLIAM LORIMER for United States Senator on the 26th day of May, 1909?

And the answer was:

No; there was not.

But while Beckemeyer swears that they did not promise him anything to vote for LORIMER, he also swears that afterwards Browne gave him a thousand dollars and told him it was "Lorimer money." Beckemeyer, like Link, was standing under the shadow of the penitentiary, with its open doors ready to close around him, and he was promised immunity if he would swear that he received a thousand dollars from Browne and $900 from Wilson, thus corroborating the creature White, as Link had been compelled to do. Testimony delivered under those circumstances I do not consider of any value. I am persuaded that a man who accepts a bribe could be hired to say that he had been paid when such was not the truth. A rich and powerful combination, bent upon the destruction of any public man, would find such men their willing tools and they would swear anything for a price. If a seat in the Senate is to be vacated upon the testimony of such men then no man is safe, for every man has rich and unscrupulous enemies who can hire, and, if given a hope of success, will hire such wretches to swear away his rights and character.

There was one other member of the house by the name of Luke, whose vote it is sought to impeach by testimony other

than that of White, Link and Beckemeyer. He was dead, but his wife was called as a witness, and so careful a lawyer as the Senator from Idaho [Mr. BORAH] has misstated the testimony with respect to him; for in his speech he leaves the impression that Mrs. Luke testified that when her husband returned from that meeting at St. Louis, where they say the corruption fund was distributed, he had $950 in his possession.

Let me read what the Senator from Idaho [Mr. BORAH] said:

> One other witness, Mr. Luke, was also present on these occasions. Mr. Luke is dead. His wife testified that he received a telegram on one occasion; that he went away, and that when he came back he had $950 in his possession. I think that Mr. Murray ought to have been permitted to testify as to what Mr. Luke said to him; but he was not, and we are therefore confined to the proposition that Mr. Luke was present at least upon one occasion; that he returned with about the amount of money which was being paid, and that he cast his vote for the first time in harmony with those who are admitted to have received the several sums of money to which I have referred.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Idaho?

Mr. BAILEY. Yes.

Mr. BORAH. In what respect did the Senator from Idaho misstate Mrs. Luke's statement?

Mr. BAILEY. In this respect, and I think when I have pointed it out the Senator from Idaho will ask leave to correct the RECORD. If the Senator from Idaho will turn to the testimony of Mrs. Luke he will find that, pointedly and unequivocally, she swears that when Luke returned from St. Louis he did not show her any money. She swears that he exhibited to her the $950 before he went to that meeting at St. Louis.

Mr. BORAH. The Senator inserts something into my remarks that I did not say and was very careful not to say. I did not say that Mrs. Luke said that after his return from St. Louis he had $950, and the RECORD does not bear that statement. I said that upon one occasion at least he was present, and Mrs. Luke said that he received a telegram and returned home at one time with $950. And the RECORD is in precisely that language.

Mr. BAILEY. I am willing to leave the question between us to the cold print. I regret, however, that the Senator says he was careful in framing that statement, because that looks like he desired, without actually saying so himself, to mislead the superficial reader into thinking that Mrs. Luke swore that her husband had this money in his possession after he returned from the St. Louis meeting. Mr. President, the Senator from Idaho says that I have inserted "something into his remarks and that he did not say it;" but the Senator is as badly mistaken about that as he is about Mrs. Luke's testimony. In the third sentence of the paragraph which I have quoted, the Senator from Idaho says:

> His wife testified that he received a telegram on one occasion; that he went away and that when he came back he had $950 in his possession.

Now, sir, according to all the rules of construction, and indeed, according to his very words, the Senator from Idaho has said that when Luke came back from the St. Louis meeting to which he had been called by a telegram, he had $950 in his possession. The testimony of Mrs. Luke, however, is that she saw

$950 in her husband's possession before he went to St. Louis in response to that telegram, and that she saw nothing in his possession when he returned from the St. Louis meeting.

When the Senator from Idaho says that Luke was present on at least one occasion and that he returned with $950 in his possession, he must mean, of course, that he returned from a St. Louis meeting with $950, because it was the meetings at St. Louis which the Senator was then discussing.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Idaho?

Mr. BAILEY. Yes.

Mr. BORAH. The Senator from Texas forgets that there were two meetings in St. Louis.

Mr. BAILEY. No; I do not forget that.

Mr. BORAH. There was a meeting at St. Louis, and there two payments made. At one time Browne conducted the distribution of the fund and at another time Wilson conducted the distribution of the fund.

The Senator from Idaho said that upon one occasion Mr. Luke was there, and the witnesses who testified to that are all the witnesses who were present at St. Louis; and I say that upon one occasion he was there and upon one occasion when he returned she said he had $950.

Mr. BAILEY. But, Mrs. Luke distinctly said that it was before her husband had been to St. Louis that she saw him with $950 and that she did not see him with any money after he returned from St. Louis. As Luke had received more than $2,000 for his services as a member of the Illinois Legislature the fact that he had $950 shortly after its adjournment is not a circumstance which can fairly raise against him any presumption of dishonesty.

Mr. GAMBLE. I suggest to the Senator from Texas—I do it with some timidity—that he read the testimony of Mrs. Luke. There can be no question about it.

Mr. BAILEY. I will ask the Senator, who has it in his hand, to read it to the Senate.

Mr. GAMBLE. I quoted it.

Mr. BAILEY. I know you did.

Mr. GAMBLE. It is from page 495 of the record and reads:

Did he return to Nashville, Ill., after the adjournment of the legislature, if you know?

Nashville was the home of Luke at that time.

A. Yes, sir.

Q. The legislature adjourned about the 4th or 5th of June, 1909; can you tell this committee about when he did return; how long after the adjournment of the legislature?—A. Well, I suppose right away.

Q. You believed it was some time in the month of June, 1909?—A. Yes.

Q. Thereafter do you know whether or not he received a telegram from Robert E. Wilson?—A. Yes.

Q. Did you see it?—A. No; he read it to me.

Mr. AUSTRIAN. After the receipt of this telegram, did your husband leave your home in Nashville?—A. Yes, sir.

Q. Do you know where he went?—A. He went to St. Louis.

Q. Upon his return from St. Louis, did he show you anything?—A. No.

Q. Did you see anything he brought with him?—A. No.

Q. Did he have any large amount of money?—A. No.

Q. Did he exhibit to you any amount of money?—A. No.

Q. Did you see $950 in his possession?—A. I did.

Q. When?—A. Before that time.

Q. Before he went to St. Louis?—A. Yes.
Q. Where had he been immediately before?—A. I don't know.
Q. Had he been away from home?—A. Yes, sir.
Q. Had he been to Chicago?—A. No.
Q. Had he been to St. Louis?—A. No.
Q. Where had he been?—A. I don't know.

That is substantially all in connection with that. It seems to me absolutely and directly in line with the suggestion made by the Senator from Texas.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Idaho?

Mr. BAILEY. Certainly.

Mr. BORAH. For just a moment. I do not desire to enter into a controversy about the matter now, but I desire to put in the RECORD, precisely in line with what has just been read and in the light of the further fact, that four other witnesses testified that Luke was present at St. Louis——

Mr. BAILEY. There is no question about that. His wife so testifies.

Mr. BORAH. His wife says she did not know where he was, but he did receive a telegram, and that he had $950.

Mr. BAILEY. But she testifies that he had the $950 before, and not after, the St. Louis meeting.

Mr. BORAH. But she says she does not know where he went when he went away.

Mr. BAILEY. That is true.

Mr. BORAH. It is very true.

Mr. BAILEY. But that is not unusual. There is many a wife who does not know where her husband has gone. [Laughter.]

Mr. President, as this record is to be permanent, I want to say here that I would believe that I had myself intentionally misquoted the RECORD as readily as I would believe that the Senator from Idaho would do it. I know he would not.

Mr. BORAH. I appreciate, of course, the statement of the Senator from Texas, and if I thought in the light of the evidence which is now before the Senate, I had misquoted it, I would at this time restate it for the purpose of having the RECORD in future bear the correct interpretation of the evidence.

Mr. BAILEY. I am sure of that.

Mr. BORAH. I repeat that when you take Mrs. Luke's testimony, the testimony of the four witnesses, the fact that she said her husband received a telegram and denied having $950, the conclusion which I drew was a perfectly legitimate one. Now, I am perfectly willing to leave the matter where the Senator from Texas places it; that is, that the wife does not very often know what is happening when the husband is out of sight.

HOLSTLAW.

Mr. BAILEY. But, Mr. President, there is another witness upon whose testimony the prosecution relies with greater confidence than on that of White or Link or Beckemeyer. They have introduced Senator Holstlaw, who swears that Senator Broderick paid him $2,500 to vote for Senator LORIMER, and they insist that Holstlaw's testimony is entitled to special weight because it is corroborated by a bank deposit made at the time he received that money from Broderick. Holstlaw's testimony when

analyzed would need corroboration, because his story on the face of it is a most improbable one. Let me quote it to the Senate in his own remarks. Here it is:

Q. Mr. Holstlaw, on May 26, 1909, whom did you vote for for United States Senator?—A. I voted for WILLIAM LORIMER.
Q. You were there in the joint session that day, then?—A. Yes, sir.
Q. Before voting for WILLIAM LORIMER on the 26th of May, 1909, was there anything said to you by anyone about paying you for voting for Mr. LORIMER?—A. On the night before the 26th, which was the 25th, Mr. Broderick and I were talking and Mr. Broderick said to me, he said, "We are going to elect Mr. LORIMER to-morrow, aren't we?" I told him, "Yes, I thought we were," and that I intended to vote for him.
Q. Proceed.—A. And he said—he says "There is $2,500 for you."
Senator BURROWS. Said what?
A. Said "There is $2,500 for you."
Mr. AUSTRIAN. Where was that conversation?—A. It was at the St. Nick Hotel, on the outside of the building.
Q. What night, the night before the vote for LORIMER was taken on the 26th?—A. Yes, sir; on the night before.
Q. What Broderick do you refer to?—A. I refer to Senator Broderick.

These are the strangest thieves that ever congregated in a civilized country, if this statement of Holstlaw is to be believed. I am more credulous, perhaps, than I ought to be, and I can be easily imposed upon by any reasonable story; but, sir, I balk when I am asked to believe that a bribe giver will offer $2,500 to a legislator who has already declared his intention of voting the bribe giver's way. I have no acquaintance with such people that would qualify me to understand or to explain their conduct, but speaking from my limited knowledge of human nature I think it very much more probable that a bribe giver would keep the money intrusted to him by his principal even after he had promised it to one of his fellow corruptionists, than it is that he would volunteer to pay it when there was no necessity for doing so. If $2,500 were left a bribe giver to be paid over to a bribe taker, the bribe giver would be more apt to keep it than he would be to pay it over; and it has never happened in the history of the world that a corrupt and dishonest man has volunteered to part with money left with him under such circumstances.

But they say that Holstlaw is corroborated by a bank transaction which has been stressed before the committee and before the Senate with great effect. They ask us to believe that Holstlaw received this money from Broderick, because they say that he deposited it that very day in a Chicago bank and that the amount of his deposit corresponds exactly with the amount which he says that Broderick paid him. But, sir, when Holstlaw was asked the name of the bank in which he deposited that money he gave the wrong name, and had to be prompted by the attorney for the Tribune. Let me read those questions and answers, for they are brief:

Q. What did you do with the money?—A. I took it and put it in the bank.
Q. What bank?—A. In the First National Bank.
Q. Do you mean the First National Bank or the State Bank of Chicago, which?—A. I believe it is the State Bank of Chicago—pardon me, I believe it was.
Q. The State Bank of Chicago?—A. Yes, sir.

