

IX. THE FIGHT FOR THE BALLOT

Abridged testimony of Earl Browder before the Senate Committee Investigating Fraudulent Election Practices, Senator Guy M. Gillette, chairman, Washington, D. C., October 25, 1940.

THE CHAIRMAN: At this time, the Committee has been requested to hear Mr. Earl Browder and I don't know whether he has additional people with him. Are you Mr. Browder?

Mr. Browder: Yes, sir.

The Chairman: Mr. Browder, if you will come over here, we will be very glad to hear any matter that you wish to present to us. Your full name is what?

Mr. Browder: Earl Browder. Earl Russell Browder.

The Chairman: And you reside where?

Mr. Browder: At 7 Highland Place, Yonkers.

The Chairman: You are a candidate for election to the Presidency?

Mr. Browder: I am the candidate for the Presidency of the Communist Party of the United States.

The Chairman: Mr. Browder, you made the request, I believe, or someone for you, for an opportunity to appear before this Committee, and present some matters that you wished to direct our attention to.

We are glad to have you and we are glad to listen to any matter that you wish to present to us. You may do so in your own way, in your own manner.

Mr. Browder: Thank you, Senator Gillette.

The Chairman: Proceed.

Mr. Browder: I appreciate very much this opportunity and I will be as brief as possible in spite of the voluminous character of the material that I have to deal with.

The Chairman: Might I interrupt you there long enough to say, Mr. Browder, that we want to keep the record as small as we can.

Mr. Browder: I appreciate that.

The Chairman: The funds that we have to use are limited.

Mr. Browder: Yes.

The Chairman: And these people are very heavy in their charges.

Mr. Browder: I appreciate that.

The Chairman: So we don't want to put anything in the record that we can avoid.

Mr. Browder: I appreciate that, Senator, and as much as possible I will place material at the disposal of the Committee as supporting material.

The Chairman: That would be preferable.

Mr. Browder: Yes.

I am placing before this Committee evidence of wholesale and organized corruption, fraud, intimidation and violence directed toward influencing and determining the Presidential election results, in violation of the Hatch Act, the Corrupt Practices Act, of the Constitutional safeguards to free elections, as well as embracing a series of violations of criminal laws.

The material I am submitting might thus deserve the attention of any instance of legislative, executive or juridical authority, charged with the responsibility for orderly public life, but it seems particularly within the scope of this Committee because it is organically bound up with the whole complexion of the 1940 elections in the degree of freedom under which these elections will take place.

My party has practically exhausted every avenue of appeal for redress of those grievances directly appertaining to us, which I will set forth, before coming to this Committee.

In some instances, our appeals have been upheld by courageous and incorruptible public servants and we are more than glad to

record such facts, giving credit where credit is due, but, unfortunately, these instances are the exception, not the rule.

In general, we must record a wave of lawless and brazen over-riding of every legal safeguard of free elections before which public officials of all grades are bowing, or in which they actively participate.

We are not here merely to complain of violations of the civil rights of individuals or minority groups; we are dealing with the purity of the electoral process itself, of the unshadowed authenticity of the final election results which is threatened by the developments we place before you.

These facts, at the least, require a record for history, even if it should prove impossible in these troubled and chaotic times to find immediate remedies, although we hope that there may be some immediate remedy found.

I want, first of all, to speak about the situation in New York State and to give my major attention to that, although we have a series of states in which even more flagrant violations of law have occurred, but which are not of such general interest as those in New York.

The Communist Party in New York State has been, by judicial decision, removed from the ballot after having been certified by the Secretary of the State.

The Chairman: What judicial body rendered that decision?

Mr. Browder: A judge of the Superior Court, I believe, by the name of Murray—I do not know his exact status—Justice of the Supreme Court, William H. Murray, hearing a petition brought by two members of the American Legion, asking that the Party be taken off the ballot because of insufficiency of signatures to its petitions.

The Chairman: And the decision was based on the support that was shown for that allegation of insufficiency of signatures?

Mr. Browder: That is right.

The Chairman: All right, proceed, Mr. Browder.

Mr. Browder: We have attempted to get before this Judge the

facts, which we will call to your attention here, but without success.

