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“New Deal Witch Hunt”

The Buchanan Committee Investigation of the Committee for Constitutional Government



DAVID T. BEITO AND MARCUS M. WITCHER

Nobody was quite sure what Edward A. Rumely would say in testimony before the U.S House Select Committee on Lobbying in 1950. Would he name names, plead the Fifth Amendment, or defy the committee and thus risk possible jail time? Rumely chose defiance, declaring, “I will not give you the names of people who have bought our books. You are invading our constitutional rights” (qtd. in “Rumely for 3d Time Refuses to List Buyers” 1950). Instead of the Fifth, he pleaded the First Amendment. Even before this encounter, the chairman of the House committee, Frank Buchanan, had warned that the unfriendly witness risked a contempt resolution. He vowed not to “permit Mr. Rumely or his organization to divert this hearing into an argument over constitutional rights” (U.S. House of Representatives 1950b, 1).

Beyond these details, the story of Rumely’s confrontation with Congress broke from the familiar Cold War–era mold. He was not a victim of a “witch hunt” by the House Committee on Un-American Activities or by Senator Joseph McCarthy. Far from it. Unlike the era’s best-known “unfriendly witnesses” who refused to name names, he was both an ardent anti-Communist and a militant foe of the New Deal.

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His main critics did not come from the right but were a mixture of New Dealers and Communists.

Edward A. Rumely's showdown with Congress was the final major episode in the "Brown Scare," a name coined by Leo Ribuffo to describe how New Deal attacks of those on the right anticipated McCarthyite methods of intimidation and guilt by association. A key episode in the Brown Scare was the Great Sedition Trial of 1944, in which the federal government prosecuted more than thirty people on the extreme right on dubious charges of conspiracy. Attorney General Francis Biddle brought the case in great part because he faced intense pressure from Franklin D. Roosevelt to take action against "isolationist" critics of Roosevelt's foreign policy before the war. The defendants were charged under the Smith Act of 1940, which, ironically, many of them had supported because they thought that the Communist Party would be targeted (Ribuffo 1994).¹

Rumely was convicted by a federal court for refusing to provide to a congressional committee the names of people who had purchased his books because it wanted to identify the financial backers of Rumely's organization. The case made it all the way to the Supreme Court, which found Rumely to be within his rights. Similarly, Joseph McCarthy's leftist targets cited *United States v. Rumely* (345 U.S. 41 [1953]) when refusing to name names. This decision also helped to shape civil rights case law. For example, in *NAACP v. Alabama* (357 U.S. 449 [1958]), the U.S. Supreme Court cited *United States v. Rumely* when it upheld the NAACP's right to deny the state of Alabama the names of its members. The forced exposure of names, as the Court pointed out, was a means to suppress participation and donations.

Rumely's fight to protect the privacy of those who purchased his products is important because it demonstrates that the tactics used by McCarthy and the House Committee on Un-American Activities had roots in the New Deal suppression of conservative thinkers and organizations during the 1930s and 1940s. Far from justifying these anti-Communist investigations, Rumely's story puts the Second Red Scare into a new perspective. It illustrates that both Republicans and Democrats desired to use the force of government—the Internal Revenue Service, special committees, and even the courts—to silence their political opponents. It also illustrates the perils of singling out one party or person for the political inquisitions of the period and the need to examine the institutions that enabled both parties to engage in such widely criticized tactics. Ultimately, *United States v. Rumely* and *NAACP v. Alabama* were not about right and left but rather about the rights of individuals against an intrusive state.

Unlike the defendants in the Great Sedition Trial of 1944, Rumely was not a marginal figure, nor were his views on the fascist fringe, though some of his critics said they were. He was born in LaPorte, Indiana, in 1882 to a German American Catholic family. His grandfather, Meinrad Rumely, had fled Germany with future

1. An essential work for understanding Roosevelt's use of tax audits, wiretapping, the radio, and other methods to silence and manipulate critics of his policies is Folsom 2008.

U.S. senator Carl Schurz during the liberal revolution of 1848 and went on to found M. Rumely Company, a manufactory of farm implements (Dunnebecke 1987, 8).