Now, Mr. President, it is impossible for me to believe that a man who had received $2,500 and deposited it under circumstances which must have burned it into his brain as if with fire, could have forgotten the name of the bank in which he depos-

ited it. Not only, sir, did he forget the name of the bank in which it was deposited, but a still more remarkable and inexplicable circumstance is that the bank whose name had escaped him was the correspondent of a bank which he owned and controlled at Iuka, Ill.; and, as if to make his testimony still more improbable and still more inexplicable, he testified at a subsequent stage of the investigation that he had never, before or since, personally made any deposit in that bank. Having personally made but one deposit there, and that of money received as the price of his honor, I can not believe that he would have forgotten the name of the bank.

The attorney for the Chicago Tribune has treated this bank deposit slip as confirming Holstlaw's testimony beyond all doubt. He not only offered it in evidence, but not content with that he had it photographed, and a photographic copy of it is printed in his original brief.

A Mr. Newton, the chief clerk of that bank, appeared before the committee, and testified that Mr. Holstlaw had personally deposited this money, and that he, Mr. Newton, as the chief clerk of the bank, had personally received it from Mr. Holstlaw. That is not exactly in accordance with the face of the deposit slip, because it does not bear the stamp of the chief clerk. It does not bear the stamp of the receiving teller, but it bears the stamp of the note teller. Still, that might happen. It is not exactly regular, but it might be entirely honest.

But, Mr. President, as my suspicion had been excited by Holstlaw's improbable account of his first interview with Broderick, and still more by his mistake as to the bank in which he deposited that money, I very naturally thought it proper to scrutinize this deposit slip as closely as possible, and on it, when read in connection with the attorney's brief, I found what I believe to be indisputable evidence that it is a forgery. In this reply brief filed by the attorney he again specifies this as a most convincing proof that Holstlaw swore the truth when he said that Broderick paid him $2,500 as bribe money, because it shows that Holstlaw on that very day deposited with a bank in Chicago that exact amount to the credit of his bank at Iuka. As if to emphasize it still more and more, he cites us to the page of his original brief on which the photographic copy can be found, and then he declares that—

> The testimony is most important because Holstlaw had testified that immediately upon receiving the $2,500 in currency from John Broderick he deposited this $2,500 at the State Bank in currency, in large bills, and the photographic copy of his own deposit slip, in his own handwriting, is to be found on page 98 of our opening brief.

I will ask the Sergeant at Arms to bring me the papers in this case, particularly the paper giving a list of the witnesses to be summoned and the paper containing Holstlaw's acknowledgment of service. When I submit that last-mentioned paper to the Senate, there will not be a Senator here who will say that the same man who signed Holstlaw's name to the acknowledgment of service wrote the words Holstlaw Bank at the top of that deposit slip.

But, Mr. President, there is a stronger testimony of its forgery than merely the dissimilarity of penmanship. Here, sir, is an incontrovertible evidence: The name of Holstlaw on this deposit slip is misspelled, and who will believe that a man de-

positing $2,500 of bribe money would misspell his own name? Still another and a pregnant circumstance which I will lay before the Senate when the Sergeant at Arms brings me the papers is that Holstlaw's name is spelled in this deposit slip exactly as it is spelled in the list of witnesses furnished to the committee by the attorney of the Chicago Tribune. And that may explain, let me say to my friend from New York [Mr. ROOT], why the prosecution did not bring the officers of the banks with books to prove this deposit.

Mr. President, the Sergeant at Arms has now handed to me the document bearing Holstlaw's acceptance of the service, but has neglected to bring me the list of witnesses. It is enough, however, for me to say that Holstlaw's name as spelled on this deposit slip, which transposes the "l" and "s" is spelled or misspelled exactly the same way in the list of witnesses furnished by the prosecution to the committee. I will now ask the Senator who sits near me here [Mr. TILLMAN] to look at these two signatures; and he will see that there is not a letter in one like the same letter in the other.

Mr. FRAZIER——

The PRESIDING OFFICER (Mr. JOHNSTON in the chair). Does the Senator from Texas yield?

Mr. BAILEY. I do.

Mr. FRAZIER. Does the Senator mean to state to the Senate that Senator Holstlaw stated in his testimony that he signed that deposit slip?

Mr. BAILEY. I do not. He said that he personally deposited the money.

Mr. FRAZIER. Exactly. He said he had deposited the money, but he did not say that he signed the deposit slip.

Mr. BAILEY. The Senator from Tennessee must know that I have not made any such statement.

Mr. FRAZIER. The impression the Senator was making was that this must be a forgery because the signature to the deposit slip was different from the signature made by Senator Holstlaw to the subpoena. Therefore proof that the deposit slip was a forgery could only be based upon the suggestion that Mr. Holstlaw had signed the deposit slip, and Senator Holstlaw does not say that he signed the deposit slip.

Mr. BAILEY. The Senator did not do me the honor to listen carefully to what I was saying, because I took up the brief—the photographic copy of deposit slip does not appear in the record—and I took up the attorney's brief, stating that it was photographed there, and then stating that in his second or reply brief he had laid special emphasis on the deposit slip being in Holstlaw's "own handwriting."

Mr. FRAZIER. Then the Senator's argument is based upon the brief of the attorney, not on the record.

Mr. BAILEY. The record itself was that Mr. Holstlaw personally deposited it. I stated that. I stated, furthermore, that the bank clerk swore he received it from Mr. Holstlaw.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from Massachusetts?

Mr. BAILEY. The Senator from New York has been on his feet desiring to interrupt me, and I yield first to him.

Mr. ROOT. Mr. President, I rose for the purpose of asking the Senator from Texas whether, when he read from the brief

of the counsel for the Chicago Tribune, that this deposit slip was in the handwriting of Mr. Holstlaw he understood that there was any evidence anywhere in this record to that effect.

Mr. BAILEY. Nothing except what I have stated, and that is that Holstlaw swore that he personally made the deposit and the bank clerk swore that he personally received it from Holstlaw. I did not even venture to say what I know to be a matter of practice, that in nearly all cases where business men carry a deposit to a bank they do make out their own deposit slip.

Mr. ROOT. Does not the Senator know that as a matter of practice when business men coming from their offices go into a bank to make a deposit the bank clerk will make out the deposit slip?

Mr. BAILEY. They sometimes do and sometimes they do not.

Mr. ROOT. I will ask the Senator this question. Will the Senator permit me?

Mr. BAILEY. Certainly.

Mr. ROOT. Is there one word of testimony in this record to the effect that the bank clerk did not make out the deposit slip for the $2,500 brought to the bank by Mr. Holstlaw?

Mr. BAILEY. The only testimony is that Holstlaw personally deposited it and that the bank clerk personally received it from Holstlaw. I was careful to keep within the record. I made no suggestion based on the record that Holstlaw did draw the deposit slip, but I spoke from the brief of the attorney in the case, who is fairly presumed not to have made a mistake in that respect; and whatever the argument was it was based on the statement of the attorney, without the slightest pretense that it was based on any statement in the testimony.

Mr. ROOT. The only basis then, as I understand it, for the charge that there was a forgery of this deposit slip rests upon the assumption that the attorney of the Chicago Tribune was right in his brief and not upon any testimony in the case whatever.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from Iowa?

Mr. BAILEY. I should like to make a reply to the Senator from New York before I yield to the Senator from Iowa.

Mr. President, I repeat for the third time, and it seems to me that I need to repeat it in order to clarify it to some gentlemen, that I was careful not to intimate that there was any proof in this testimony as to who made out that slip, because I had examined it and all that was there I stated. But when I came to argue that it was a forgery I took up the brief of the counsel, and it is a perfectly proper thing for me to do in the Senate, as it would be a perfectly proper thing for me to do in the court room, because it is fair to suppose that an attorney employed specially to present the case would not assert, or even assume an important fact unless he had a good reason for doing it. And, sir, unless we accept the brief of the attorney there is no photographic copy of this deposit slip in this record.

Mr. ROOT. Mr. President, it is quite immaterial whether a photographic copy was in the record or not. There is the evidence of the officer of the bank that he received that deposit from the hands of Mr. Holstlaw on the 16th day of June with that deposit slip

Mr. BAILEY. Mr. President, I have always found that when a point can be turned against an attorney it at once becomes wholly immaterial. I now yield to the Senator from Iowa.

Mr. CUMMINS. Mr. President, I am not at all sure that the paper I hold in my hand is one that ought to be introduced into this controversy at the present time.

Mr. BAILEY. Is it a part of the record?

Mr. CUMMINS. It is not.

Mr. BAILEY. Then, Mr. President——

Mr. CUMMINS. I ask the Senator from Texas, because I know he is always desirous of doing exact justice——

Mr. BAILEY. I hope I am.

Mr. CUMMINS. Whether it is proper to suggest it in view of the charge of forgery just made. I have in my hand the original deposit slip. I have also the card which the bank at Iuka, the Holstlaw bank, presented to the State Bank of Chicago for the purpose of giving the State Bank the signatures of the officers of the Iuka bank.

I do this simply because I recognize with the Senator from Texas that the statement made in the brief of the Chicago Tribune is a mistake. It is not true that the deposit slip is in the handwriting of Senator Holstlaw, and it is true that there is a mistake in the spelling of the name in the deposit slip. The proof accompanying the deposit slip explains the mistake in regard to the name.

Now, I ask, whether it is proper to take into consideration the original deposit slip or not. If it be important, if the question of forgery becomes material, or if it is insisted upon, it is evident that this must find its way into the record in some way or other.

Mr. BAILEY. All I have to say is that if they had forged one document they would not hesitate to forge an explanation of it. I may be mistaken, but if I am, I have been misled by the lawyer who was employed to present this case, and who has presented it with great zeal and with some ability.

Mr. CUMMINS. May I say just one word more there?

Mr. BAILEY. Certainly.

Mr. CUMMINS. A moment's inspection of the paper to which I have referred on the part of the Senator from Texas will convince him that it is utterly impossible that it should have been forged.

Mr. BAILEY. Mr. President, as they are introducing matters outside of the record, I may be permitted to say that a Senator told me that the president of that bank told him that this slip was really a copy made by a newspaper correspondent. But I did not choose to repeat that. I took it as the authorized attorney had presented it. I hardly believed that an attorney, permitted by the courtesy of this committee to appear before it and present this case, would have introduced a spurious document. He introduced it; and attached so much importance to it that he photographed it; and then in order to emphasize and give it probative force, he stated upon his responsibility as an attorney in the case that it was in the very handwriting of Holstlaw. Now, if that is not true, I am not responsible for it. I have made an argument based on the record and the briefs, and that, sir, is perfectly fair and proper.

In the opinions of the Supreme Court you will find many cases where they have commented on statements made in the briefs before them, and surely, sir, it is not unprecedented or remarkable that I should do so here.