I do not want to attempt to pass upon the technical legal questions involved, of the admissibility of evidence, but clearly there is a much larger scope for seeing and examining all sides of such questions before a legislative committee than there is before a court, and, surely, here I will not be subjected to the same limitations.

I first want to call your attention to the fact that the attack upon these petitions of the Communist Party in New York State in no wise attacked the authenticity of the signatures. Every signature that was registered—some 43,000 or more—is admittedly authentic.

PETITION SIGNERS INTIMIDATED

The attacks upon the sufficiency of the number is directed toward that which says there must be at least fifty in each county, and those who are interested in removing the Communist Party from the ballot selected two counties and attempted to prove that the signatures, although they were actually given by registered voters, were obtained under false representation; and there were brought before the Court some 160 out of 200 signers, who were placed on the stand to state that they did not know what they were signing, and, therefore, wished to have their names removed.

Each one admitted that he had signed the document—it was his signature. Each one said that he did not know what he was signing and, therefore, wanted his signature removed. Aside from the legal question involved as to whether there is such a thing as a withdrawal of signatures once placed on a public document, the main point that I want to establish here is that these so-called withdrawals of signatures were, themselves, the result of and evidence of fraud, misrepresentation and intimidation.

Clearly, these people had been intimidated and brought into court to testify as they did under threat of the loss of their livelihood.

The Chairman: Was that question of intimidation or coercion raised in the hearing of the court?

Mr. Browder: It was, and I will present to you evidence sustaining this charge, which was not admitted into Court because the Court

insisted that such evidence could be admitted only as it related to those two counties, and they attacked our petitions only in the counties where we were not able to get the direct evidence of that intimidation, and where we could not force this issue upon the victims of this intimidation because we had no way of protecting them.

We could no more get evidence of the intimidation in Greene County, New York, than one could get evidence of an intimidation in a Hitler election in Germany, but we can give you plenty of surrounding evidence which was excluded by the Court, which will be convincing, I believe. And, if that should not be sufficient, I would urgently request that if it were possible for someone such as yourselves—representing an authoritative body, who could give the people the assurance that what they say would not bring upon them victimization—to go into Greene County, he could in one day secure sufficient evidence of this intimidation to convince anyone.

If you should go into Greene County tomorrow and interview fifteen or twenty of those 160 people, taking them at random, under conditions which guaranteed that they could not be immediately identified and further victimized, and take their testimony in private with the assurance that they have nothing to fear of further trouble—which is the great cry they all raise—“We want no further trouble,” they say; “we have already had too much trouble; our lives are being disorganized; we are being driven out of our community; we are losing our jobs; we are being taken off relief; we can’t stand it”—and if you do reach these people with the assurance that this would not be further intensified, they would tell you the truth.

VOTES THAT DON'T BELONG TO THEM

Now, why has this campaign been made to take the Communist Party off the ballot? We are a small minority party there. It is clear to everyone that we have no chance of sweeping the State and electing our candidates.

Why, therefore, do people consider it sufficiently important to spend large sums of money and engage great organizations in the systematic hounding of people who sign our petitions, until, in

desperation, they go before courts and withdraw their signatures?

It is because in New York State this question is not merely an example of the general persecution of the Communists that is sweeping over the country, in which Democrats and Republicans, alike, are engaged—in New York State this is a special project of the Democratic Party organization for the purpose of securing an advantage in the election over the Republican Party.

They want, by keeping the Communist Party off the ballot in New York, to secure for the Democratic ticket the votes which would be cast for our ticket.

This becomes important because it is generally agreed that in New York State, the balance of forces between the two major parties is very even, and that even a small number of votes might be the balance of power, throwing it one way or the other.

The Chairman: What is the basis for that assumption, Mr. Browder, that these votes that would otherwise be cast for the Communist ticket in New York would be cast for the Democratic Party?

Mr. Browder: The basis of that assumption is that it has so occurred in the past and, in the 1938 elections it was precisely the votes of the Communists which were decisive in the gubernatorial election.

The Chairman: May I interrupt you there? Don't you think that that is a rather unjustified conclusion? There is no way that you or I have of determining how these men voted except their own statements.

Mr. Browder: No, but politics is based upon certain assumptions and while one cannot give scientific evidence to prove them, the very fact that these assumptions exist become political motives, and in New York it has been assumed and so stated in the newspapers that the assumption was—I will be glad to furnish you with those documents—the assumption was that if the Communist Party was not on the ticket, the votes, which would otherwise go to the Communists, would be impossible of being thrown to Willkie and, therefore, would go to Mr. Roosevelt.

