

V. PERSECUTION BY LEGISLATION

ON July 10, 1940, Earl Browder, Communist candidate for President of the United States, appeared at his own request before a Senate Judiciary Subcommittee to state his opposition to the Voorhis Registration ("Blacklist") Bill.

Present at the Senate Judiciary Subcommittee hearing when Earl Browder testified were Senators Tom Connally of Texas, Chairman, John E. Miller of Arkansas and John A. Danaher of Connecticut.—Ed.

Senator Connally: The Committee will come to order. This is another session of the subcommittee of the Judiciary Committee, holding hearings on H.R. 10094. I might say for the record that this hearing was called at the request of those persons who desired to appear, and the Committee has issued no compulsory process. The witnesses are here at their own invitation. I would like to know who is present this morning, wishing to appear.

Mr. Browder: Earl Browder, of the Communist Party.

Senator Connally: Mr. Earl Browder, of New York City; I believe that is right?

Mr. Browder: That is right.

Senator Connally: Is there anybody else who wants to appear? All right, Mr. Browder. Have a seat.

Senator Connally: Just give the reporter your name and official connections, if any.

Mr. Browder: Earl Browder, General Secretary of the Communist Party of the United States. . . .

Senator Connally: Are you for the bill, or against it?

Mr. Browder: We are against this bill.

Senator Connally: All right, sir. Go ahead. . . .

Mr. Browder: On behalf of the Communist Party I would like to say about this bill, H.R. 10094, the so-called Voorhis Bill, that a study of this bill has given us the opinion that it represents, together with other measures of a similar sort before the Congress, a parallel to the Alien and Sedition Laws of the administration of President Adams at the close of the eighteenth century. This basic judgment is what determines our attitude on the bill as an attitude of opposition.

It differs of course from its ancient prototype in that the original Alien and Sedition Acts were quite boldly and openly directed against the rising democratic movement of the American people which culminated in the election of Thomas Jefferson, and was quite openly opposed to the development of democracy. The present bill with its companions puts itself forward as a support of democracy, and, in the name of defending democracy, proposes to limit and hamstring the democratic processes as they have developed in this country.

Senator Connally: Would it bother you if we interrupted you occasionally with questions, or would you rather go ahead and finish your statement and not have questions?

Mr. Browder: I think perhaps, while I have no objections to answering questions, it would be more fruitful for all of us if they came a little bit later.

Senator Connally: All right. We will be very glad to accommodate you, Mr. Browder. Go right ahead.

Mr. Browder: This Voorhis Bill is a typical example of the ambiguity of these modern attempts at the limitation of the democratic processes. Ostensibly directing itself against the agencies of foreign governments operating in American political life, this bill would actually result, if adopted and applied impartially, in outlawing a principle.

Senator Connally: A principle?

Mr. Browder: That is the principle of international working class organization, that principle of internationalism which Abraham Lincoln recognized and indorsed, when he said, responding to an address of the International Workingmen's Association, the First International, that (I quote from memory)—

The ties which bind the workingmen of all lands, of all races and of all nations are and should be the strongest, second only to the ties that bind people of one family and one kindred.

Let me make it clear to the Committee and for the record that the Communists are not opposed to the establishment of control over foreign agents within the United States. We recognize that in the present state of the world this is a problem that faces all countries. We do, however, see in the present bill before you, and in others of a related nature, that our country is being placed in danger of doing much more damage than could conceivably be done in the way of any service by these measures.

Specifically, we see in this act a concrete example of the attempts to take the United States along the same path of policy upon which France was taken immediately before, and after, especially, the outbreak of the present war. The sponsors of this bill have publicly cited the course of the French Government as an example which they wish to apply in their own way in America. It is therefore quite in order for us to give some attention to the significance of this course as it was applied in France, and the results of that course.

In France, there certainly were the so-called "fifth column" agents of foreign powers working within the political life of France, on a scale perhaps larger than ever seen in any other place. In fact, these so-called "fifth column" elements have seized power in France, and today constitute the effective government of that country. How did they come into power? It was not only that France was defeated in battle, because that defeat itself must be explained—and cannot be explained on military grounds. These foreign agents came to power in France first of all under the pretense that they were the

leaders in the outlawing of treasonable organizations within France. They were the people who initiated the outlawing of the Communist Party of France. They were the people who suppressed, disrupted and disorganized the French labor movement. In fact, one can say the only efficient war measures taken by the French under the leadership of these so-called "fifth column" elements was the suppression of the labor movement and the Communist Party of France. Those measures, I submit to you, which are presented as a model for our country to follow, did not delay the coming to power of foreign agents within France over the French people. These measures initiated a whole course which hastened and was intended to hasten the military victory of the Nazis and the internal collapse of the French Republic.

From this concrete example, I would call your attention to the fact that Nazism and fascism of all varieties has risen to whatever degree of power it may have in any land always precisely under this flag—the suppression, outlawing of the Communist Party, first of all; second, the suppression or effective control over the labor movement, the organized trade unions; and, from that, proceeding to the destruction of all effective organizations of the masses of the people.