In 1915, Rumely made a decision that haunted him the rest of his life. Using funds borrowed from an American citizen then living in Germany, he purchased the *New York Evening Mail*, intending to make it a voice for the Bull Moose (Progressive) movement. On the face of it, this intention seems at odds with his later career as a champion of anti-New Deal conservatism but Rumely did not see it as such. Rumely later claimed that he did not know that all such loans at the time had to be funneled through the German government. After the United States declared war on Germany, the federal government charged that he had violated the Trading with the Enemy Act of 1917 by taking money from the German government. Even though the alleged offense had occurred in peacetime, Rumely was convicted and, after several appeals, went to prison in 1923 (Dunnebecke 1987, 12–13; Martin 2013, 92–93). The Coolidge administration, however, granted him a full and unconditional pardon. Although by that time a majority of jurors and the prosecutor also recommended leniency, Rumely's enemies brought the case up repeatedly to discredit him over the next three decades.²

The Minton Committee Investigation

During the mid-1930s, Rumely formed an alliance with other critics of the emerging New Deal, most notably Amos Pinchot (brother of the famous conservationist Gifford Pinchot) and Frank Gannett. Although Pinchot had also supported Teddy Roosevelt in 1912, he, like Rumely, always showed strong antiwar and civil libertarian inclinations. He was chairman of the American Union against Militarism and a founder of the American Civil Liberties Union. Frank Gannett, an anti-imperialist since he had voted for William Jennings Bryan in 1900, was a wealthy pro-free-market owner of a national newspaper chain. Gannett was the only member of this group not to come out of a Bull Moose tradition (Dunnebecke 1987, 13–22; Martin 2013, 93).

One week after Franklin D. Roosevelt announced his plan in 1937 to pack the U.S. Supreme Court, Rumely, Pinchot, and Gannett organized the Committee to Uphold Constitutional Government (CUCG). Gannett, the official chairman, wrote the checks, and Rumely ran the day-to-day operations, initially as public-relations director (Dunnebecke 1987, 45–46). The treasurer was Sumner Gerard, a New York lawyer and veteran of the Rough Riders (Kohn 2014, 176). The group's advisory board members included Pinchot, Hugh Johnson (former head of the National Recovery Administration), novelist Booth Tarkington, and journalist Dorothy Thompson. The CUCG, in mobilizing against “court packing” (a term it did much to popularize), led perhaps the first successful political offensive against the New Deal

2. *Congressional Record*, House, September 21, 1950, 15447.

and pioneered the use of direct mail to gain supporters (Dunnebecke 1987, 49–51). Over the next seven years, the group distributed more than 82 million pieces of literature declaiming such policies as expanded government medical insurance, public housing, and labor legislation.³

It did not take long for New Deal congressional Democrats to mount a counterattack. In 1938, Democratic senator Sherman Minton of Indiana announced a sweeping investigation targeting forces opposed to “the objectives of the administration” (“Lodge Charges Senate Seeks WPA Whitewash” 1938). As chair of the Senate Select Committee on Lobbying, Minton had succeeded his mentor, U.S. senator Hugo Black, whom Roosevelt had elevated to the U.S. Supreme Court. During his tenure as this committee’s chair, Black had deployed highly controversial methods such as dragnet subpoenas of telegrams (with the assistance of the Federal Communications Commission) and of tax records (with the assistance of the Internal Revenue Service) when probing anti–New Deal business interests and political organizations such as the American Liberty League. Minton, who had been Roosevelt’s preferred choice for the first open Supreme Court slot but had turned him down, was even more zealous than his predecessor in fealty to the New Deal. A decade later, however, Minton accepted an offer from Harry S. Truman, who had also once been a key Senate ally, to fill another vacancy on the Court (Ball 1996, 82–93; Czaplicki 2010, 1–77).

Shortly after Minton announced the investigation, Senate committee staffers arrived en masse at the CUCG’s headquarters, where they began copying files. After watching this for several hours, Rumely ordered them out, alleging an illegal “fishing expedition” (Committee for Constitutional Government 1944, n.p.). Meanwhile, the Department of the Treasury gave Minton the previous two years of Rumely’s income tax return, and the Department of Justice considered a prosecution for contempt of Congress. It decided otherwise after John B. Abt, the special assistant to the attorney general (and, somewhat ironically, a secret member of the Communist Party⁴), predicted that “counsel for the defendant will attempt to convert the trial of his client into a trial of the Senate Committee.”⁵ Minton’s undoing, however, was his proposed bill to ban newspapers from publishing articles known to be false. The resulting public backlash over a perceived threat to free speech led to the collapse of the investigation. But Rumely’s critics were not about to give up. He was subject to almost constant investigation over the next twelve years (Dunnebecke 1987, 57–65).