The Chairman: But after all, Mr. Browder, it is no more than an assumption, a statement of opinion of someone who has deduced that, is it not?

Mr. Browder: Yes, and I am only bringing this forward as an assumption and to point out that this assumption is based upon the experience of the 1938 elections.

This experience of the 1938 elections is also the explanation of why we had to get petitions to place the Party on the ballot. The Communist Party is strongest in New York State and in 1938 cast some 106,000 votes. That is our strongest place.

Under the State Laws, 50,000 votes for a party is enough to give it a place on the ballot without petitions, but this applies only on the vote for Governor and not for any other office; but it so happens that in 1938, the Communist Party withdrew its candidate for Governor out of deference to the American Labor Party with which we were trying to co-operate, and which was supporting the candidacy of Lehman.

Our vote was cast on a statewide scale only for the candidate for Congressman-at-Large. Our candidate was Mr. Amter, who got 106,000 votes, which, if also cast for a candidate for Governor, would have placed us permanently on the ballot. But because we withdrew our candidate for Governor in favor of the American Labor Party candidate, Mr. Lehman, we lost our place on the ballot.

Mr. Lehman won that election by 64,000 votes. If it had not been for the Communist Party withdrawing its candidacy and taking the extra burden that fell upon us in regard to that account, Mr. Lehman would have lost and Mr. Dewey would have been elected.

This is a fact which is a matter of record open to anyone's investigation who wants to verify it. It does not depend on anyone's assumption; and upon that fact, the assumption has been made by the machine leaders of the Democratic Party in New York State that if they could remove us from the ballot they could force us to give that co-operation which in 1938 we gave voluntarily; and that is the motive—the special motive beside the general motive that cuts across party lines—behind the attempt to get rid of the Com-

unist Party from elections generally. That is the special motive which has created the situation where we have been, as I say, denied our place on the ballot in spite of the fact that we have complied with the law four times over in respect to signatures to our petitions, in such a way that every signature was so carefully guarded. I do not think there was ever a nominating petition of any large scale filed in any state in the Union which was so pure in respect to the safeguards that were placed around the collection of each and every name.

As to the charges that we were guilty of fraud and misrepresentation in the collection of these signatures, let me point out how impossible that would be. Here is the petition which was signed. Anyone looking at the petition cannot fail to know what he is signing. At the top in large letters is "Communist Party," the candidates in large letters, Earl Browder and James W. Ford. It is impossible for anyone to sign such a document without being fully cognizant of what he was doing.

They did not know that exercising their right to sign such documents would subject them to the persecution which followed.

STORM TROOP TACTICS

Now, I would like to cite you some evidence which shows how they terrorized these people. In the first place, they involved the W.P.A. and its administrative officers to lay the foundation for the terrorization.

A statement was issued by Lester Herzog, the up-state administrator of W.P.A., in which he announced that he was going to make a careful inspection of the Communist election petition and that those who signed the petition, if they knew what they were signing, would be fired from their jobs.

This was followed then by a campaign by people who claimed they represented the American Legion. I do not like to believe that their claim is correct.

The Chairman: Before you pass to the statement to which you

referred of Mr. Herzog, were you reading from a newspaper clipping or were you making that statement yourself?

Mr. Browder: I was reading from a newspaper clipping which I will give you for the evidence. This is from *The New York Times*.

The Chairman: It is unnecessary to give it for the evidence. I am wondering if there is any basis for the statement that Mr. Herzog made excepting the newspaper report.

Mr. Browder: It was printed in the *Knickerbocker Press* in Albany on several days repeatedly in a prominent place. It was not merely printed once; it was printed for four or five days consecutively. It was never denied by Mr. Herzog and the facts are that Mr. Herzog and others under his direction did call on signers of the petition.

The Chairman: What was the name again, please?

Mr. Browder: Up-state New York Administrator of Works Project Administration.

The Chairman: And these statements were alleged to have been made when?

Mr. Browder: Immediately after the filing of the Communist petition in Albany. This clipping here is dated October 12 from Albany and on that date and succeeding days in Albany, the *Knickerbocker Press* carried in a prominent place the same statement.

