expenditures to the Clerk and indicated his intention once in Washington to complete and file the required forms.

On June 2, 1936, the House declared the contestee entitled to his seat.[4]

§ 12. Expulsion, Exclusion, and Censure

[Note: For full discussion of censure and expulsion, see chapter 12, infra.]

Under article I, section 5, clause 2 of the United States Constitution, the House may punish its Members and may expel a Member by a vote of two-thirds.

In the 90th Congress, the Senate censured a Member in part for improper use and conversion of campaign funds.[5] And the Committee on House Administration recommended in a report in the 74th Congress that a Member or Delegate could be censured for failure to comply with the Corrupt Practices Act.[6] However, the House and the Senate have generally held that a Member may not be expelled for conduct committed prior to his election.[7]

As to exclusion—or denial by the House of the right of a Member-elect to a seat—by majority vote, the House has the power to judge elections and to determine that no one was properly elected to a seat. If violations of the election campaign statutes are so extensive or election returns so uncertain as to render an election void, the House may deny the right to a seat.[8]

Expulsion

§ 12.1 In the 77th Congress, the Senate failed to expel, such expulsion requiring a two-thirds vote, a Senator whose qualifications had been challenged by reason of election fraud and of conduct involving moral turpitude.

On Jan. 3, 1941, at the convening of the 77th Congress, Mr. William Langer, of North Dakota, took the oath of office, despite charges from the citizens of his state recommending he be denied a congressional seat because of campaign fraud and past conduct involving moral turpitude.[9]

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4. 80 CONG. REC. 8705, 74th Cong. 2d Sess. (H. Res. 521).

5. See § 12.3, infra.

6. See § 12.4, infra.

7. See 2 Hinds' Precedents §§ 1284–1289; 6 Cannon's Precedents §§ 56, 238.

For discussion of the House as judge of qualifications for seats, see Ch. 7, supra.

8. See Parliamentarian's note in § 12.2, infra.

9. 87 CONG. REC. 3, 4, 77th Cong. 1st Sess.

The petition against Senator Langer charged: control of election machinery; casting of illegal election ballots; destruction of legal election ballots; fraudulent campaign advertising; conspiracy to avoid federal law; perjury; bribery; fraud; promises of political favors.[10]

After determining that a two-thirds vote was necessary for expulsion, the Senate failed to expel Senator Langer.[11]

Exclusion

§ 12.2 A Senator-elect, whom Members of the Senate sought to exclude from the 80th Congress for corrupt campaign practices and past abuse of congressional office, died while his qualifications for a seat were still undetermined.

On Jan. 4, 1947, at the convening of the 80th Congress, the credentials of Senator-elect Theodore G. Bilbo, of Mississippi, were laid on the table and never taken up again due to his intervening death.[12]

The right to be sworn of Senator-elect Bilbo had been challenged through Senate Resolution 1, which read in part:

> Whereas the Special Committee To Investigate Senatorial Campaign Expenditures, 1946, has conducted an investigation into the senatorial election in Mississippi in 1946, which investigation indicates that Theodore G. Bilbo may be guilty of violating the Constitution of the United States, the statutes of the United States, and his oath of office as a Senator of the United States in that he is alleged to have conspired to prevent citizens of the United States from exercising their constitutional rights to participate in the said election; and that he is alleged to have committed violations of Public Law 252, Seventy-sixth Congress, commonly known as the Hatch Act; and
>
> Whereas the Special Committee To Investigate the National Defense Program has completed an inquiry into certain transactions between Theodore G. Bilbo and various war contractors and has found officially that the said Bilbo, "in return for the aid he had given certain war contractors and others before Federal departments, solicited and received political contributions, accepted personal compensation, gifts, and services, and solicited and accepted substantial amounts of money for a personal charity administered solely by him" . . . and . . . "that by these transactions Senator Bilbo misused his high office and violated certain Federal statutes"; and
>
> Whereas the evidence adduced before the said committees indicates that

10. 88 CONG. REC. 2077–80, 77th Cong. 2d Sess., Mar. 9, 1942.

11. 88 CONG. REC. 3064, 77th Cong. 2d Sess., Mar. 27, 1942.