Not only is Holstlaw discredited by his improbable story, to which I have alluded, and by what I believe to be the forgery by which they have attempted to corroborate him, but there is still another circumstance which in my mind destroys the value of his testimony. He had been indicted in Sangamon county for perjury, with respect to another and totally different transaction, and was advised by the sheriff of that county to employ a certain firm of lawyers. Those lawyers contrived to have the indictment for perjury quashed upon an agreement with the State's Attorney that Holstlaw would sign a certain paper which they had prepared. In that paper, which was to procure his immunity from a just punishment for perjury, he first made this statement of this transaction with Broderick, although he had not been questioned by the grand jury about the senatorial election, and it bore absolutely no relation to the offense for which he had been indicted. That he was guilty of one crime I do not think admits of the slightest doubt, but he was relieved from the consequences of that crime by confessing that he had committed another. Not only, Mr. President, did they agree to allow Holstlaw to go unwhipped of justice for an offense of which they had the ample and documentary proof, but they also agreed to give him immunity against any prosecution for the other crime which they thus induced him to confess.

WHY DEMOCRATS VOTED FOR LORIMER.

But, Mr. President, turning from all the witnesses and documents, the Senator from New York demands of us to explain how it is that 53 Democrats in the Legislature of Illinois could have voted for Senator LORIMER unless they were bribed to do so. I might answer, and that would be sufficient for those who know him, that they were thus insuring the defeat of ex-Senator Hopkins; and almost any Democrat would consider that a satisfactory explanation. I intend no reflection upon the character or integrity of ex-Senator Hopkins, but we all remember his narrow and bitter partisanship. He could hardly bring himself to admit in the House or in the Senate that a Democrat could be an honest man and a patriot; and if he would say those bitter things here, what kind of speeches do you suppose he was in habit of making against the Democrats of Illinois on the stump? His very presence in a Democratic assembly would have almost provoked a riot, sir. [Laughter.] I have here an extract from the speech which he delivered in the House of Representatives on what was known as the force bill, and in which he denounced the Democrats of that day and of that body with such severity that one of the ablest men in it, and one of the mildest men who ever represented a district there, protested against it from his seat. Mr. President, I believe I will read to the Senate a small part of what Mr. Hopkins said on that occasion.

The argument which have been indulged in by the gentleman from the South against this bill are the arguments which are indulged in by the hardened criminal who seeks to avoid the just punishment of the crime which he has committed.

Mr. CULBERTSON. That is too rough.

Mr. HOPKINS. It may be rough, but it is true.

He denounced the whole Democratic party, because Democrats North and South, East and West, were opposed to that infamous measure. Yet they wonder why Democrats should help to accomplish his defeat. But I do not need to rest a defense of the Illinois Democrats who voted for Senator LORIMER on the extreme partisanship of ex-Senator Hopkins. There is another and an altogether sufficient reason for the course which they pursued. They were in a hopeless minority, without the shadow of a chance to elect a Democrat, and whether it were wise or not, it certainly does not justify an imputation of dishonesty against them that they aided in defeating a Republican nominee. I do not say that I would have done what they did, because I am one of those old-fashioned partisans who finds it difficult to vote for any candidate except one nominated by my own party. I believe that the only way in which a party can be preserved is by yielding an ungrudging obedience to the will of its majority. I also believe—and I deeply regret that my belief does not appear to be shared by many others now—that parties are indispensible to the successful administration of a free government, for, unless I have misread the history of the world, the alternative of party government is personal government; and I am sure that if political parties ever disappear from the arena of American politics, a man will come to take their place. He may come first on foot and he may walk with becoming humility among the multitude, but as his power and influence grows he will don a uniform and mount a horse. and then we will have a government by the sword instead of the one which our fathers ordained.

If, sir, suspicion attaches to any members of the Illinois Legislature by reason of the bare fact that they voted for Mr. LORIMER, the Republicans rather than the Democrats who voted for him are the ones who can be more justly suspected The Democrats were simply doing what they could to demoralize the Republican party by defeating its nominee for an important office, and that is nothing extraordinary nor at all unusual. During the past three years I have voted many times with what we call the Republican "insurgents," and in more than one instance I have been actuated in doing so by a belief that I could thus further divide and disrupt the Republican party. I have made no concealment of my purpose in that respect, and I venture to say that the CONGRESSIONAL RECORD will show that I made more than one declaration of that kind. But, sir, the case was wholly different with the Republicans of the Illinois Legislature. They were bolting their party's nomination, and I think that if we are inclined to indulge suspicion against anybody we would have a better right to suspect the Republicans who bolted their party than the Democrats who aided in making that bolt successful.

The Senator from New York, and he was not alone in pursuing that line of argument, has spoken as if he thought the action of those Illinois Democrats is without precedent, as well as without excuse. Sir, they have forgotten the history of Illinois, because more than once a result like this has been wrought out in the legislature of that State. All over this land to-day they are celebrating the anniversary of Lincoln's birth, and millions are paying homage to his integrity and patriotism. Even the Southern States, against which he levied a cruel war, have

buried their animosity in the years which have elapsed since then, and pay respectful deference to his memory. Yet, sir, Abraham Lincoln signalized his entrance into national politics by an episode which Senators profess themselves incapable of understanding. In 1855 Lincoln was a candidate for the Senate, and was supported by the Republican members of the Illinois Legislature, if it is proper to call them Republican, as the Republican party was just then in its formative state. But no matter about the name of the party whose candidate he was, he was supported by all of his partisans in that legislature.

The Democratic candidate against him was James Shields, a remarkable and romantic character, but his election was made impossible by the refusal of 5 Democrats to vote for him. Those 5 Democrats, under the leadership of John M. Palmer, who afterwards became a Senator from Illinois, voted for Lyman Trumbull, and after an ineffectual effort to elect their candidate the Democrats withdrew Senator Shields and substituted Gov. Matteson as their candidate, and, fearing the election of Matteson, Lincoln advised his Republican friends to vote for Lyman Trumbull, a bolting Democrat, who received 43 of the 45 Lincoln votes in that legislature, and with them was elected a Senator. Lincoln afterwards explained in a letter to the Hon. E. B. Washburne that he could have held 15 of his votes to the end of the legislative session, but that he feared the election of Matteson, and, under his own advice, his friends abandoned him to elect a candidate who avowed allegiance to another party. The same John M. Palmer who led the bolting Democrats in the Illinois Legislature of 1855 was, more than 30 years afterwards, himself elected to this body by the votes of men who did not belong to the Democratic party.

Who does not remember, sir, the time when the Illinois Democrats elected David Davis to the Senate, taking him from the supreme bench. In 1885, I believe it was, that sturdy Democrat, William Morrison, was our nominee and the Legislature of Illinois stood 102 to 102. The Democrats were unable to poll the full party vote for Morrison, and when it appeared that Logan's election was imminent they cast ninety-odd votes for Charles B. Farwell, a Republican, in order to defeat the Republican nominee. Having failed to stampede the Republicans, the Democrats withdrew their votes from Farwell and cast them for Judge Lambert Tree.

There was one incident of that contest in which a nonpartisan patriot can find the greatest satisfaction. The Democrats, as I have said, held a membership in the joint assembly of 102. The Republicans likewise had 102, but God laid his hand on a Democratic senator and left the Republicans with a majority of one. There was, however, a loyal and brave Republican there who said that the election of a Senator ought to be settled by a full legislature, and he paired with the dead man until his successor could be elected.

I relate that with more pride and satisfaction than I relate the subsequent proceeding, because that was a piece of sharp political practice for which our friends on the other side have been famous, more or less. The district which had been represented by the dead State Senator was overwhelmingly Democratic, and the Republicans pretended that they did not intend to make a nomination, and they did not. But while appearing

to let the contest go by default, they organized a most remarkable campaign. They sent men into every county of the district ostensibly to sell sewing machines and other articles, but really to inform all Republicans of the plan. They printed their ballots, distributed them, and, marvelous to say, kept their secret. The word was passed around that no Republican was to make a sign of life until 3 o'clock on the afternoon of the election. Promptly at 3 o'clock they came pouring out of their homes and places of business, captured the polls, elected a Republican, and broke the deadlock by re-electing Logan to the Senate.

This, sir, was not an uncommon contest in the State of Illinois, except in its aftermath. When Abraham Lincoln helped to elect a Democrat there was no suggestion of bribery and corruption. When the Democrats of the Illinois Legislature elected David Davis to the Senate there was no effort to soil the name of that great State. When William R. Morrison, as brave and true a man as ever devoted his life to the service of any country, failed to command his full party strength in the legislature, there was no hint of bribery. But all of this is now sadly changed, and a Senator here who for 14 years has held an unquestioned commission in the other House, and whose habits will not suffer by comparison with the cleanest Senator on either side of this Chamber, is pilloried before the world as a corruptionist and a criminal. What is there in his life to warrant or justify this cruel warfare against him? He never touches liquor of any kind; he does not swear; he does not gamble; he does not indulge even in the small vice of using tobacco; he is a model husband and father, and while many of those who assail him were reveling, he has made his home when in Washington with the Young Men's Christian Association.

Those for whom he has worked, those with whom he has worked, and those who have worked for him all bear witness to his justice and his generosity. His business associates vouch for his absolute probity. And yet, sir, they ask us to destroy this man of Christian character and blameless life upon the testimony of self-confessed bribe takers and perjurers. Before they can make me believe that this man has committed a crime they must offer me something better than the testimony of men who sell their votes and then proclaim their infamy to the world for a price. Men of upright life and Christian conduct do not commit the crime of bribery.

Left fatherless when he was 10 years old, and at a time when children of his age should be at play, he went to work, and, with the aid of an older brother, supported his widowed mother and his sisters. Without complaint and without faltering, he did his duty as a son and as a brother. Struggling with poverty and obscurity, he worked his way from a bootblack's stand to a seat in the Senate of the United States; and, so help me God, I will never blast a career like that except upon the testimony of honest men. [Manifestations of applause in the galleries.] The story of WILLIAM LORIMER'S struggles and achievements is an inspiration and a hope to every boy of humble birth beneath this flag, and I will not sacrifice him to please a rich and powerful newspaper whose enmity he has incurred by refusing to comply with its owner's demands.

Mr. President, while it is, of course, no part of this record, I want to read a tribute which even the prosecution in this

case paid to WILLIAM LORIMER the morning after his election. This is from the Chicago Tribune of May 27, 1909. It is long, and I will not read it all, but I will read enough of it to show what manner of man he is.

It was nothing strange for LORIMER to be elected through the aid of Democratic votes, for he has enjoyed a large Democratic following for many years. Three times he was elected to Congress in the old second district, which was Democratic, and his political sway has been strongest in Democratic territory. To such a marked degree has Democratic support figured in his political achievement that his friends point with pride to the nonpartisan character of his following, while his enemies contemptuously dub him "bipartisan Billy."

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Through all the praise and abuse LORIMER has maintained the same placid, benign attitude, which by many is considered the secret of his success. A man who never lost his temper, who never has been heard to swear, who does not smoke or drink, who always speaks softly and kindly, LORIMER, with that patient, childlike countenance, those compassionate, drooping eyelids, has endured all and bided his time. Always observing, apparently, the doctrine of nonresistance, he has waited opportunity, rested while his enemies worked, listened while his rivals talked, and then blandly and gently led the way to the solution he himself had planned.

* * * * * * *

He was about 20 years old when he made his appearance as a horsecar conductor on the old Madison Street line between State Street and Western Avenue. In this employment he first showed his talent for handling men. He organized the Street Railway Employees' Benevolent Association, and became at once the big man of that little world.

