

# WANTED TO DIP INTO TREASURY

Dubois "Pipes Off" Where Money Came From With Which to Make War on Utah.

## WOMEN AND THE MINISTERS.

Thought These Should be Reimbursed So They Could Use it in Additional Slander.

A bit of racy gossip not found in the dispatches comes from the pages of the Congressional Record, wherein place is given to the debate on the amendment to the general appropriation bill proposing to partially reimburse Senator Smoot for the losses he had sustained in defending his title to his seat. In it Dubois blandly admits that he wanted a similar amount for those people who had made war on Utah and the Mormon Church. Asked who it was who had contributed the money for the campaign of vilification, he said it was the women and the ministers who doubtless could find a way to spend the cash if it were voted to them. The full text of the debate on the question follows:

Mr. McLaughlin—I offer the following amendment, after the word "dollars," line 11, on page 61:

Provided, that the same amount shall be appropriated to defray the expenses of those who prosecuted the protest.

I have just been informed that the women of the country made up \$7,500 to employ attorneys to prosecute the protest. They do not seem to have been able to raise as large an amount by very nearly one-third as was raised by the contesters or protesters; but, I think, if the protest is to go on, it is necessary to defray his expenses, those who opposed him ought to receive an equal amount for prosecuting the protest, which they did in good faith.

Mr. Spooner—The government has paid \$25,000 of the expenses.

Mr. McLaughlin—I did not hear what the senator from Wisconsin said.

Mr. Hale—I was just going to say what the senator from Wisconsin has already said. The United States has already paid more than \$25,000 to these parties.

Mr. McLaughlin—I cannot hear what the senator from Maine says.

Mr. Hale—The United States has already paid for the expenses of the parties who were making this contest, who were the contestants, more than \$25,000. That has already been paid, but nothing has been paid to the senator from Utah.

Mr. McLaughlin—I will ask the senator if he will yield to me for a question?

Mr. Hale—Certainly.

Mr. McLaughlin—Was the money paid to these contestants?

Mr. Hale—I do not know to whom it was paid, but it was paid to cover their expenses in the way of witnesses and traveling expenses of witnesses who were summoned here.

Mr. McLaughlin—I will ask if the same thing was done for the witnesses for Senator Smoot?

Mr. Hale—Not unless they were summoned by the committee.

Mr. McLaughlin—Understanding it that the same thing was done for the witnesses for the protest and that the United States paid his witnesses. That is my understanding.

The Vice President—The chair does not understand that the senator from Maine has interposed a point of order.

Mr. Hale—I think it is better to take the vote of the senate. I have some doubt about it.

Mr. McLaughlin—I should like to know what the point of order is, if it is to be made.

The Vice President—The question is on agreeing to the amendment.

Mr. Bacon—I ask that the amendment may be read.

The Vice President—The amendment will be again stated.

The Secretary—On page 61, line 11, after the word "dollars," insert:

Provided, that the same amount shall be appropriated to defray the expenses of those who prosecuted the protest.

Mr. Bacon—Mr. President, I think there is a good deal in what the senator from Mississippi suggests to the senate in this regard, though I do not think the amendment is in proper shape. I think it has been the universal custom in each house when there has been a contested election, which is analogous to this case, to pay a certain amount, but which is considered not as compensation, I suppose the senator from Maine inadvertently used the word "compensation" when he meant "reimbursement."

Mr. McLaughlin—I think it would be proper to adopt an amendment which would say that that which was paid to reimburse the senator from Utah should be paid to those who occupied an opposing attitude to him, but I do not believe it would be proper to pay an amount to reimburse them within certain limits for such expenditures as they made in the prosecution of the contest.

Mr. Warren—Will the senator permit me to ask him a question?

Mr. Bacon—Certainly.

Mr. Warren—Of course a contest between two men who both believe they are entitled to the same seat in Congress makes some foundation upon which to rest the payment of the expenses of both.

Mr. Bacon—Undoubtedly to consent to establish a precedent here now by paying John Doe and Richard Roe, who make claim for no one for a seat in this body, so that hereafter any persons, no matter whether it is any of their business or not, can attack any senator on this floor and be paid for making such attacks?

Mr. Bacon—I certainly would not desire to encourage any capricious attack on the right of a senator to a seat on this floor, but nobody will contend that this was a capricious attack. It was one, which very deeply interested the entire American people, and there is no pretense that it was a capricious attack on the right of a senator to his seat on this floor. I think it was evidently done in the utmost good faith. Whereas there may have been some malicious parties who may have been influenced by motives rather more extreme than we would sustain or approve, at the same time the general proposition which was made and upon which this most notable contest was founded cannot be classed among those attacks which may be said to be capricious and an undue attack upon the right of a senator to his seat on this floor.