12. 93 CONG. REC. 109, 80th Cong. 1st Sess. For the announcement of Nov. 17, 1947, concerning Theodore G. Bilbo's death, see 93 CONG. REC. 10569, 80th Cong. 1st Sess.

the credentials for a seat in the Senate presented by the said Theodore G.Bilbo are tainted with fraud and corruption; and that the seating of the said Bilbo would be contrary to sound public policy, harmful to the dignity and honor of the Senate, dangerous to the perpetuation of free Government and the preservation of our constitutiSnal liberties. . . .[13]

Parliamentarian's Note: The Supreme Court has held, in the case of *Powell* v. *McCormack*, 395 U.S. 486 (1969), that a Member-elect of the House could not be excluded, by a majority vote, other than for failure to meet the express constitutional qualifications for the office. But since the House or Senate is the judge of elections and returns under the U.S. Constitution (art. I, § 5, clause 1), and has the power to regulate elections (art. I, § 4, clause 1), the House or Senate may determine by majority vote that a candidate was not validly elected.

Censure

§ 12.3 The Senate Select Committee on Standards and Conduct reported a resolution censuring a Senator, in the 90th Congress, for his personal use of campaign contributions.

On Apr. 27, 1967, Senator John Stennis, of Mississippi, Chairman of the Senate Select Committee on Standards of Official Conduct, reported Senate Resolution 112, censuring Senator Thomas J. Dodd, of Connecticut, for having engaged in a course of conduct over five years of exercising his power and influence as a Senator to obtain and to use for personal benefit funds obtained from the public through political testimonials and political campaigns.[14]

The resolution, which was laid before the Senate on June 13, 1967,[15] accompanied by Senate Report No. 193, read as follows:

Resolved, That it is the judgment of the Senate that the Senator from Connecticut, Thomas J. Dodd, for having engaged in a course of conduct over a period of five years from 1961 to 1965 of exercising the influence and power of his office as a United States Senator, as shown by the conclusions in the investigations by the Select Committee on Standards and Conduct,

(a) to obtain, and use for his personal benefit, funds from the public through political testimonials and a political campaign, and

(b) to request and accept reimbursements for expenses from both

13. 93 CONG. REC. 7, 8, 80th Cong. 1st Sess., Jan. 3, 1947.

14. 113 CONG. REC. 10977, 90th Cong. 1st Sess.

15. 113 CONG. REC. 15663, 90th Cong. 1st Sess. (resolution laid before the Senate). For discussion thereof, see 113 CONG. REC. 15663, 15735, 15773, 15998, 16104, 16269, 16348, 16560, 16976, 16978, 17005, 90th Cong. 1st Sess., June 13–23, 1967.

the Senate and private organizations for the same travel,

deserves the censure of the Senate; and he is so censured for his conduct, which is contrary to accepted morals, derogates from the public trust expected of a Senator, and tends to bring the Senate into dishonor and disrepute.

On June 23, 1967, the Senate adopted the first portion of the resolution of censure relating to the use of political funds by Senator Dodd for private purposes:[16]

Resolved, (A) That it is the judgment of the Senate that the Senator from Connecticut, Thomas J. Dodd, for having engaged in a course of conduct over a period of five years from 1961 to 1965 of exercising the influence and power of his office as a United States Senator, as shown by the conclusions in the investigation by the Select Committee on Standards and Conduct, to obtain, and use for his personal benefit, funds from the public through political testimonials and a political campaign, deserves the censure of the Senate; and he is so censured for his conduct, which is contrary to accepted morals, derogates from the public trust expected of a Senator, and tends to bring the Senate into dishonor and disrepute.

The Senate then proceeded to consider and agree to the remainder of the resolution, censuring Senator Dodd for improper use and solicitation of travel funds.

16. 113 CONG. REC. 17011, 90th Cong. 1st Sess.

§ 12.4 A committee on elections recommended that a contestee would be subject to censure by the House but not to forfeiture of his seat where there were mitigating circumstances involved in his violation of the Corrupt Practices Act.

On May 21, 1936,[17] a committee on elections reported in the election contest case of *McCandless* v *King*, for the seat of Delegate from Hawaii. In its report, House Report No. 2736, the committee concluded that there were mitigating circumstances in the contestee's failure to fully comply with the reporting requirements of the Corrupt Practices Act. The committee recommended that Mr. Samuel Wilder King be declared entitled to the seat but stated in its report that Mr. King could be subject to censure by the House.

On June 2, 1936, the House adopted House Resolution 521, declaring the contestee, Mr. King, entitled to the seat.[18]

§ 13. Investigations by Standing Committees

Investigations of specific elections or election practices are usu-

17. 80 CONG. REC. 7765, 74th Cong. 2d Sess.

18. 80 CONG. REC. 8705, 74th Cong. 2d Sess.