Faithful to those who worked with him in an humble occupation; faithful to his business associates; faithful to his personal and political friends; faithful to his widowed mother and his fatherless sisters; faithful to his wife and children, and faithful to his God, I will not, sir, upon this evidence believe that he was faithless to his country.

THE LAW.

I come now, Mr. President, to consider the legal effect of bribery on an election, and the whole law relating to that subject is comprehended in those two short and simple propositions:

First. If the officer whose election is challenged personally participated in, or encouraged, or sanctioned the bribery, then his election is void, without reference to the extent of the bribery.

Second. If the officer whose election is challenged did not personally participate in, or encourage, or sanction the bribery then, in order to invalidate his election, it must be shown by sufficient evidence that enough votes were bribed to affect the result.

The first proposition has not always been received as the law without question, and many eminent lawyers have insisted that no election can be invalidated by bribery, no matter by whom it was practiced, unless it was sufficient to have produced the result. Indeed, sir, so late as the Payne case, a committee of the Senate pretermitted an explicit declaration on that point because some of its Members maintained that view. But a further and a more thorough consideration has established the rule as I have stated it, and it is now universally accepted both in the Senate and in the courts of the country. I do not mean, of course, that there are not some who still protest against it, but they belong to that class of lawyers, happily very small, who think they can enhance their reputation for legal acumen by rejecting the most universally received opinions.

It was not necessary for me even to state my first proposition of law, and certainly it is not necessary for me to argue it; because both the testimony and the admissions in this record render it wholly irrelevant to this discussion. At the very threshold of the investigation those who are seeking to impeach the election of Mr. LORIMER distinctly admitted that they did not expect to connect him personally with any of the bribery which they hoped to prove to the satisfaction of the committee, and not one of that great array of witnesses testified to anything implicating the Senator from Illinois personally in any corrupt transaction. As a member of the subcommittee, the Senator from Tennessee [Mr. FRAZIER] heard all the testimony, and athough he dissents from the conclusion of the committee, he fully agreed with it in that particular respect. With a fairness which has won for him the respect of all who are fortunate enough to enjoy his personal acquaintance, the Senator from Tennessee disposes of this phase of the question in these words:

> While there are some facts and circumstances in this case tending to show that Senator LORIMER may have heard of or known that corrupt practices were being resorted to, and while Senator LORIMER failed to avail himself of the opportunity of going on the stand as a witness and denying any such knowledge or sanction of corrupt practices, if any such were being practiced, still I am of the opinion that the testimony fails to establish the fact that Senator LORIMER was himself guilty of bribery or other corrupt practices, or that he sanctioned or was cognizant of the fact that bribery or other corrupt practices were being used by others to influence votes for him.
>
> This being true, the question then arises, Was bribery or corrupt practices used by others in his behalf to influence votes for him; and, if so, were enough votes thus tainted with fraud and corruptly influenced when excluded to reduce his vote below the legal majority required for his election?

The Chicago Tribune, which has pursued Mr. LORIMER with unrelenting bitterness for years and instigated this proceeding against him, after searching the State of Illinois with its corps of trained attorneys and detectives for months, was utterly unable to produce any testimony connecting him personally with the corruption which they charged, and through its attorney was compelled to disclaim any purpose of attempting to do so. It is true that in the heat of this debate some Senators have contended that all these things could not have transpired without Senator LORIMER'S knowledge and consent, but when they soberly review the testimony and reflect that there is not one word in it to justify such an imputation, they will hesitate to declare a conclusion which even the zeal of a special counsel did not permit him to urge upon the committee; and I dismiss the question of Senator LORIMER'S personal participation in the alleged bribery as not at issue here.

The law, and the only law, which the facts make applicable to this case, is that which I have stated as my second proposition, and it is now so well settled both in reason and upon authority that it is not seriously controverted in any legislative body or in any court. Of course I do not forget that in the document, which he describes as a minority report, the Senator from Indiana dissents from its soundness, though he does not venture to deny that it is now the law. Indeed, he concedes it to be the law and calls on us to repeal it. Oblivious to the fact that this rule has been evolved and matured by the profoundest judges who have ever adorned the bench, and that it has been repeatedly approved by some of the wisest Senators who have ever honored

this body by their service, he repudiates it without hesitation, and demands that we adopt the new and different rule which he proposes. Here are his words:

So I propose that we overthrow such unsound precedents and establish a new Senate precedent, that one act of bribery makes such an election void—makes an election foul.

In this rather bold and altogether novel position, the Senator from Indiana is supported only by the Senator from Oklahoma, who is so uncertain about the capacity of the Senate to protect its integrity under the American rule that he urges us to adopt what he mistakingly supposes to be the English rule. But while the Senators from Oklahoma and Indiana are the only ones who have ventured to openly criticize the American rule, they are not the only ones who have introduced the English rule into this discussion, though none of them have correctly stated it. The Senator from Ohio, usually so accurate, read at length from one of the English decisions and then made it plain in his comments upon it that he does not understand the difference between a "candidate's agent" under the British statute and an "agent" as we use the term in this country. The English election law expressly provides for the appointment of an agent who bears to their campaigns a relation analogous to, though not entirely the same as, the chairman of a campaign committee in this country. The "agent" under the English statute, however, is provided for, and appointed in accordance with its provisions and represents the candidate throughout the contest. That is what the English statute and decisions mean when they refer to an "agent." Even the Senator from New York, who is justly supposed to know so much about the law of all nations, fell into the same error as the Senator from Ohio and the Senator from Oklahoma, and though his reference to the English rule was brief, he clearly asserted that the purchase of a single vote, under any circumstances or by any person, renders an election in that country void. Mr. President, if the Senators from Ohio and New York had followed this debate attentively they would have saved themselves from that inexcusable mistake, because in the very excellent speech delivered by the honorable chairman of this committee [Mr. BURROWS] he took the trouble to specifically point out the mistake which the Senator from Oklahoma had made as to the law of Great Britain. But, sir, even if the law in that country were precisely what these Senators have supposed it to be, it has been made so by a statute, and that fact itself shows that it was not a rule of the common law to which we must turn for our guidance and our instruction.

It is not probable, sir, that the people of this country could be persuaded under any circumstances to adopt or approve a law which would vitiate a senatorial election on account of the ineffective misconduct of some irresponsible person; and certainly they would not be so foolish as to do so with an amendment now pending before us to provide for the election of Senators by direct vote of the people. If that amendment shall finally be adopted—and it will be sooner or later—the Senate of the United States, under the rule proposed by the Senator from Indiana, would be perpetually engaged in the trial of contested-election cases, for in every State of this Union some wretch can be found so base as to sell his vote and then confess his crime, if by doing so he could invalidate an election which had gone against the interest or the wishes of his con-

federates. Indeed, sir, desperate and unscrupulous politicians would deliberately plan to buy a few votes for the opposition so that if the election did not result in their favor they could prove the corruption and thus defeat their opponents in that way, when they could not do so at the polls. The successful candidate might receive a majority of the honest votes running into the thousands, or the tens of thousands, and yet under this rule a few scoundrels could set aside the clearest and most unequivocal expression of the popular will. A rule which invites that, or a rule which permits that, is too absurd to require a serious consideration at this time and in this place.

Mr. President, perhaps I can save time and relieve the Senate from a tedious examination of the authorities by coming to an agreement with the Senators who have participated in this debate as to the law which must govern us in deciding this case. It is not necessary for me to interrogate the Senator from Tennessee [Mr. FRAZIER] because in the brief, but very clear, statement of his views he has laid down the law exactly as I understand it, and there is absolutely no difference between him and me in that respect. Nor can I believe that there is any difference on this proposition between me and the Senators from New York, Idaho and Iowa; and for the purpose of dispensing with an argument in support of my view, I believe that I will venture upon the unusual course of asking those Senators in the open Senate whether or not we can agree upon the law. I will first ask the Senator from New York whether he assents to my legal proposition, that—

If the officer whose election is challenged did not personally participate in, or encourage, or sanction the bribery, then his election can not be avoided unless it is shown by sufficient evidence that enough votes were bribed to affect the result.

Does the Senator from New York assent to that proposition?

Mr. ROOT. I do not.

Mr. BAILEY. Then I will produce abundant authorities to show that it is the law. I will next ask the Senator from Idaho whether he agrees that I have stated the law correctly.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from Idaho?

Mr. BAILEY. I do.

Mr. BORAH. If I correctly understand the statement of the Senator—it is pretty difficult to follow a statement as it is made and analyze it at the same time—I do agree to that legal proposition so far as this case is concerned. But permit me, in order that I may not be found in error in the RECORD to-morrow again, to ask the Senator a question, and that is whether or not the statement that I now make is the same statement that he makes: If the officer whose election is challenged did not personally participate in or encourage or sanction the bribery, then his election can not be avoided unless it is shown by sufficient evidence that enough votes were bribed, without which bribed votes he would not have had the majority required by the statute.

Mr. BAILEY. It is in effect the same; and if there is any difference, the Senator has stated the law a little stronger on my side than I have stated it. The only difference between the Senator and myself will be as to the application of the rule. I

perfectly understand that when we reach that point we will be at the parting of our ways, but on the law, I think there can be no difference.

Mr. BORAH. If the statement I have just made is the statement the Senator thinks is contained in his statement, it is the statement which I believe contains the law

Mr. BAILEY. There is no question about that, and I will now ask the Senator from Iowa if he agrees with me on the law as I have stated it.

Mr. CUMMINS. I stated with all the clearness that I could when I was discussing this matter some days ago my view of the law. I believe it to be true that if the evidence fails to show on the part of the Senator any personal participation in or knowledge of corrupt practices with which the election may be charged, then in order to invalidate the election it must be shown that the election was accomplished by and through bribery or corruption.

Mr. BAILEY. I am gratified to know that there is no difference between me and the Senators from Iowa and Idaho on the law; and I am confident that upon a further reflection the Senator from New York will withdraw his dissent, for the rule has been long and uniformly followed here.

Mr. ROOT. I do not want the Senator from Texas to consider that I dissent from all and every part of his statement. As I listened to it, it appeared to me that it was capable of a construction which would make it broader than I think it ought to be. I will gladly examine the statement, as it will appear in the RECORD, I suppose, and see whether I wish to suggest a qualification.

Mr. BAILEY. It will not appear in the RECORD to-morrow, but I have reduced to writing what I intend to say on the law, because I thought it of supreme importance to have that correctly stated; and I take the liberty of sending it to the Senator from New York. I can not think that after he examines it carefully it will be necessary for me to consume the time of the Senate in discussing it. I perfectly understand that when we come to apply my rule differences will arise. For instance, when we come to determine how many votes are sufficient to affect the result, the Senator from Idaho, the Senator from Iowa, and the Senator from New York have already indicated to the Senate a different opinion from that which I entertain. But that is a difference merely as to the application of the law and not as to the law itself.

Mr. ROOT. It is precisely at that point that I hesitate to give my assent to the proposition made by the Senator from Texas. I am much obliged to the Senator for sending me this paper, and I will examine his statement of the rule with care.

Mr. CARTER. The Senator from Texas has been speaking since 2 o'clock—for more than two hours and a half. It is now well into the evening. I observe the Senator is making unusual efforts to condense his remarks, and is making them rapidly. The points he is covering are points I am sure in which the Senate is interested, and I therefore venture to ask unanimous consent that the Senator be permitted to proceed with his remarks immediately after the close of the morning business to-morrow.