Mr. Carnack—I wish to ask the senator if those who prosecuted this contest against the senator from Utah have made any request for reimbursement?

Mr. Bacon—They have not, so far as I know.

Mr. Carnack—Then it seems to me the senate certainly ought not to vote to make reimbursement.

Mr. Bacon—If the senator had permitted me to proceed I possibly would have made a suggestion in that regard which would have relieved him of that inquiry.

Mr. Carnack—They collected the money, I suppose?

Mr. Dubois—They collected the money from their people.



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The Vice President—Does the senator from Georgia yield to the senator from North Dakota?

Mr. Bacon—I would prefer if the senator will allow me to proceed with my reply, and then I will yield.

Mr. McLaughlin—I merely wanted to ask the senator a question.

Mr. Bacon—I wish to reply first to the suggestion of the senator from Tennessee. I can not reply to both at once. Then I will yield with pleasure to the senator.

I was proceeding to say when interrupted that I would think it unfortunate if any action should be taken by the senate at this time which would negative the propriety of the reimbursement within certain limitations of the parties who made expenditures in the prosecution of the question as to the right of Senator Smoot to retain his seat.

As I understand it, the government has paid the expenses of witnesses on both sides, which I think was eminently proper to be done. I understand further that the appropriation in this bill is to reimburse Senator Smoot for expenditures made by him outside of the matter of procurement of witnesses, in the payment of his counsel and other expenses, and I think that is an eminently proper appropriation to be made. I think it also proper, if we knew the amount, to reimburse the parties who we must be assured made expenditures upon the same lines in the prosecution. But in the absence of any information on that subject, I do not think we could properly adopt the amendment offered by the senator from Mississippi.

So the senator from Tennessee and myself are in accord on that matter. My sole purpose was to prevent any action by the senate which would seem to negative the right of these parties to have their expenses paid, and I think what demands they may have in reference to the matter.

Mr. Hale—Mr. President—The senator from Georgia yield to the senator from Maine?

Mr. Bacon—I promised to yield to the senator from North Dakota.

Mr. McLaughlin—I do not wish to interfere.

Mr. Bacon—I promised to yield to that senator.

Mr. McLaughlin—I simply wish to ask the senator a question. Is it not true that all the witnesses have been paid?

Mr. Bacon—I think so.

Mr. McLaughlin—Then, the sum that is sought to be paid by this amendment is for the attorneys. Is it not a fact that the attorneys have been paid?

Mr. Bacon—I am sure I do not know. They were not paid by the government, I presume.

Mr. McLaughlin—No, but if they have been paid by anyone who employed them, why should the government pay them again?

Mr. Bacon—I understand that this appropriation is to reimburse the senator from Utah.

Mr. McLaughlin—I am not speaking about the senator from Utah, but of the amendment. The amendment proposes to appropriate \$15,000 to pay some other expenses; and inasmuch as the senator from Utah has paid the expenses of the witnesses, most of the appropriation must necessarily be for expenses of counsel. It is my understanding that the counsel for the prosecution were taken care of, and that their expenses and fees have been paid.

Mr. Bacon—Now, Mr. President, I presume, the question of the senator from North Dakota. As I understand it, the senator from Utah has paid his counsel, and this is to reimburse him for that expenditure.

On the other hand, I suppose it is true really that those who prosecuted this question as to the right of the senator from Utah to his seat have also paid their counsel. I simply contended that when a proper presentation was made they should within certain limitations be reimbursed; but so far as I have nothing whatever to do with it. But the facts are that the women organizations of the country and the ministerial association paid the attorneys \$7,500. That amount was paid and it was paid by those organizations. That answers the question of the senator from Tennessee.

Mr. Carnack—Let me ask the senator how the money was paid?

Mr. Dubois—I was paid directly to the attorneys through the ministerial organization and the women's organizations of the country.

Mr. Carnack—They collected the money, I suppose?

Mr. Dubois—They collected the money from their people.

Mr. Carnack—And will give it back?

Mr. Dubois—If it is given back to me, I have no doubt it will be used in good work, missionary work, and works that they carry on.

Mr. Hale—Mr. President, I have already moved to lay the amendment on the table.

The Vice President—The question is on agreeing to the motion of the senator from Maine to lay the amendment on the table.