3. “Frank E. Gannett” 1946; Sumner Gerard to All Members of Congress, June 27, 1950, Lobbying Activities, Select Committee to Investigate, Committee for Constitutional Government, Folder 95, Box 9, Carl Albert Collection, Carl Albert Congressional Research and Studies Center Archives, University of Oklahoma, Norman.

4. For more on Abt’s secret involvement in the Communist Party, see Haynes, Klehr, and Vassiliev 2009, 275, 279, 537.

5. Memorandum for the Solicitor General, Re: Special Senate Committee to Investigate Lobbying Activities—Punishment of Edward A. Rumely for Contempt, March 28, 1938, Robert H. Jackson Papers, Manuscript Division, Library of Congress, Washington, D.C.

Throughout the 1940s, the CUCG, renamed the Committee for Constitutional Government (CCG) in 1941, was a constant thorn in the New Dealers' side. In an article for *Colliers*, Harold Ickes called the group a "devilish petard" that was inciting "mob spirit—that miasmatic, bloodthirsty degrading emanation out of the dim past" (1939, 14). After World War II started, the CCG battled an array of administration initiatives, including labor legislation, rent control, public housing, and the Wagner National Health Insurance Bill (CCG 1944, 19, 43). Although many CCG leaders, including Rumely and Gannett, were personally supportive of the America First Committee, the CCG generally steered clear of foreign policy. But the shift to a broader anti-New Deal agenda also came at a price when some of the more liberal members, who had joined because of opposition to court packing, dropped out (Polenberg 1965, 596–97; Dunnebecke 1987, 86).

The CCG's first chair was Gannett, who resigned in 1940 to run for the Republican Party presidential nomination in what proved an abortive campaign. His successor as chair was Samuel Pettengill, a self-described "Jeffersonian" and former U.S. House Democratic representative from Indiana (Pettengill 1941). Taking over from Pettengill in 1942 was the famous religious leader and best-selling author Norman Vincent Peale, who in turn was succeeded by Wilford I. King, a free-market economist from New York University.⁶

Throughout this period, Rumely ran the CCG's day-to-day operations as secretary and was instrumental in setting policy. The CCG's wartime push for a constitutional amendment to limit taxes on incomes, gifts, and inheritance to 25 percent especially earned the New Dealers' ire. By 1944, only one year after the effort began, sixteen states had approved the amendment. Particularly vitriolic was the response of U.S. representative Wright Patman of Texas, a feisty New Deal Democrat. After the CCG established a presence in his district, he blasted it as the "Quisling reserves" and the "most sordid and most sinister lobby ever organized" (qtd. in "A Report on Rumely Enterprises, Installment II," 1950, 4). Patman easily qualified as the CCG's most dogged critic, attacking it an amazing twenty-nine times from the House floor over the next seven years (Dunnebecke 1987, 104–105, 160; Martin 2013, 99–100).

The Anderson Committee and the Great Sedition Trial

The CCG's determined push for the amendment led to a major counterattack by New Dealers both in and out of government. In response to demands by Sidney Hillman, head of the powerful political action committee (PAC) of the Congress of

6. "A Report on the Rumely Enterprises, Installment IV" 1950, 3–4; Frank Gannett to [name unknown], November 10, 1942, Miscellaneous Correspondence, D-L, 1942, Box 4, Folder 8, Frank E. Gannett Papers, Special Collections, Cornell University, Ithaca, N.Y.; Committee for Constitutional Government 1944, 4–5, 20–29.

Industrial Organizations (CIO), the House Committee on Campaign Expenditures chaired by Democrat Clinton Anderson of New Mexico launched another investigation of the CCG in 1944 (Dunnebecke 1987, 107). Its inquisitorial tactics were reminiscent of those used by the Minton Committee in 1938. Anderson charged that the CCG was a partisan organization and thus subject to stringent reporting requirements. He wanted to ensure that the CCG contributors did not “escape the odium” of associating themselves with an organization so guilty of “vicious, malicious political slander of top characters in public life such as the President of the United States” (qtd. in “Treasury Plugs Gannett Fund Tax Loophole” 1945). Like Minton, Anderson subpoenaed the names of contributors to the CCG, and Rumely, as he had before, dug in his heels. He denied that Congress had authority to get the information because the CCG had “never spent a dollar for or against any candidate or party” (“Gannett’s Group Defies House Body” 1944).