In those days immediately following, people calling themselves the American Legion began systematically to call upon or to send communications to every signer of the petition.

Here is a postcard sent to Ethel Johnson, 95 Herchner Street, Albany, mimeographed:

The American Legion in Albany County has learned that your name is on a petition circulated by the Communist Party for the purpose of placing the Communist Party on the ballot of this election. We know many of the signatures are not valid. If this is true in your case, you may repudiate your signature if you will come to the rooms of the Capital City Post, 81 Columbia Street, Albany, before 8 o'clock Tuesday night. The rooms will be open from noon to 8 P.M. Tuesday. The Legion is giving you this chance to contradict the people who have deceived you.

Then committees called upon each one of these people. We do not have authentic documentary evidence from Greene County of what the committees did and what they said. Here the terrorization was so complete that we could not get one person who dared to break through.

The Chairman: Is Greene County an up-state county?

Mr. Browder: Yes, the county seat is Catskill, thirty-five miles from Albany, but from surrounding counties we have statements from people who were called upon by the American Legion and who did sign the documents.

Here is one from Brushton, New York, answering a letter sent out by the Communist Party. By the way, I should remark here that immediately after the collection of these signatures the Communist Party sent out a letter addressed to each person who signed the petition thanking him for his support in getting on the ballot.

In the testimony in the Greene County hearing, each one who came on the stand was asked whether he had received such a letter.

The Chairman: Let me interrupt you again. When you speak of the Greene County hearing, was that the hearing that Judge Murray finally ruled on?

Mr. Browder: Yes, Judge Murray presided. It was adjourned for the purpose of saving the 160 people this trip to Albany.

The Chairman: I see.

Mr. Browder: Each one of those 160 people who was placed on the stand there was asked if he had received such a letter from the Communist Party and each one answered, "I didn't read it. I threw it into the stove." Although the letters were mailed in a plain envelope, and even if they had been warned before that they should not read anything that came from the Communist Party, they would not have known it came from the Communist Party unless they had opened it. Each witness gave uniform testimony on this point: that he did not read a letter from the Communist Party because he threw it into the stove. Now, here is some data from some people outside of Greene County. Here is a letter from Frank Duby, Brushton, New York, answering a letter:

Dear People: Just received your letter of the 13th. Do not know what to think of it. I will give you a little insight as to what I was told Sunday. They came to the house with the papers I signed. Told me I should not have put my name on it. I draw old-age pension and they would take it away and I would lose my citizenship and we would be put in detention camps until after the war. This was a hard thing to put up to us as there are three or four hundred in this county who put their names on the paper and they said the men that were here were in jail now. If any more information you wish, send a man. I will help him to investigate the matter. You can size this up and I will help. (Signed) Frank Duby.

Another letter: Marianna Costello—this does not have the town marked on it, but I can get it if you wish.

I am not a member of the Communist Party. I have never been a Communist. I am a good American. I go to church three times a week. I believe in the Bible and all its teachings. We have accepted the Lord Jesus as our personal Savior. When I signed the Independent Nominating Petition, the man who collected my signature told me it would be absolutely legal to sign, and that it was nothing bad. I do not wish to be caused any trouble or involved in any dispute or unpleasant circumstances because of my signature. I also signed a statement for the American Legion when they told me that I was registered as a member of the Communist Party when I signed their Nominating Petition.

Another letter from Frank Hobbs, 96 Orange St.; again the town is missing but I will submit it later.

I took my name off the Communist petition because the American Legionnaires told me I did something against the Government and I was afraid.

I want my name back on the Communist petition because I believe they have a right to be on the ballot.

I am not a member of the Communist Party but believe in upholding the rights of the colored race.

Another one, James W. Payne, 89 Orange St., Albany, Oct. 16, 1940.

I, James W. Payne, knew what I was signing when I signed the Communist petition.

I withdrew my name when I was told by the American Legionnaires that I was harming America.

I still want my name on the Communist petition because I believe they should be on the ballot.

From Carmine Ferrucci, Amsterdam, New York.

I am not a member of the Communist Party and I don't want to become one. But I knew that I was signing a petition to put the Communist Party on the ballot.

From Theodore Davis, Amsterdam.