The motion was agreed to.

Mr. McLaughlin—Mr. President, I offer another amendment, and I wish to address a few remarks to the senate on it, before anybody else gets the floor.

The senator from Mississippi proposed by the senator from Mississippi will be stated.

The Secretary—At the same point in the bill it is proposed to insert the following proviso:

Provided, that \$7,500 be appropriated to defray the expense of those who prosecuted the protest.

Mr. McLaughlin—Mr. President, in reference to the form of the amendment, I should myself prefer to put it in different phraseology if I had time, but I did not see this provision in the bill until a few minutes ago, and I have not had an opportunity while this discussion has been going on to prepare an amendment which meets in some respects my idea of the justice of this case. If I had time to prepare an elaborate amendment, I should prepare one that probably would be in better phraseology than this.

In reference to the suggestion of the senator from Tennessee [Mr. Carnack] that the money be in accord on that matter, I think an act of justice ought always to be voluntary, and I do not think that the senate of the United States or the Congress of the United States ought to make an appropriation to make an act of justice when it is apparent that it ought to be done.

Mr. Carnack—Mr. President—The Vice President—Does the senator from Mississippi yield to the senator from Tennessee?

Mr. McLaughlin—With pleasure.

Mr. Carnack—Does the senator from Mississippi yield to the United States ought to pay money to any person who is not even asking for it?

Mr. McLaughlin—I think if it owes the money or if it is just that it ought to, I think the United States government, like an individual, ought not to wait to be asked. I think when an individual has the money and owes a just debt, he ought to pay it.

Mr. Bacon—Will the senator permit me to ask him a question?

The Vice President—Does the senator from Mississippi yield to the senator from Georgia?

Mr. McLaughlin—If the senator from Tennessee is through with his question.

Mr. Carnack—I intended to ask the senator one other question.

Mr. McLaughlin—Very well.

Mr. Carnack—The money which has been used by the opponents or the contestants against Senator Smoot was collected, as I understand the senator from Idaho [Mr. Dubois], from people all over the country. How are we going to get this money back to the people who really paid it?

Mr. Dubois—No, Mr. President; the senator misunderstood me. It was this woman's organization which expended this money in this good work, and they would expend it again in good work if the amount is refunded to them.

Mr. Carnack—For other purposes?

Mr. Dubois—In good work, missionary work. The money originally came from this organization.

Mr. McLaughlin—That, I think, answers the question of the senator from Tennessee.

Mr. Carnack—No, sir; the money might be expended for other purposes.

Mr. Bacon—Mr. President, I desire to ask the senator from Mississippi a question.

The Vice President—Does the senator from Mississippi yield to the senator from Georgia?

Mr. McLaughlin—With pleasure.

Mr. Bacon—I desire to ask the senator from Mississippi this question: If this amendment should be adopted, who is the person who will be authorized to go to the treasury and draw the money?

Mr. McLaughlin—Is that the question the senator propounds?

Mr. Bacon—Yes.

Mr. McLaughlin—The person who paid the money for the prosecution.

Mr. Bacon—But it must be paid to somebody.

If we set a precedent of this kind, there is no telling how many protests may be filed against any senator who comes here, duly elected, simply for the purpose of getting the compensation which may be awarded to the protestant.

Mr. McLaughlin—A frivolous protest would be treated as a frivolous suit or as a frivolous prosecution in court would be treated. The prosecutor would be taxed with the costs.

Mr. Dubois—Will the money that it is proposed to reimburse to these people the money of those by whom it was expended?

Mr. McLaughlin—I do not know that the senator from Utah paid out of his own pocket his expenses. I do not know that the Mormon Church did not pay them; I do not know anything about that; but I know if it is just to pay the expenses of the protest it is just to pay the expenses of the protestants.

Mr. Daniel—The senator does not say that they had any? That is the question I asked him.

Mr. McLaughlin—They have already paid.

Mr. Daniel—Seven thousand five hundred dollars, I believe.

Mr. McLaughlin—I said that they paid \$7,500 to the lawyers.

Mr. Daniel—Are there any other expenses?

Mr. McLaughlin—I did not ask whether there were any other expenses. This amendment does not propose to pay the lawyers. It proposes to refund to the protesting women the money they paid to the lawyers.

Mr. Daniel—The lawyer, then, has been paid according to his contract?

Mr. McLaughlin—Certainly.

Mr. Daniel—And you propose to pay him a bonus?