Senator Miller: Mr. Chairman, I want to ask the witness a question. I think I can do that without interrupting his chain of thought.

Senator Connally: All right.

Senator Miller: I just want to get the premise of your argument, there, Mr. Browder. As I understand it, you are basing or premising your objection to this bill upon the contention that the proponents of the bill may in fact be the subversive elements that will prevent the development of democratic processes in this country, is that right?

Mr. Browder: That would be a fair inference from the general line of my argument.

Senator Miller: That would follow?

Mr. Browder: Although I would not want to apply it mechanically.

Senator Miller: I know. I am applying it objectively, that is all.

Mr. Browder: In a general way.

Senator Miller: Yes. In other words, the statement that you made about France was as I understand it that the real subversive elements in France, or the "fifth column," that undermined France were operating behind the pretense that they were undertaking to suppress "fifth columnists"?

Mr. Browder: That is right.

Senator Miller: And therefore applying the same analogy to this?

Mr. Browder: Exactly, exactly.

Senator Miller: That is, that the men here undertaking to suppress "fifth columnists" or subversive activities in this country should be watched?

Mr. Browder: I think that is correct.

Senator Miller: I just wanted to get a clear understanding of your premise.

Mr. Browder: My reservation was this... I think the political situation is so unclear and so confused in the United States that many honest people lend themselves to schemes, the ends of which they would by no means indorse, and which would appall them if they knew what they were doing.

Senator Miller: Yes. I understand your reservation.

Mr. Browder: I do not want to make any attacks, therefore, against any individuals... Continuing with this general observation of the uniform course of the rise of Nazi and fascist forces in the world, I would point out that in every case the ideological character of these movements is to raise an intense and exclusive nationalism, the denial of any common international interests of the peoples of the world, and practically within the country to divert the political life of the country towards a struggle more and more intense against so-called "alien groups" within the country. In Germany it was first of all the Jews and the Marxians—the so-called "Marxians"—and all those who recognize common international interests among peoples.

We have had long experience in American history with such

issues. This is not new to our country. I have already mentioned that in the 1790's Thomas Jefferson was denounced as an agent of the French Revolution, and the Alien and Sedition Laws of that time were based upon the theory that the rising democratic movement in the United States was merely an extension of and an agency of the French Revolution, and specifically of the Jacobin Clubs of France, which were paralleled in the United States by the democratic clubs that founded the original party of Jefferson called the "Republican Party," and later, the "Republican-Democratic Party" of that time. In fact, the Society of Tammany was one of the organizations which were outlawed by the Alien and Sedition Acts of that time.

We have further the experience of one of the most dangerous periods in the life of our country, in the decade just before the Civil War. The whole political life of our country was distorted by the movement that was generally identified under the name of the "Know Nothing" movement, which almost created an atmosphere of civil war in the United States on very false issues, central among which was the campaign against the Catholics as agents of a foreign power in American political life. This theme has repeated itself again and again since that time. The Ku Klux Klan type of influence in American life lives upon this sort of thing, and while it is an old influence in America it is by no means comprised within that body of doctrine or ideology which is generally accepted as Americanism. It is the enemy of the best traditions of our country. This, we consider it should be pointed out, is the most dangerous influence in our country, the most to be guarded against; and this influence is not combated but rather expresses itself in the bill under consideration, and others of like nature. This trend represents not the combating of dangerous influences but the writing of their essential position into the law of the land—not the combating of Nazi influences, but the registration of a victory of Nazi influence in the political life of our country.

I know of course that it will be pointed out that this bill in its application not only strikes at legitimate political parties in the

United States like the Communist Party, but that it would also create organizational difficulties for the German-American Bund, for example.... Any incidental embarrassment that this bill might give to the Bund would be much more than offset by the political victory it would represent for the Nazi philosophy under which the Bund operates.

Senator Connally: Well, . . . are you assuming to speak for the Bund as well as for the Communist Party?

Mr. Browder: I am speaking as an observer of politics in America, who presumes to pass judgment on the influence of this bill upon the whole political life of our country. I speak against the Bund and against this bill as representing an identical political tendency. . . .

The next point I will direct myself towards on this bill is its ambiguity. Hypocrisy and ambiguity are the most dangerous things in the making of laws. Objects to be achieved by laws should be clearly defined. This is not the case with the bill under consideration. If this law should be enacted we would be faced with the alternative, either, first, the law would not be impartially applied . . . or, if it were impartially applied, it would create such results that I am sure the sponsors of this bill would not accept them as the legitimate consequences of their acts, because, impartially applied, this bill would make it impossible for the trade union movement as at present constituted in America to operate.

Senator Connally: There have not been any labor representatives here protesting against it. They do not object to it.