Mr. BAILEY. If that is agreeable to the Senate and does not interfere with some announcement already made by other Senators, I will act on the suggestion of the Senator from Montana. I will now yield the floor and will conclude to-morrow.

Tuesday, February 14, 1911.

Mr. BAILEY. Mr. President, when I yielded the floor yesterday afternoon I had reached the law question involved in this case, but with the indulgence of the Senate, I want to return for a few moments to one of the episodes which occurred when I was discussing the facts.

The Senate will recall that I animadverted with some severity on what I believe to be a forgery in this case. The Senator from Iowa [Mr. CUMMINS] interposed with the suggestion that he had in his hand a paper which, though not in evidence, still seemed to contradict my theory of that deposit slip. I have this morning, with his permission, examined that paper, and I find that it is the affidavit of one Jarvis O. Newton, who was a witness in the case, and who is the chief clerk of the bank in which the Holstlaw money in claimed to have been deposited. To Newton's affidavit there is attached the original deposit slip, which was introduced in evidence before the committee. There is also attached to Newton's affidavit a card bearing the signatures of the officers of the Holstlaw Bank, indicating that it was a correspondent of the State Bank of Chicago, and authorizing those officers to draw against its account there. The only fact contained in this affidavit not contained in the testimony is the statement of Mr. Newton that he, and not Holstlaw, made out this deposit slip.

Mr. President, any man who will examine Newton's signature to this affidavit, and then examine the writing of the name "Holstlaw Bank" on that deposit slip will conclude that Newton did not make it out, and this very paper, to my mind, still further confirms my theory that a forgery had been committed. The name "Holstlaw Bank," as it appears on this deposit slip, indicates that it was written by a man not skilled in penmanship and not very highly educated. The name "Jarvis O. Newton," as it is signed to this affidavit, gives evidence that he is accustomed at least to writing his own name, and the penmanship appears to me very much better than that of the man who wrote "Holstlaw Bank" at the top of the deposit slip.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Iowa?

Mr. BAILEY. I do.

Mr. CUMMINS. Mr. President, I understand that the affidavit, together with the card which is identified in the affidavit, can not be admitted as evidence without unanimous consent. I submit to the Senator from Texas and to the Senate whether the affidavit and the card shall be so admitted and so considered. The slip itself was introduced in evidence. It bears the identification of the committee, or the stenographer of the committee, and if the Senate does not desire to consider the affidavit and the card I shall ask that the slip itself be detached and given to the Sergeant at Arms for the consideration and examination of any Senator who may desire to examine it.

80595—9673

Mr. BAILEY. There is no question about that being the identical slip which is in evidence and which is photographed in the brief of counsel for the petitioners. Nor has any question been raised about the Holstlaw Bank, of Iuka, being a correspondent of the State Bank of Chicago, and that is the only fact which this card could serve to establish.

Mr. President, I shall say now what I did not say yesterday afternoon, because I hesitated to put into the records of Congress anything which could possibly be construed as a reflection on a great financial institution. But, since my theory of this deposit slip has been challenged, I think I owe it to the Senate and to the country to say that my suspicion against the genuineness of it on account of the misspelled name was intensified by the circumstance that the prosecution did not produce the books of the Chicago bank and the Iuka bank, instead of the deposit slip. Those books were the best evidence of the deposit, if it was made, and they could not well have been doctored. They could not have been easily falsified, for if an attempt had been made as an afterthought to insert this credit it would appear on the books as an interpolation; and if to avoid the appearance of an interpolation it had been entered at some subsequent period, it would then appear out of its chronological order. There were three items in the books of these two banks which could not have furnished false evidence, and yet instead of calling any of the officers of those banks to produce the books of each before that committee they brought the chief clerk of the bank there with a deposit slip, the only evidence of the transaction which could have been easily manufactured for the occasion.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Iowa?

Mr. BAILEY. I do.

Mr. CUMMINS. The Senator from Texas has more than once said that he believed the best way to evolve the truth of this controversy was to regard it as in a sense a lawsuit, in charge, on one side by counsel for the Tribune, on the other side by counsel for Mr. LORIMER. May I ask why the counsel for Mr. LORIMER, if there was any question about the deposit of this money, did not call for the books of the bank and did not inquire into the accounts of the bank at Iuka? It seems to me that the failure of Mr. LORIMER to make any inquiry into this matter is high evidence at least that he did not believe, nor did his counsel believe, that this slip is a forgery. I ask again, if the matter is material, why did not the committee seek the best and highest evidence and complete their investigation in that respect?

Mr. BAILEY. That is a perfectly legitimate comment on what I have said, but my answer to it is that it was the subsequent discovery which raised these grave questions. Until the reply brief of the counsel for the petitioners was printed it did not appear that it was claimed that Holstlaw had, in his own handwriting, made out this deposit slip. And I venture to say that when it was offered in evidence no member of the committee observed the misspelling of Holstlaw's name, and I am reasonably certain that it also escaped the attorneys on both sides.

I now return to a consideration of the law; and here, sir, the atmosphere clarifies. Here the earth which may have been unsteady while we discussed the testimony grows firm at once. We may have been mistaken about the veracity of some witnesses and the mendacity of others. We may have believed that the man swore falsely who swore the truth, and we may have believed that the man swore truthfully who swore a falsehood, because God has not endowed us with a faculty to determine with certainty the truth or falsity of human testimony. We can consider the motives and surroundings, and we can consider the character and temptations of witnesses, but when we have considered all of that the wisest of us may be misled, because the vilest liar will sometimes swear the truth, and the most truthful gentleman will sometimes testify honestly to a mistake. But, sir, when we reach the law the whole case changes, and we can speak of it with almost the exactness of a science.

Here I say to my friends who have spoken on the other side; here I say to my friends who have not spoken on either side; here I say to those Senators who have not yet determined in their own minds what their duty requires of them, that for the purposes of this branch of the argument, I can admit either view of the testimony. I can admit that every vote which has been challenged by any kind of testimony was bribed and must therefore be rejected, and the law still decides this case. If we eliminate the votes of Browne, Wilson and Broderick, who have been accused of giving these bribes and though their people have answered that accusation by re-electing them to the Legislature of Illinois, we can admit that their people were mistaken and that Browne, Broderick and Wilson were bribe givers. Let us say, besides, that White, Link, Beckemeyer and Holstlaw were all bribed. They are the four men who are often said to have confessed that they were bribed to vote for LORIMER, but that statement is not supported by the testimony. Link swears he was not bribed and that he never received any money for voting for LORIMER. Beckemeyer swears that he never was offered or promised any money for voting for LORIMER, though he does say that when he received certain money he was told that it was his "Lorimer money," and even Holstlaw swears that he had announced his purpose to vote for LORIMER before money was ever mentioned to him. But let us say that Link and Beckemeyer and Holstlaw and White were bribed. Let us, Mr. President, go even further than this and say that Shephard and Clark and the dead man Luke were bribed, and without stopping at that let us go on and say that De Wolf was bribed, though no man can read this testimony and believe that for an instant. That makes 11 tainted votes, and if we subtract them all from the 108 votes received by WILLIAM LORIMER, he was still duly and legally elected.

PROCEEDINGS OF THE JOINT ASSEMBLY.

In the joint assembly of the Illinois Legislature WILLIAM LORIMER received 108 votes, Albert J. Hopkins received 70 votes, and Lawrence B. Stringer received 24 votes, making a total of 202 votes cost on that ballot; and as WILLIAM LORIMER had received a majority of that number, he was declared by the proper presiding officer to have been duly chosen a Senator from the State of Illinois. There is no controversy as to the total number of votes cast, or as to the number of votes received by

WILLIAM LORIMER; but the validity of his election is denied upon the ground that it was procured through the bribery of legislators, though the number of legislators so bribed has not been agreed on by any two of the Senators who have advised the Senate to declare that election void. In the early stages of the debate it was only claimed that 7 of the votes cast for Mr. LORIMER were shown by the testimony to have been corrupted; and it was promptly answered that even if it were admitted that 7 votes had been corrupted by Mr. LORIMER's friends without his knowledge his election would still be valid. The discussion revolved about that point for several days, and then the Senator from New York, perceiving the weakness of a contention based upon those 7 votes, invented a new theory of the case, which I listened to with amazement. He followed the Senators from Idaho and Iowa in claiming that if 7 votes were shown to have been corrupted the election was thus vitiated; but not willing to trust his case to a rule which he must have known could be demonstrated to have no foundation in law or in logic, he worked himself up into such a frenzy of indignation that he finally declared that the entire 30 votes of what he denounced as "Browne's band of robbers" must be rejected; and the Senator from Ohio [Mr. BURTON], who followed him, not to be outdone by the Senator from New York in this crusade against Illinois, went to the extreme of declaring that the whole legislature of that State was so corrupt as to be incapable of conducting an honest election for a Senator. Mr. President, these claims are so extravagant that nothing but the high sources from which they come would save them from being absolutely ridiculous, and I can not feel that I am required to answer them. I shall therefore leave them aside; and address myself to the real question here, which was raised by the Senator from Idaho and the Senator from Iowa and indorsed by the Senator from New York; and that question is whether, if the 7 votes of White, Browne, Beckemeyer, Link, Wilson, Holstlaw and Broderick be rejected, there was still a legal and valid election. While I do not concede that these votes were in fact corrupt, I am perfectly willing, for the purpose of this branch of the argument, to admit that they were, and that they must therefore be rejected. Deducting those 7 votes from LORIMER's 108 would leave him 101, and deducting them also from the total vote of 202 would leave 195, of which the 101 legal votes received by LORIMER would constitute a clear majority, and make his election lawful beyond any doubt.

At this point in the argument, Mr. President, I encounter my difference with the Senators from Idaho and Iowa, who contend that while it is right to subtract the seven corrupt, and therefore illegal, votes from LORIMER, it is wrong to also subtract them from the total number of votes cast. Neither the Senator from Idaho nor the Senator from Iowa nor the Senator from New York claims that those seven rejected votes can be bestowed on either of Mr. LORIMER's opponents or be divided between them according to some unascertained proportion; but while declaring that those votes shall not be counted for LORIMER, and admitting that they can not be counted for Hopkins or Stringer, they still maintain that somehow or somehow else they must be included in the total number of votes cast. Such a proceeding, sir, can find no warrant in the law, for upon no

principle with which I am familiar can we reject a vote as it has been cast and still count it for any other purpose.

Under our own practice in the Senate we do not include votes which could be cast and counted, but are not cast, in estimating the total number, and we very recently overruled the Chair when he attempted to count them simply to make a quorum. If on a roll call of the Senate the affirmative of a proposition receives 35 votes and the negative receives 34, it would pass notwithstanding 10 Senators, one after another, might rise and announce their pairs, coupling the announcement with a statement that they would vote "no" if at liberty to vote, and yet, sir, upon this record showing that of the Senators present, 44 of them were opposed to the passage of the measure, it would pass, because only the 69 who voted and were entitled to vote, could be considered and the 35 affirmative votes would be a majority of them.