I knew that I signed the petition to put the Communist Party on the ballot and I agree to keep it there.

From George Wright, Amsterdam.

I know that I signed the petition to put the Communist Party on the ballot. When two men came to ask me to take my name off, I refused to do this—

The Chairman: Were these letters that you are reading from the letters of the 160 who withdrew their names or threw their letters in the stove?

Mr. Browder: No, in Greene County we could not get statements. They concentrated on Greene County. They decided that was our weakest point and they concentrated there. We could get these letters outside of Greene County, because their forces were concentrated in Greene County.

The Chairman: Mr. Browder, the additional statements are along the same line as you have just read?

Mr. Browder: Yes.

The Chairman: Then to prevent the record from being encumbered too much, will you file them?

Mr. Browder: Yes.

The Chairman: If you wish to, leave them with the committee.

Mr. Browder: I will leave a selected number. I won't insist on

putting all of these in the record. I know it would encumber it. In correcting the record, I would like to place some in the record. I will go over these later and pick out the most typical and representative.

Now, I want to point out that the attack upon the signers, especially in Greene County, took the form, almost in every case, of telling them that by signing the petition they had joined the Communist Party and thereby made themselves subject to loss of jobs, loss of pensions, loss of rights, even the possibility of being thrown into concentration camps. And the document which they asked them to sign to repudiate this, they told them, was a form of resignation from the Communist Party. This is established in the records of the Court. This is something that we did get into the record, although very much was excluded, and there the record is the *prima facie* evidence that the repudiation of signatures was secured by false representation.

The theory of fraud was based upon the assumption that we did not tell these people that they were joining the Communist Party when they signed this petition. The theory was that we did not warn these people that by signing the petition they were losing their rights; and, therefore, it was misrepresentation.

THE SECRET BEHIND THE ATTACK

Now, I want to give some evidence to show why this campaign was considered of such importance that all of these forces were thrown behind it to achieve this result. I know that newspapers are not good evidence in court, but I do not know of any other evidence which can indicate what is going on in the minds of leaders of political movements except the newspapers and their reports.

Therefore, I want to call your attention to the *New York World-Telegram*, by no means a Communist paper or in any way sympathetic to our cause, which has itself supported, for many years, every effort to keep us off the ballot. In its issue of Saturday, September 7—I have these quotations in a written form here which

will save me the trouble of going through the paper, but I will offer you this paper in support of the evidence.

On September 7, on page 3, a political writer reviewing the election situation in the State of New York, under an eight-column headline: "Loss of American Labor Party Left Wing Votes Carries Threat to Roosevelt in State," concludes a long examination of the state situation with the following words:

It constitutes a threat to the President's ability to rally the radical vote to his standard so long as Earl Browder, Communist, has his name on the ballot. The loss of any considerable number of radicals, who virtually unanimously supported him four years ago, would be inimical to his chances of carrying the state. . . . It is admitted . . . the loss of 100,000 votes . . . may prove enough to lose the state. . . . Browder must be nominated by petition, which must have 12,000 signatures, and at least 50 from each county in the state. . . . It is a safe surmise that the Democrats and the A.L.P. conservatives will scrutinize carefully the Browder petition. The failure to get 50 signers in one county would invalidate the petition.

I have already described to you how they scrutinized the petition in the County of Greene.

The Chairman: This requirement of fifty names in the laws of your State, does it apply to all of the counties or to a percentage of counties?

Mr. Browder: All counties. If you fail in one county to get fifty, you are off the ballot. We filed 43,000-and-some signatures. They attacked only in Greene County and, I believe, Franklin County, yes, Greene County and Franklin County were sufficient. The finding in Greene County was that we did not have 50, and so this cancelled all 43,000-some signatures for the whole State.

Further, in the *New York World-Telegram* on September 21, the same political writer on the same subject said:

The polls show that the Labor Party is holding the balance of power now. . . . The fly in the ointment for the Democrats is the threat by the Left-wing leaders that their followers will bolt the Roosevelt

Wallace ticket. . . . At any rate the Democrats are determined that if they can prevent Mr. Browder having a place on the ballot they will do so in order to prevent the Left-wing Laborites from having a place to go. . . . National Chairman Edward J. Flynn is prepared to inspect every signature on the Browder petitions. . . .

The kind of inspection I have already described.