Mr. Browder: I think they assume that this bill will not be impartially applied; and perhaps the assumption is not so far-fetched. By the terms of the bill, however, it includes the whole labor movement of America, and places them under such obligations that the trade union movement of America as at present constituted could by no means, no matter how much they wanted to, comply with this law. It is an impossibility to come under the terms of this law and comply with its provisions.

Senator Connally: Well, would you mind talking more about

your own Party and its objections, and why it would put you out of business, rather than the trade unions. We will look after those, later.

Mr. Browder: I think I should first speak about the trade unions, because the danger with regard to the trade unions is much greater than that with regard to the Communist Party. After all, our Party is a small, weak organization, relatively unimportant in the affairs of our country, and if our words have any importance, it is not because we talk about ourselves or our own particular position. . . . While not at all speaking on behalf of the trade unions, it is necessary for any responsible person in public life to point out that the measures before us, if impartially applied. . . .

Senator Connally: That connotes an assumption in your mind that it is not going to be impartially enforced.

Mr. Browder: I was pointing out alternatives. The first alternative is that the bill may not be impartially applied, in which case of course the bad results of it would be narrowed, because the bad results would come only where it was applied. . . . The other alternative is to assume that it would be impartially applied. . . . In that case it would render impossible the operations of the trade union movement as at present constituted. . . .

It may suffice to point out that any form of international affiliation brings an organization under the terms of this act and responsible for the fulfilling of some fourteen points of obligations to Governmental instances. . . . I challenge any organization in America to state through its responsible officers that it could possibly fulfill those fourteen points under any circumstances.

Thus, we have the ambiguous character of this bill brought before us in its most obvious form, that it attempts by indirection to accomplish what evidently is understood cannot be properly defended directly before the Congress or the country. It creates obligations on organizations which have any form of organizational recognition of the principles of the international common interests of the working people of the world, and upon such organizations it places obligations which are impossible of fulfillment by any organi-

zation in America. There is no functioning political organization in America that could possibly meet the requirements of the fourteen points listed in this law, beginning on page 5 and ending on page 7. It is not possible to operate under that law without constantly violating the law and subjecting every leader and every member of that organization to a fine of \$10,000 or imprisonment for five years. . . .

Senator Miller: Mr. Browder, in reference to your objection to the fourteen points, now, I can visualize some trouble in complying with or furnishing the information required by the fourteen points, by certain organizations, but now let us see if there would be any actual trouble in furnishing the information required in the fourteen points, beginning on page 5, down to the middle of page 7, with the organizations that would be required to file the information, going back to page 3, that it is only directed first to every organization subject to foreign control.

Mr. Browder: The foreign control, if you will pardon my interrupting—

Senator Miller: Yes.

Mr. Browder: —is defined. . . . It is defined to include this. "Foreign control" means any organization which in any way has any affiliations outside of the United States. . . . "Any affiliations outside of the United States" is defined as "foreign control. . . ." That means that under Section 1 is included not only the Communist Party but the American Federation of Labor. . . .

Senator Connally: Well, it is not complaining of it.

Mr. Browder: No, it is not complaining, because it does not expect the law to be applied; but those are the terms of the law. . . .

I would have to raise very serious questions as to how such laws would be applied, because we have had the experience, if you will pardon me, Senator, of seeing excellent laws, taking them as they appeared on paper, in France, and in Germany in the early years before the Nazis came into power, laws ostensibly directed towards the rising of these anti-democratic movements, which in application were applied only to the Communist Parties of those countries; so

while I would have to admit the correctness in principle of the position you have stated, I would have to put my reservations very seriously as to how those principles would be applied. . . .

Senator Connally: Would not France have been a lot better off if she had known in advance the international relationships that were going on between the "fifth column" in France and the influences in other countries, before the debacle of the French Republic?

Mr. Browder: France knew it.

Senator Connally: Well, if she knew it, she did not make any use of it.

Mr. Browder: That is the trouble. . . . The Communists were the only people in France that voted against the Munich betrayal. . . .

Finally, let me make it clear that if the Communist Party comes under the terms of this bill it is not because the Communist Party in any way is under foreign control. . . . I can remark in passing that in my opinion it is clearly unconstitutional, and I would expect that four or five years of its enforcement would finally bring a Supreme Court decision that it was unconstitutional and illegal; but that would not be of very much help for the immediate situation before the country. . . .

One last word. I do not think that the argument that I have presented is an argument directed towards protecting the Communist Party against attacks which it would experience under such a law as this, except in the most incidental way. I direct all of my arguments primarily to the preservation of the political life of our country. The harm that would be done to the Communist Party would be purely incidental but the harm that would be done to the whole political life of America by such measures as this would not be remediable under the present world situation for a very long time. It would distort the whole political development of our country in facing the world crisis. It would stultify the thinking of our country. It would place under the ban of illegality some of the most important issues and programs which America must debate in the coming period and in advance of such debates try to determine its outcome by prejudging it, placing certain views under the ban.

We have confidence in American democracy that it can consider all of these issues and arrive at a correct decision. We do not think that you have to control the thinking processes of the American people in order to guarantee the outcome. . . .

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