At almost every session of the Senate we illustrate the proposition that no member of a legislative assembly except one who has a right to vote and who has lawfully exercised that right can be included in any computation or counted for any purpose. But while I think the practice here conforms to the principle for which I contend, this precise question has never before been presented to the Senate and has not, therefore, been decided by this body. It is true that the Senator from Iowa and the Senator from Idaho have read to the Senate extracts from the views which Senator Hoar and Senator FRYE filed in the Payne case, but they can not be ignorant of the fact that those views were not accepted by the Committee on Privileges and Elections, and they must know that the resolution which Senator Hoar offered in accordance with them was defeated on a roll call of the Senate by a vote of 44 to 17. When reading that extract from Senator Hoar's paper, the Senator from Iowa found that the Massachusetts Senator's figures would not work out the proper result, and he suggested that there was a misprint by which Senator Hoar was made to say six where he meant to say seven; but if the Senator from Iowa had read that paper to its conclusion, he would have found the same figures repeated in another paragraph of it, and we are hardly at liberty to suppose that they were a misprint. But whether the calculation of the Massachusetts Senator was right or wrong is not material here, and the only question which concerns us is whether his law was right or wrong. Senator Hoar, who drafted that paper after a long service, in which he honored both his State and his country, has passed from among us, but Senator FRYE, who joined him in it, is still a Member of the Senate, and we all hope that he will remain here for many years to aid us with his wise and patriotic counsel; but, sir, those distinguished Senators could not induce the committee to accept their views and their resolution was rejected by a most decisive majority.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Idaho?

Mr. BAILEY. I do.

Mr. BORAH. Upon what question does the Senator from Texas understand that it was voted down? Not upon the law?

Mr. BAILEY. There was no specific proposition voted on, but my statement was that the resolution, drawn in accordance

with the report, was voted down. There was no separate vote on any single statement in it, of course.

Mr. BORAH. The question involved was whether or not they would make an investigation.

Mr. BAILEY. That is true.

Mr. BORAH. And the Senate voted that it would not proceed to investigate.

Mr. BAILEY. But if the argument of the Senator from Massachusetts had been concurred in by the Senate, I think it absolutely certain that an investigation ought to have been, and would have been, ordered.

Mr. BORAH. That being true, if the Senate had accepted the view of the Senator from Massachusetts as to the evidence. The committee were divided as to whether or not there was sufficient evidence to warrant it in proceeding to investigate.

Mr. BAILEY. Not only that, Mr. President, but there was also the question whether if there were corruption at all it was sufficient to have affected the result. The Senator from Massachusetts argued this subtraction and elimination, and according to his theory of the case there was sufficient evidence; but the Senate rejected his view.

THE CLARK CASE.

The Senator from Iowa thought he had found a distinct and authoritative approval of his contention in the Clark case, and he ventured to say that while the report in that case was never passed on by the Senate, it expressed the unanimous judgment of the Committee on Privileges and Elections. Of course, Mr. President, I know that the Senator from Iowa did not intend to mislead the Senate, but his statement, if accepted, would mislead us very widely. In the first place, every Senator understands that the argument of a report represents only the member of the committee who prepares it, and that the conclusion only can be fairly attributed to the committee. In this very case which is now before the Senate my name is signed to the report which the chairman of the committee made, and yet I did not read it before it was presented to the Senate. The chairman of the committee tendered it to me and I very promptly told him that I did not want to read it, because I held myself responsible only for its conclusion and not for its arguments or statements. But, sir, I could understand how the Senator from Iowa might not be familiar with this practice, and he might believe that every report in all of its arguments and statements was thoroughly considered by the whole committee and approved by it. He can not, however, be excused for supposing that such was the case in the Clark report, because there was a minority report filed in that case, and printed immediately following the committee's report from which he has quoted, and in the very second paragraph of that minority report appears this distinct and emphatic declaration:

> We agreed and still agree to the resolution reported by the committee through its chairman. That resolution was adopted by the committee itself. But the report is merely the writing of the chairman with the aid of one other member and never was submitted to any meeting of the committee, and therefore can not be considered as the words of the committee.

In the face of the universal practice here, I would not consider the report of the Clark case as expressing more than the views of the Senator who prepared it, and when to the general

custom of the Senate is added the specific declaration made by the members of the committee, the arguments in that paper must be regarded as expressing only the individual opinion of the Hon. William E. Chandler. If we had nothing before us beyond the paper of Senator Hoar and the report of Senator Chandler, I would still maintain with the utmost confidence that the rule which they have suggested is so contrary to the reason of the law that we could not accept it.

THE AUTHORITIES.

But, fortunately, sir, we are not without high and express authority on this very question. The textbooks all agree in saying that an illegal vote must be rejected, and that proposition is so elementary that it seems almost like a reflection upon the intelligence of the Senate for me to read what a great text writer has said in support of it; but as what I am now saying may be read by those who are not so familiar with the law as Senators are presumed to be, I will occupy a moment in reading from Paine's work on Elections, in which he says:

The rule is well settled that the whole vote of a precinct should not be thrown out on account of illegal votes if it be practicable to ascertain the number of the illegal votes, and the candidate for whom they were cast, in order to reject them and leave the legal votes to be counted. This is safer than the rule which arbitrarily apportions the fraud among the parties. But in a contest for a seat in the Forty-fifth Congress, the Committee on Elections said: "In purging the polls of illegal votes, the general rule is that, unless it is shown for which candidate they were cast, they are to be deducted from the whole vote of the election division, and not from the candidates having the highest number. Of course, in the application of this rule, such illegal votes would be deducted proportionately from both candidates according to the entire vote returned for each."

In another and subsequent section the author again declares that—

Where illegal votes have been cast the true rule is to purge the poll by first proving for whom they were cast, and thus ascertain the real vote; but if this can not be done, then to exclude the poll altogether.

If it be objected that the rule laid down in this textbook relates to a general election among the people, I answer that the law according to which we must decide the election of a Senator is exactly the same law according to which the courts must decide the election of the governor of a State or the sheriff of a county or the constable of a precinct. Not only, sir, do the textbooks say that an illegal vote must be rejected, but the courts have said the same thing with remarkable unanimity; nor have they left us to speculate as to what they mean by the rejection of a vote.

DECIDED BY THE COURTS.

I have here the case of Charles Bott et el. *v.* The Secretary of State, decided by the supreme court of New Jersey in June, 1898, and reported in the sixty-second volume of the New Jersey Law Reports. Without taking the time to state the facts in that case, it will be sufficient to read this extract from the opinion:

Though a qualified voter succeeds in getting his name on the poll list and a ballot in the ballot box, he is not a voter voting on the amendments unless his ballot is such as is prescribed by law and conforms to the general law regulating elections. The act contains no provision for the certificate and return of the ballots that were rejected, nor does it provide for an inquiry either before the county boards of election or before the board of State canvassers with respect to the grounds upon which votes have been rejected, nor are either of these boards empow-

ered to embody in their official action any results other than such as are exhibited by the official statements produced before them. The ballots returned as rejected must be taken to have been properly rejected, and consequently are to be excluded from the computation of the votes cast for or against the amendments. Such ballots were simply nullities.

Within four years after the New Jersey court had delivered the opinion from which I have just quoted the foregoing extract another case involving a similar question was presented for its decision, and they reaffirmed the doctrine of Bott *v.* The Secretary of State in the following language:

Counsel for the incumbent contends that if the vote of the township be excluded still the relator can not succeed, because in such event he would not have been elected by a majority of all the ballots cast at the election. The fact is as stated, but the argument loses sight of the decision of this court and of the court of errors and appeals in the case of Bott *v.* Secretary of State. (33 Vroom, 107; S. C., 34 Id., 289.)

In that case it was held that in determining whether a majority of votes had been received for an amendment to the Constitution only those electors who lawfully voted for or against the amendment are to be considered. It is true that the opinions delivered dealt only with the language of a given clause of the Constitution, but the line of reasoning is applicable with equal force wherever the question of the computation of a majority of votes is presented. The principle announced is that ballots cast at an election are to be deemed votes only when legally capable of being counted as such, and that in determining the total vote upon which a majority is to be based the votes that may figure in the result and not the ballots that were cast in the box are to be considered.

In the case of Louis J. Hopkins *v.* The City of Duluth et al., decided by the supreme court of Minnesota in the summer of 1900 and reported in the eighty-first volume of the Minnesota Reports, I find the same question considered and the same conclusion reached. That case turned on whether the 26 votes in question should be rejected as an expression of the electors but still counted in estimating the total number of votes cast, and this is what the court said:

Of the 26 ballots thus excluded by the trial court, 5 had either the names or initials of the voters casting them written thereon, and clearly indicated such evidence of identification of the persons casting such ballots as constituted a plain and palpable fraud upon the election law. They were not counted, although expressing in each case the voter's choice in certain respects. (Pennington *v.* Hare, 60 Minn., 146; 62 N. W., 116; Truelsen *v.* Hugo, supra, p. 73.) That the identified ballots thus deposited should be excluded from the total vote is the only reasonable inference that follows from the application of the doctrine of these cases. The fraud which nullifies the choice expressed on these ballots must logically vitiate their use for any purpose. They were void. It necessarily follows that the poll list can not be regarded as absolute evidence of the aggregate vote upon which the constitutional majority is to be estimated.

Thus, Mr. President, we have the authority of the textbooks and of the courts for saying that an illegal vote must be rejected for all purposes and that it can not be considered for any purpose. That, sir, is not only the law and the logic, but it is the rule best calculated to promote political morality. It treats a dishonest vote as if the corrupt legislator who cast it were civilly dead, at least in that transaction, and it leaves the result to be determined by the votes of honest men.

But, Mr. President, when I have thoroughly fortified my position by citations from the textbooks and the opinions of high courts and when learned Senators on the other side have agreed to the law as I have laid it down, I am met by the Senator from New York [Mr. ROOT] with the suggestion that there is no law according to which we must decide this case. Instead, sir, of offering us a quotation from some law book or from the opinion of some great judge, he lays his hand upon his heart and ex-

claims with a dramatic gesture that it is the only source from which we are compelled to take our law. If it be true, Mr. President, that there is no law binding us to judge the election, qualifications and returns of Senator, then, sir, it is high time that we were making one, because it can never be safe in a free republic like ours to exempt any tribunal charged with the duty of deciding any case from an obligation to decide that case according to the law of the land.

If we acknowledge no law here, what right will we have to reproach our unlettered constituents if they acknowledge no law in the States from which we come. That doctrine is an invitation and an encouragement to riot and anarchy. Law, sir, is as universal as God and nature, and it inflicts its penalties on all who disobey it. The intellectual and physical worlds have their laws and they are as inexorable as fate and swifter far than justice. If we violate the laws of health and gorge ourselves at the table or overwork ourselves in the field, we must suffer for our folly. It is law, sir, which holds these myriads of worlds in their safe relation to each other, and if the law of gravitation and attraction should be suspended for an instant the earth would perish, and amidst the wreck of matter and the crash of worlds the Senate itself would disappear.

Our English ancestors once established the kind of law which the Senator from New York pleads with us to adopt. Finding the common law so technical and so inflexible that it often defeated the ends of justice, they instituted what they called courts of chancery and appointed chancellors who were authorized to decide all cases coming before them as their consciences directed. But, sir, the decisions of the chancery courts were often arbitrary and many times more unjust than those made according to the common law, whose defects it was supposed that this court of chancery would correct. It was soon found that the consciences of the different chancellors varied, as one man said with more wisdom than wit, as widely as their feet, and the whole system of equity jurisprudence was brought into such disrepute that a great novelist satirized it in a story which will live as long as men read the English language.