Unbeknownst to the public, the Anderson Committee was working closely with the like-minded Sectarian Anti-Nazi League (SANL). Most media coverage focused on the league’s support for a highly punitive peace for Germany, but the group also had a much less publicized, private investigative arm. According to James H. Sheldon, who ran the SANL’s day-to-day operations, this unit’s key goal was to explore “propaganda in the twilight zone between seditious activities and violations of the espionage act [*sic*], on the one hand, and good Americanism on the other” (Pegler 1950a). The SANL’s chief investigator was Richard Rollins, who had worked for the House Committee on Un-American Activities when it was chaired by leftist Samuel Dickstein (later revealed to be receiving subsidies from the Soviet Union⁷) (Pegler 1950a).

To aid the Anderson Committee, the SANL planted a mole, Sallie Connelly, in the CCG’s home office in New York. She passed on documents and other information to the committee.⁸ Because of her efforts, writes Joanne Dunnebecke, the Anderson Committee obtained “copies of some of the group’s publications before they were distributed, but it got none of the incriminating office memoranda or letters implicating Rumely or Pettengill in electioneering that it had hoped to find” (1987, 110). Although a smoking gun proved elusive, the Anderson Committee cited Rumely for contempt (the lone Republican committee member present objected) for defying a congressional subpoena (Burd 1944). The House as a whole did not vote on the matter, but Speaker of the House Sam Rayburn (D-Tex.) certified to a federal district attorney that Rumely was in contempt of Congress, so Rumely was tried in the U.S. District Court of the District of Columbia (“Federal Attorney Gets Rumely Case” 1944). The leaders of the CCG were unrepentant.

7. For more on the Soviet payment of subsidies to Dickstein, see Haynes, Klehr, and Vassiliev 2009, 285–87.

8. Sallie M. Connolly, Copy of Notarized Affidavit, October 17, 1944, Folder: Communism—Opponents of Committee for Constitutional Government, 1941–1950, James Westbrook Pegler Papers, Herbert Hoover Presidential Library, West Branch, Iowa.

Frank Gannett charged that if a congressional committee “dominated by a New Deal zealot, can force us to comply with its demands, then it can demand the names of every advertiser of any newspaper, the names and contributors to any organization, church or charitable institution” (“Gannett Vows Fight to End for Rumely” 1944).

Even as the SANL was helping the Anderson Committee, its investigators were doing the same for the federal government in the trial of more than thirty right-wing defendants for sedition under the Smith Act (Waring 1944). The proceedings, which began the same year as the Anderson Committee investigation, represented, in part, U.S. attorney general Francis Biddle’s attempt to appease Roosevelt. Especially after Pearl Harbor, the president had relentlessly pestered him to put the likes of Robert McCormick, publisher of the *Chicago Daily Tribune*, and Joseph Medill Patterson, publisher of the *New York Daily News*, in the dock (Steele 1979, 29–31). On the surface, the contrasts between the Sedition Trial prosecution and the Anderson Committee inquiry far outweighed the similarities. Most notably, Rumely and Gannett were mainstream opponents of the New Deal, whereas the sedition defendants were an unsavory lot, mostly cranks and anti-Semites who had, at best, a marginal following (“Sedition Trial Is Denounced as Farce” 1944; Ribuffo 1994, 181–99).

For the SANL, however, both investigations furthered a broader agenda of discrediting mainstream noninterventionists as fascist sympathizers and provided an entering wedge for further prosecutions (“Firsters’ Exposed in Political Steal” 1944). In early 1944, the league’s publication, the *Anti-Nazi Bulletin*, indicated as much when it brushed off any “isolationist” defenses of the defendants’ constitutional rights as “explained only on the assumption that these politicians live in daily fear lest, when the conspiracy cases are actually tried, they themselves should be proven equally guilty with the lesser fry who are named on the face of the indictments” (“Why Does U.S. Continue Coddling Hatelers” 1944, 1). Similarly, James H. Sheldon warned that anti-Roosevelt publications, such as the *Chicago Daily Tribune* and *New York Daily News*, would only become more brazen “unless some kind of line in the sand can be drawn in the minds of the public as to where disloyalty to America begins” (qtd. in “Sheldon Urges Citizen Action to Spur Trial of Subversives” 1944, 5).