Mr. McLaughlin—No, sir; I do not propose to pay the lawyer.

Mr. Daniel—Who is to be paid?

Mr. McLaughlin—I am to reimburse those who have paid the lawyer to prosecute the protest.

Mr. Daniel—Who paid for their own legal expenses?

Mr. McLaughlin—Certainly. The committee amendment proposes to reimburse the protestee for his own legal expenses, and if that is done the protestants should be reimbursed their legal expenses.

Mr. Daniel—Was the \$7,500 gathered up by small contributions?

Mr. McLaughlin—I was stated by the senator from Idaho to be from organizations.

Mr. Daniel—Did the organizations gather it by contribution?

Mr. McLaughlin—I am not in confidence of the organizations. I do not know about it; but it does not make any difference to me who gathered it, where they gathered it, or how they gathered it. They used it for what they considered a good purpose, a just purpose, and a purpose that was moral. Furthermore, they were women, and because they were women they ought not to be cut out. That is my idea about it.

Mr. Burrows—Mr. President—The Vice President—Does the senator from Mississippi yield to the senator from Michigan?

Mr. McLaughlin—With great pleasure.

Mr. Burrows—Mr. President, I perhaps ought to state the facts, so far as I know them. When this investigation commenced it was asked at the outset if anyone appeared for the contestants, and Mr. Taylor, now Judge Taylor, said he appeared for the contestants, who were 19 gentlemen from the city of Salt Lake who signed the protest. The question was asked if anyone appeared for Senator Smoot, and Mr. Carlsle, an attorney of this city, and also Mr. Van Cott of Salt Lake City, said they appeared for him and desired to be heard.

Mr. Carlsle was also announced to appear for the protestants and did appear, and he conducted the latter part of the hearing. The hearing was a protracted one, as the senate knows. Over 100 witnesses were subpoenaed. Of course the witnesses were all paid by the government their traveling expenses and the usual per diem allowed. Mr. Carlsle represented the protestants on the federal bench, and then Mr. Carlsle concluded the case. What was paid by the contestants for Mr. Taylor's services and what was paid for services I have no knowledge. I have stated the simple facts of the case and that is all there is to it.

Mr. McLaughlin—Mr. President, there has been handed to me a list of the expenses, which is as follows: Witnesses \$22,641.40; stenographer \$4,124.43; marshal, \$181.34. Then there is a little item which I have not stated out of, of \$14.20, aggregating \$32,971.44.

The thing that occurs to me is that it is bad policy for the government to pay expenses of either party to this protest, but inasmuch as the expenses of the protestants are to be paid, and inasmuch as extravagant counsel fees are to be allowed—because it does seem to me that in a case like this \$35,000 is rather extravagant for counsel and attorney's fees—if the organization of women who fought this case thought that the morals of the country required that there should be a protest entered against the admission of a man into the senate who belonged to an organization that recognized polygamy; if they thought that the admission of one who belonged to an organization that recognized polygamy was to strike at the homes of the country, prosecuted in good faith that protest and expended this amount of money and it did not mean to me that the actual amount of money that they expended, inasmuch as it is only half of that that is appropriated for the protestants, that it is a matter of their belief. That is my idea about it, and I submit it to the senate.

As I have said before, I can not believe it is good legislation or that it is good policy for the government to pay either party to this contest. So far as the principle is concerned, while there is an apparent distinction between a contestant contesting for a seat and a protestant contesting for the retention of his seat, that distinction is merely in words, because the principle is exactly the same.

In this case the contestant says, "I am entitled to this seat and the other man is not entitled to it, and he ought not to be permitted to legislate for the country, because he is a man who is not entitled to the state whose credentials he brings purporting to authorize him to represent it," whereas in the other case the protestants say, "We do not want this man in the senate, because he is a man who occupies the seat ought not to be entitled to the seat until an adjudication can be had of the question of his election, or the return of his election, and of his qualifications. If they say that because of a deficiency in either one of these he is not entitled to his seat, they have a right to maintain their protest, whether it is to the election, to the returns, or qualifications, and they have a right to bring it before the senate of the United States and ask the senate to pass upon the qualifications. Whether it is decided by the senate that the only qualifications are those negatively named in the Constitution or whether the matters relating to the qualifications may be considered, is a matter immaterial to this question."

Mr. Hale—Mr. President, the house of representatives is waiting to receive the bill, and therefore I am constrained to move to lay the amendment on the table.

The Vice President—The question is on agreeing to the motion of the senator from Maine.

The motion was agreed to.

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