We were never so foolish as the country from which we derived our institutions, for we have always required chancellors to decide every case according to the well-established rules of equity jurisprudence, and a chancellor who would tell a suitor in his court or an attorney at his bar that he would ignore the law and decide the case according to his conscience would be impeached and driven in disgrace from the bench whose powers he had abused. No, sir, Mr. President, there are no judges in this country who can decide cases according to their conscience and against the law. When we come to make the law, we take counsel of our conscience and even of our hearts to see that it is just to the strong and rich and even merciful to the weak and poor; but when the law has once been made it is the duty of every man to religiously obey it, and as the Senate of the United States is the highest assembly in this Republic, so it stands under the highest obligation to obey the law, without subterfuge and without evasion. The law, sir, is the safety of this Nation; it is the safety of these States, and in its supremacy lies the safety of every man who has a right to call himself an American citizen.

80595—9673

The Senator from New York, perceiving that it would be impossible to declare Mr. LORIMER's election void, even if it were admitted that every legislator against whom any testimony has been offered was in fact influenced by bribery to vote for him, and not certain that the Senate will accept his theory that there is no law to govern us in our decision, has invented a new rule of evidence for special application to this case. Assuming that bribery has been proved against certain members of the Illinois Legislature, he proceeds to deliver the Senate a lecture upon the peculiarity of legislative corruption, and tells us that wherever any corruption at all is found, it is but a fraction of that which really exists, and that from the little which we may discover we must infer the existence of very much more. That, sir, is a startling doctrine, and I do not think the Senator from New York would venture to urge it upon any court; because it reverses the presumption that every man is honest until the contrary is shown by some competent evidence. I do not believe that it has ever before been contended in the presence of an intelligent audience that when some members of an assembly have been shown to be corrupt all of its other members fall instantly under a just suspicion.

Not only, sir, is the presumption which the Senator from New York indulges at war with every rule of enlightened jurisprudence, but it is not supported by common experience. I have generally found that where any corruption is discovered, the extent of it is always grossly exaggerated. I have seen the newspapers filled with sensational charges of corruption in both Houses of Congress, and I have seen committees appointed to investigate those charges, but, sir, with rare exceptions, it has always transpired that there was no reasonable foundation for them and that they had their origin in the idle talk of men who had magnified small circumstances until what had at first been whispered as a bare suspicion had come to be openly asserted as a definite and positive fact.

I am sure that the Senator from New York is wrong when he tells us that we must infer an extensive corruption whenever any corruption is revealed; but, sir, even if he were right, as a general proposition, I am absolutely certain that he is wrong in this particular case, for never in the history of American politics was a more determined effort made to invalidate an election and discredit a man. The parties behind this prosecution, it is true, were not after the legislators whom they charged with accepting bribes, but they were after Senator LORIMER; and they have left nothing undone to taint his election. Indeed, sir, they traded with men whom they call bribe takers, and granted immunity for both bribery and perjury to all who would aid them in their effort to impeach the election of Mr. LORIMER. Holstlaw had been called before the grand jury of Sangamon county and examined concerning a State furniture contract. He was asked if he had written a certain letter, and he swore that he had not. It happened that the State's Attorney had the letter which Holstlaw denied writing in his possession at that very time, and Holstlaw was promptly indicted for perjury; but though they had the physical and incontrovertible evidence of his guilt, they agreed to release him if he would sign a statement admitting that Broderick had paid him money on account of his vote for LORIMER.

So it was with Beckemeyer and Link. They swore they

had not been at St. Louis. If they had been there—and the district attorney had physical proof in the shape of the hotel registers that they were there—they had perjured themselves and the State had the evidence to insure their conviction. But what did the State's Attorney do? Did he drag these culprits before the bar of public justice and vindicate the outraged law by their conviction? No, sir, he compromised with them, and turned them loose to continue their nefarious practices upon condition that they would testify to bribery in LORIMER'S election!

With the whole machinery of Illinois, aided by rich and powerful newspapers, at work on the case, do you believe there was any corruption which they did not uncover? They dragged old man De Wolf before the courts and before the committee and soiled his name with the suggestion of dishonor, when the only proof against him was that he had bought a piece of land for $4,600 of which he paid $600 in cash and secured the balance by giving a mortgage not only on the land he bought, but by also including in it the land which he previously owned. This man, an industrious and an upright farmer, could easily have saved $600 out of his more than $3,000 salary; but, sir, these hounds of hell dragged him before the public and disgraced him, or tried to do so, by charging that he had sold his vote.

They found one man who had bought some diamonds while a member of that legislature, and they exhibited him to the world as a bribe taker, and as an evidence of his guilt they introduced the extravagance which led him to buy $105 worth of diamonds. [Laughter.]

With an organized search like this, dragging men so little subject to suspicion before the public and charging them with the gravest of all crimes, who doubts that they exhausted the list? I do not.

But while the Senator from New York has gone far beyond what the law and the evidence in this case will justify, he has not gone so far as the Senator from Ohio has done. Indeed, sir, the Senator from Ohio declared that such corruption existed in that legislature as to render it doubtful if it could have held an honest election. Unless I read it, the Senators who hear me may think that I am mistaken in attributing such an extreme declaration to the Senator from Ohio; but here it is:

> The whole record is interspersed with accounts of departures from party affiliations, fake letters, jack pots, bathroom conferences, unlawful promises relating to office, hurried conferences, and frantic efforts to cover their tracks and escape from the consequences of their wrongdoing. It is connected also with the receipt of bribes and with general corruption in the legislature. Who will say, in the face of all this evidence, that any election by that legislature would be a sound and a valid one?

Thus he indicts a whole legislature, impedes its electoral machinery and denies its right to perform one of its most important functions upon the testimony of men whose very presence he would shun as a pestilence. Mr. President, if I were actuated purely by a personal friendship for Senator LORIMER, which I am not—for while I have served with him in the other House and in this Senate, and while I never knew him to tell a lie or to do anything that the most honorable man might not do, I have never talked with him 20 minutes in my life—but, if I were actuated purely by a personal regard for him, I would prefer to see the Senate unseat him, for if the Illinois Legis-

lature is not as corrupt as the Senator from Ohio says it is—and since the whole basis upon which his right to a seat here is denied is that it is composed of a band of thieves and robbers—it would answer such a vote of the Senate by immediately re-electing the Senator from Illinois.

Mr. President, there is nothing in this record to justify the sweeping and wholesale condemnation pronounced against the Legislature of the State of Illinois by the Senator from Ohio. True, sir, that there is proof that there was much loose talk about the use of money at Springfield; but outside of the self-confessed perjurers there is absolutely no proof whatever that money was used in the senatorial election or in any other matter. Even White when testifying that Browne assured him that he would receive about $1,000 "from other sources," admitted that he did not, up to that time, know anything about the so-called "jack pot." He said that he had heard from men who had served in previous legislatures that there was a fund divided among members at the end of each session; but that he had not been advised of any such fund raised or to be distributed to members of that legislature; and that was only nine days before the legislature adjourned. With the knowledge of White's character, furnished by his own testimony, who can doubt that if a jack pot really existed in that legislature he would have been one of its active agents and beneficiaries? Curran swore that White sought to profit by his position as a member of a committee, and although he had been the representative of a labor organization, at the preceding session of the legislature he was so base as to attempt to stand in the way of a bill for the relief of the working women of that state. Not only that! But he complained at Mr. Doyle and others, who were representing the labor organizations at Springfield during that session of the legislature, because they had not offered him anything for his vote or his influence, and denounced them in language which I hesitate to incorporate into the CONGRESSIONAL RECORD, as "the damnedest cheapest bunch" he had ever seen. Standing in the corridors of the capitol with outstretched hand soliciting a bribe even from the representatives of the labor organizations to whose support he owed his election, does any man believe that White was ignorant of a jack pot, if one existed, until nine days before the legislature adjourned?

Representative Shaw, to whom I have already once referred and for whose intelligence and integrity I have freely vouched, testified that there was much talk about the use of money at Springfield, but he also testified that no money was ever offered him; that he saw no money used, and that he did not know of any facts which would justify the charge that it had been used. For the information of the Senate on this point, I will read Mr. Shaw's testimony.

Mr. AUSTRIAN. Well, I withdraw the objection, provided counsel permits the witness to testify and does not testify himself; that is all.

Senator BURROWS. The objection is withdrawn. That will save time. Answer the question. Read the question.—A. Really, I do not know whether I had any talk with Mr. Groves or not. I do not remember any conversation.

Judge HANECY. If you did have any conversation with him, did you say to him or in his presence that you had been offered money or that you could get money for voting for WILLIAM LORIMER?—A. I did not.

Judge HANECY. That is all.

Senator BURROWS. Anything further?

Mr. AUSTRIAN. Yes; just a moment.

Q. Did you ever talk to Jacob Groves with reference to money being paid at Springfield or offered at Springfield for votes for United States Senator?—A. Well, the talk was kind of common down there at the time; I do not know; I might have; I would not be positive about that. They were talking, joking away frequently, sometimes.

Q. And sometimes serious talk?—A. Perhaps, serious; yes.

Q. Why did White say that his constituency were sore at him?—A. Well, I presume because they were.

Q. Why?—A. Why were they sore at him?

Q. Yes.—A. Because he voted for LORIMER.

Mr. AUSTRIAN. That is all.

Judge HANECY. You heard a great deal of jocular talk all through the regular sessions, from the beginning to the end, about money that could or would or might be used for different things, didn't you?—A. Yes; I heard of a great many barrels being opened, but I did not see any.

Q. You never heard and never knew anything about that, except that general jocular talk?—A. That is all I knew about it.

Q. That is all.—A. I heard of barrels being opened, but when they were opened, they were apples.

Senator FRAZIER. That talk with respect to money increased about that time, or immediately preceding the election of Senator LORIMER?—A. No; I don't believe it did.

Mr. President, it is often true at Washington as it was at Springfield, that when these "barrels" of which we hear so much are opened, they turn out to be apples instead of gold, and the corruption which suspicious minds are ready to insinuate against everybody is seldom based upon any better reason.

But the Senator from New York [Mr. ROOT] says that Mr. Donohue, whom he describes as a stanch old Democrat, testified that there was corruption; and he read this from Mr. Donohue's testimony:

That was the general talk, and I could not trace it down; I could not tell now who said it, and then that kind of died away, and then after the election of Mr. LORIMER the thing started again that they were—everything was not straight down there at Springfield with reference to the election of United States Senator. And everybody, I think—I was suspicious myself about the way things went down there. Of course, I didn't have any direct evidence, only from general appearance, I could not see why so many Democrats were going over in a body to vote for a Republican. They may have had reasons, and be more liberal in their views than I am, and might have gone over. I could not see it that way. I am a Democrat, and I am a pretty strong partisan.

In passing, I want to call the Senate's attention to a rather remarkable omission which the Senator from New York made in quoting this testimony of Donohue. Immediately preceding the quotation which I have just read—and when I say immediately I do not mean that it was three or even two lines preceding it, but absolutely next to it—Donohue made this answer:

The first thing I heard down there, I heard that Mr. Hopkins was trying to buy some votes; that is what I first heard.