The Friends of Democracy (FD), another organization that worked in tandem with the SANL, also tried to discredit Rumely, Gannett, and the CCG by linking them with the Sedition Trial defendants. In addition to his work in the famous Nero Wolfe mystery novel series, Rex Stout, the FD’s president, had edited the book *The Illustrious Dunderheads* (1942), which lampooned pre-Pearl Harbor congressional opponents of FDR’s foreign policy. The FD relied on tactics of guilt by association, innuendo, and the deployment of hired private snoops to dig up dirt on prominent noninterventionists.⁹

9. Stout 1942; Friends of Democracy in 1946, Folder: Communism, Friends of Democracy, 1941–1966 and undated, Pegler Papers.

At the center of the SANL/FD nexus was the FD's "chief investigator," Avedis Derounian. Few figures were more despised by conservative noninterventionists. Under the pen name "John Roy Carlson," Derounian wrote the sensationalist memoir *Under Cover: My Four Years in the Nazi Underworld of America—the Amazing Revelation of How Axis Agents and Our Enemies within Are Now Plotting to Destroy the United States*, which rocketed to the top of the nonfiction best-seller rankings in 1943. A special editorial of the SANL's *Anti-Nazi Bulletin* praised it as "Democratic Dynamite" ("Democratic Dynamite" 1943, 2).

Under Cover showed Derounian's heavy reliance on the broad-brush technique of guilt by association. When promoting the book, he warned that the "day has passed when we can afford to be tolerant with our enemies inside or outside the country and inside or outside of public office."¹⁰ Derounian never tired of conveying the central message that mainstream noninterventionists and seditionists belonged to the same sinister fascist or quasi-fascist co-conspiracy. One of his favored methods of implicating them was to note (often casual) shared acquaintances or to emphasize cases in which a genuinely Nazi publication had praised or republished the speech of a mainstream noninterventionist. Along these lines, Derounian relied on the refrain that Rumely was an "agent of Imperial Germany" (Carlson 1943, 461) because of Rumely's earlier conviction for supposedly taking money from the German government, but he left out any mention of the pardon by Coolidge.

This probing line of attack created a genuine dilemma for mainstream noninterventionists. Should they speak up and criticize *Under Cover* and thus be rendered suspect of pro-fascist sympathies, or should they remain silent? Former America First Committee leader John T. Flynn, who was to be a key figure in the CCG's later history, framed the problem succinctly, commenting that *Under Cover* "'exposes' a lot of subversive groups like the Bund, Crusaders for America, etc. Nobody wants to take up the cudgels for them. . . . [Its] object is to smear and intimidate everybody opposed to Roosevelt's foreign adventures."¹¹

Mainstream conservatives, initially on the defensive, grew bolder as the Sedition Trial rapidly became a circus. One of the first to speak out had been U.S. senator Robert A. Taft, a longtime critic of Roosevelt's domestic and foreign policies. After the first indictments in 1942, the son of the former president made a comparison to "'the witch-hunting' of the first war, except this witch hunt is more dangerous, more calculated and vicious than that of [19]17" (qtd. in Camelon 1942). By 1944, discontent with the trial had spread across much of the political spectrum. Even the *Washington Post*, so instrumental in pushing the prosecutions in the first place, started to have second thoughts ("Paper Promotes Sedition Trial" 1944; Ribuffo 1994, 183).

10. "The Nation in War and Word Peace," August 23, 1943, Freedom House, WEVD, radio transcript, Folder: Broadcasts, August 23, Box 16, John T. Flynn Papers, Special Collections and University Archives, University of Oregon Libraries, Eugene.