Further and more directly to this whole question; I quote from the Jewish newspaper, *The Day*, New York, October 11, 1940, with the full translation of the article that I will quote from attached. I want to read just the following quotations in order to be very brief, although the whole article is very interesting and illuminating. Mr. Slonim, the author of that article, wrote:

One feels that if the Roosevelt election campaign will not take on a dynamic character, it can slow up entirely—"and so Roosevelt has taken over the entire leadership into his own hands." New York is absolutely vitally important for Willkie's success. Should he lose New York State, he is lost.

According to all polls taken to date, the situation in New York is not yet certain. Should one and one-half per cent move from one camp to the other, such a shift could give the State to either Willkie or Roosevelt.

"We will win," Ed Flynn told this writer. "We must conduct a campaign as though there were really danger, we must punch and punch and punch again until the day of elections."

Then Mr. Slonim, explaining one of the most important directions for the punches, reported: Under a sub-heading immediately following that quotation, it says: "What will happen to the Communists and Earl Browder?" He then says—the whole article being based upon a press interview between the newspaper writer and Mr. Flynn:

This, too, is an important question in a campaign in New York State. Ed Flynn, himself, who was formerly Secretary of State in New York, is convinced that Browder will not be a candidate [this was after the petitions were filed in Albany]. Mr. Flynn said he was convinced that Browder will not be a candidate. He made no secret of this at a press

conference. He said that all signatures on Browder's petitions would be carefully investigated and he therefore would not be a candidate.

The Democrats believe that if Browder is not on the ballot, then all or at least a great number of Communists will be compelled to vote for Roosevelt. How the Communists will vote, I cannot say, but that Browder will not be on the ballot, this I can predict almost with certainty.

Four days after this was printed, the Secretary of State of New York certified the Communist Party to go on the ballot, the time for challenges having elapsed and no challenge having been registered except a challenge which was overruled.

The Chairman: Mr. Browder, referring to the city judge who rendered the decision, Judge Murray, are you able to tell us whether or not Judge Murray is a Republican or Democrat in his political affiliations?

Mr. Browder: From my own knowledge, no, but his general reputation is that he is a Democrat, elected as a Democrat on the Democratic ticket. I know it only by conversations. I have to be very careful in my answers on this.

The Chairman: I want it made clear that by asking that question I am not raising any question as to whether that would influence or not the city judge in the rendering of the decision. It was just in connection with the statement that you had made that there was political significance in an attempt to prevent your name going on the ticket or that of your party, and in connection with that, I thought it was pertinent to inquire.

It is not for the purpose of even suggesting in the remotest way questioning the judge's decision.

Mr. Browder: I understand and I won't make any such question either, and, further, I won't emphasize the political affiliation of any particular person involved in this or other cases that I will cite because it is our experience that whether the motive for an attack comes from the Democratic circles or Republican circles, and in one state it is one case and in another state it is another, that in each

case they always get co-operation from at least some individuals in the other party and this is true in New York also.

I won't place it on any narrow partisan basis. There are some people in the Republican Party who are very anxious also to achieve the objectives that the Democrats are working for and vice versa. Formal party lines mean less and less.

Now, I think I have given you a picture of the situation in New York State. It is unquestionably because the Communist Party refused to continue the voluntary support that we gave in the past in New York State to the Democratic candidates who were at the same time common candidates for the American Labor Party that this attack has been made upon us. In depriving us of our ballot rights they hope that they will get, by the force of circumstances, what before they got from us voluntarily.

This is further confirmed by the fact that as late as July of this year, we were approached by persons whom we had every reason to believe did not speak for themselves alone who suggested the advisability of continued collaboration in 1940 as it had been in the past, and when that collaboration was not forthcoming we knew we were in for hard times in New York State as well as all over the country.

Of course, this Committee is not interested in the troubles of the Communist Party, but when these troubles of the Communist Party begin to take the form of a general attack on the sanctity of the electoral processes and establish precedences which, if allowed to stand in relation to Communists, will endanger the rights of all people, will endanger the whole democratic process and which will influence one way or the other the results of a Presidential election and cast a shadow upon such results, then it is time that more attention is given to it than any attention that might be brought merely by sympathy with a persecuted minority....

Abridged stenographic report, Washington, D. C., October 25, 1940.