I regret to find that the Senator from New York is willing to use Donohue's testimony to create in the minds of Senators a belief that money was being used to elect LORIMER, and yet is at the same time willing to suppress the testimony which shows that the same loose accusations were made against Hopkins. Without intending to suggest that Donohue is other than an honest man and a truthful witness, his own testimony abundantly shows that he was one of those gentleman who are too often ready to suspect the integrity of men without sufficient, and, indeed, without any positive, information. Mr. Donohue's testimony, which the Senator from New York did not read, so forcibly illustrates how much these charges were based upon mere suspicion and how little they were based upon any tangible proof that I think it worth my while to read several of the

other answers which he made to pertinent questions. They appear on page 523 of the testimony, and are as follows:

Judge HANECY. Did you ever have such a conversation with Mr. Groves?—A. I do not remember of any such conversation. I may have had it, because, as I say, I was very much wrought up as to what was happening down there, and might have said that in reply to what Mr. Groves said. I will not say yes or no on that question; I might have said that. If I did say it, it was a remark, a mere inference of what transpired, and had reference, if I did say it, had reference to Lee O'Neil Browne's speech, because I replied to his speech, and we were bitter toward each other; that is all.

Q. If you did say that, or that in substance, or anything like it, Mr. Donohue, was there anything to sustain it except your general anger at the conditions as they existed there?—A. Well, not—I did not state only just on account of the conditions as they existed there; yes.

Q. Were any of these conditions the presence of money that you knew of, or offering of money by anybody?—A. No.

Q. Or offer of anything of value by anybody?—A. No.

Q. For a vote for WILLIAM LORIMER for United States Senator?—A. Nothing that I know of, positively, by way of money or other things of value. It was just said from the general appearance of things, an inference I used from what was done.

Q. And you said you were angry because——A. Well, we were not very friendly, Mr. Browne and I; we did not agree all through the session: do not agree as yet.

Q. You were not one of the Browne faction?—A. No; I was not, sir.

Q. You were one of the Tippet?—A. No; I was not one of the Tippet.

Q. I believe you were unattached there?—A. I was placed in neither one of them.

Senator BURROWS. Is that all?

Judge HANECY. That is all.

Senator GAMBLE. You were acting on your own responsibility?—A. Yes, sir.

Senator FRAZIER. Mr. Donohue, if you say you made that statement, which was based on facts, conditions, and circumstances surrounding, did you hear from anybody any statement or anything about anything that money had been paid for votes?—A. No; I never heard a thousand dollars mentioned up to that time, and if Mr. Groves said that I do not remember that he said it.

Q. There was talk of money having been used?—A. There was talk of money having been used generally.

Q. You could not locate it as to anybody that said he got it; you didn't know of anybody?—A. No; I didn't know of anybody that got it.

I do not believe that I err when I say that many people in this country believe that bribery is frequent in the House of Representatives as well as in the Senate; but, sir, every man here knows that such a belief is utterly unfounded, for amongst the many thousands of men who have served the Federal Government in the House and in the Senate since it was organized, the bribe takers and the bribe givers could almost be counted on the fingers of a single hand. As we know, sir, that thousands accuse Congress unjustly, may we not suppose that thousands have also unjustly accused the legislatures of these States? I do not say that corruption in the various legislatures is as rare as it is in Congress, and naturally that would not be true, because the people choose men of more exalted character and of greater ability for these higher places. But, sir, the people know the men whom they elect to their State legislatures, and they are not apt to choose a bribe taker from among their neighbors to represent them. That they do sometimes make that mistake in Illinois is as certain as that they have made it in New York. The indictment of the Senator from New York [Mr. ROOT] and the Senator from Ohio [Mr. BURTON] is against the Commonwealth of Illinois. If her legislature is as corrupt as they charge it with being, then, sir, the legislature is not alone in that condition, and the people themselves must be corrupt; because, in the face of these charges and with the evidence of the criminal trials before them, the Democrats renominated

and the people re-elected Browne to the legislature. Robert E. Wilson, the man charged with distributing the corruption fund at St. Louis on the second occasion, was renominated by the Democratic party and re-elected by the people of his district; and John Broderick, the senator who was charged with bribing Holstlaw, was renominated and re-elected to the State senate; Speaker Shurtleff, who was also active in LORIMER's behalf, was re-elected to the legislature; and an indictment against them, sir, is an indictment against their people.

In the beginning of his speech the Senator from New York classed Shurtleff as one of the trinity of bribers and corruptionists, linking him with LORIMER and Browne; but though he continued and accentuated his invective against LORIMER and Browne he said little more about Shurtleff. The Senator from New York sits so near the Senator from Ohio [Mr. BURTON], whose close connection Shurtleff is, that I wonder if that restrained him. [Laughter.]

When the Senator from New York denounces Browne, he ought to remember Jotham Allds, who was not the leader of a minority, divided into factions of almost equal strength, as Browne was; but the leader of his party in the State senate of New York. He was charged with receiving bribes, and they proved that he was guilty by the admission of Senator Conger that he was himself a bribe giver; and both this bribe-taking Senator Allds and this bribe-giving Senator Conger were members of the legislature which elected the Senator from New York to this body.

But, sir, I do not impeach the right of the Senator to his seat upon such a circumstance as that. I do not invoke against him the doctrine which he urges against the Senator from Illinois; and yet, sir, if we are to accept his theory that a little corruption found is but the index of a larger corruption which can not be uncovered, we might be compelled to say that the New York legislature was as little capable of conducting an honest senatorial election as the Legislature of Illinois.

The strangest contention in all of this controversy to me has been the assertion made and repeated by the Senator from Idaho [Mr. BORAH], the Senator from Iowa [Mr. CUMMINS], and the Senator from New York [Mr. ROOT] that in demanding the total exclusion of a dishonest vote I was really giving effect to such votes.

That charge, sir, can be sustained against their position, but not against mine. Let me analyze it and see if I can not make it plain that it is their rule which permits a dishonest vote to exert some influence over an election and to defeat the will of an honest majority. I will use the very case before us as an illustration. Let us assume that the four legislators who testified that they received money were bribed, although they did not all testify that they received money for the vote which they cast for LORIMER; and let us also assume that the three men who are charged with having paid that money were likewise bribed. Let us go even one step further, and say that Clark, Luke, Shephard and De Wolf were bribed, thus making a total of 11 votes to be rejected on the ground of bribery. With these men eliminated there is absolutely no word of testimony impeaching the integrity of any other member of the legislature, and unless we are ready to say that all men are corrupt simply because some men have been shown to be corrupt, we must assume that the Illinois legislators against whom no evidence has

80595—9673

been introduced and against whom not even a suspicion has been suggested were upright and patriotic men. Subtracting these 11 votes from a total of 202 we have an unchallenged membership of 191 members who, by virtue of their position and of their integrity, were qualified to elect a Senator. Of this 191 members, 96 would be a majority, and after deducting every vote against which the imputation of dishonesty has been made LORIMER would still have 97 as against 94 votes for his opponents. Under those circumstances no man could deny that he is entitled to his seat in this Senate as a matter of law, and still less can they deny it as a matter of morals, because he had a clear majority of the honest men in the legislature. Now, sir, let us apply the rule proposed by the Senators from Idaho, Iowa and New York, and what result do we reach? By including these 11 men as a part of the total vote, they prevent 97 honest men from effecting an election over 94 honest men, and this makes it plain that they are the gentlemen who are giving effect to the votes of rascals, because by including those 11 votes in the total they thus prevent an honest majority from working out its will.

Mr. President, it is easy for a man to proclaim himself an advocate of electoral integrity, and if he will make that proclamation often enough and loud enough he can induce thousands of heedless men to accept it; but the thoughtful citizens of this Republic will at last judge every rule by its result, and they can never be persuaded to approve one which gives significance and power to dishonest votes. I do not doubt the ultimate wisdom of our people and neither do I doubt that they will understand at last that the law, as I have sought to explain and defend it, is their best protection against the baleful influence of the corruptionists in our politics. No matter how honest and how patriotic the gentlemen on the other side may be—and I know them to be as honest and as patriotic as I am—it is still true, sir, that in striving to reverse the precedents of the Senate and overrule the courts of the country they are seeking to establish a doctrine that will permit a dishonest faction in a legislature to disable an honest majority from choosing a Senator to represent their State.

THE SENATE ON TRIAL.

They tell me that the Senate is on trial before the American people and that we can only acquit ourselves by convicting LORIMER. How low we have fallen in the estimation of those who believe that such an appeal can control us in a case like this! Are we at liberty to consult our political safety in deciding a case involving more than property, more than liberty, more than life itself, because it involves the character of a fellow man? An honest man values his good name above all the gold that misers have ever hoarded since creation's dawn; a proud man would go to prison in the cause of truth and justice rather than have his honor forever sullied; a brave man would die upon the battle field and be buried with the honors of war rather than to see the name his children must bear tarnished to the end of time. Other Senators may be willing to prove that they are clean by washing their hands in the blood of an innocent man, but I am not. [Applause in the galleries.] Shall we prove that we are not guilty by finding that this man is? Oh, sir, what a lesson to teach our children! I will not, by my example, lead my boy to bow in servile adulation un-

til he kisses the very ground on which the people walk and then insult their intelligence by telling them that he has done wrong to please them.

Mr. President, I do not profess to be indifferent to the opinion of my countrymen. I value the good will of the people of Texas as much as any man who has ever enjoyed their favor, and perhaps I have a better reason for it, because they have done more for me, according to my poor merits, than they have done for others. I went among them a mere boy and a total stranger to them, without friends, without wealth, and without influential connections, but generously they took me by the hand and made me all I am and all that I ever hope to be. For that I love them with an affectionate gratitude; for that I will toil for them by day and by night; for that I will sacrifice my personal comfort, my personal interest, and my physical strength, and count it a privilege to do so; but, sir, even for that, I will not violate my oath of office and corrupt my conscience with a sense of foul injustice. They have their impressions of this case, and it may be that those impressions are at variance with the vote which I am about to cast, but they would hold me unworthy to be their Senator if they were not willing to trust me to do what a conscientious study of the testimony and the law in this case commands. If there is any Senator here whose vote is influenced in this case by the fear that he will displease his people, he has less respect for his constituents than I have for mine.

If, sir, the Senate is on trial before the American people, how will they make up their verdict? There are more than 20,000,000 voters in this Republic and not 20,000 of them have ever read a line of this testimony or examined the law of this case for a single hour. Mr. President, the Senate may be on trial, but if it is, its courage and not its integrity is being tested. Nobody but fools believe that the Senate of the United States is dishonest, and nobody except sham reformers pretend to believe it. Venality, sir, is not a sin of the American Senate, and it never will be until the American people have become a venal race. Our people, intelligent and patriotic as they are, will make mistakes in the choice of their great officers. They have made them, and they will make them again, but in the future, as in the past, the occasions on which they make them will be rare, indeed, and it will happen as seldom in the years to come as it has in the years that have passed and gone that they will bestow a senatorship upon any man who will practice on others, or on whom others can practice, the vulgar and degrading vice of bribery.

No, sir, I do not doubt the integrity of the Senate, but candor compels me to say that I do sometimes doubt its courage, and I know that this Republic is menaced more by cowardice than by corruption. I would scorn to call upon my colleagues here to vote in such a way as to shield themselves from the charge of dishonesty, because proud and sensitive men would resent that suggestion, but I do beg them to be brave enough, now and at all times, to do justice to every man and to do justice in all things. Let us by our verdict say to those who seek to drive us that we hold ourselves so high above suspicion that we dare to do what we believe is right and leave the consequences to God and to our countrymen. [Applause in the galleries.]

80595—9673