11. John T. Flynn to Burton K. Wheeler, January 3, 1944, Folder: Carlson-Wheeler, Flynn Papers.

Both the Sedition Trial and the Anderson Committee investigations petered out during roughly the same period. The Sedition Trial suffered a major setback in December 1944 after Judge Edward C. Eicher died from a heart attack. The Department of Justice mulled over appointing a replacement, but in 1946 Chief Justice Bolitha J. Laws of the U.S. District Court of the District of Columbia threw out the charges, calling any possible retrial a “travesty on justice” (qtd. in “A Travesty on Justice” 1946). In 1947, after the U.S. Court of Appeals upheld Laws’s ruling, Attorney General Tom Clark decided to drop the matter entirely. In response, an article in the *Chicago Tribune* declared triumphantly, “The New Deal witch hunt, which dragged thru five years, ended yesterday” (“New Deal’s Sedition Case Dies after 5 Years” 1947; see also Trohan 1947). Dropping this particular case did not mean that the federal government had abandoned prosecuting people for sedition, however. In 1948, a new round of sedition trials began under the Smith Act, though Communists were the target this time (Ribuffo 1994, 199). In October 1945, Rumely became a free man because of a hung jury in his trial for contempt in U.S. District Court (“Jury Disagrees in Rumely Trial” 1945). He was then retried on the same charges and acquitted in April 1946 (“Rumely Wins Acquittal” 1946).

Although Rumely had triumphed over the Anderson Committee in the courts, the victory was bittersweet. In a familiar pattern, contributions from gun-shy donors fell off much as they had during the Minton investigation. Another consequence of the Anderson Committee, at least in part, was the Lobbying Act of 1946, which required lobbies to disclose the names of all those who had contributed \$500 or more to an organization. The law also made a sweeping definition of lobbying to include any attempt to influence the passage of legislation. Although the CCG registered under protest, its leaders found an inventive way around the name-reporting requirement, or so they thought. Instead of accepting cash contributions of more than \$490, it took them in the form of book orders (Dunnebecke 1987, 121–23, 132).

Truman Declares War on Lobbies: Background to the Buchanan Committee

After Truman’s upset victory in 1948, which brought Democratic majorities back to both houses, Fair Dealers promised again to scrutinize lobbies such as the CCG. Many of them had blamed these groups for the Republican triumph in the congressional elections of 1946. In its first postelection issue, the *New Republic* declared triumphantly that the “New Deal is again empowered to carry forward the promise of American life” and that it was high time to investigate “the great lobbies and the millions they have spent . . . to defeat social legislation” (“Damn the Torpedoes” 1948, cover, 6). The American Federation of Labor (AFL) and the CIO agreed on this goal, as did two of the most highly read columnists in the United States, Drew Pearson and Walter Winchell (Pearson 1949a, 1949b, 1950; Keenan 1950, 20–21; Winchell 1950a).

Truman himself threw the weight of his administration behind the effort. Shortly after the election, in response to a letter from Eric Peterson, the general secretary and treasurer of the National Association of Machinists, Truman opined that “a thorough investigation of lobbying activities would have a very salutary effect.” Peterson’s letter had singled out the CCG and National Association of Manufacturers as key groups that continued to seek “to block your legislative program” (letters released to the press qtd. in “Truman Supports Lobbying Inquiry” 1948). Truman’s interest in this issue was no surprise. His speeches during the 1948 campaign had stressed the dangers of lobbies. Less than a week before the election, he had charged that the current Republican Congress was the “most thoroughly surrounded by lobbies in the whole history of this great country. . . . It’s disgraceful, and you ought not let that happen again.”¹²

Haggling over the details of a joint Senate/House committee, however, considerably delayed the promised investigation. The prospect of prominent anti-Truman Democratic U.S. senator Pat McCarran as chair of the proposed committee led the U.S. House finally to go it alone (“House Will Investigate All Lobbies ‘On Its Own’” 1949). In August 1949, the House authorized a seven-member select committee under Representative Frank Buchanan of Pennsylvania, a very junior member. Buchanan also had his own axe to grind because the CCG had successfully fought expanded public housing and rent control, goals he had championed. At Buchanan’s urging, the House defined the Lobbying Committee’s mission broadly to include investigation of “all lobbying activities intended to influence, encourage, promote or retard legislation” (Schriftgiesser 1951, 115–17).

In the meantime, the CCG ramped up its assault on the Fair Deal by promoting John T. Flynn’s book *The Road Ahead: America’s Creeping Revolution* (1949). Flynn warned that leftist pressure groups were edging the United States into socialism through a Fabian strategy of incremental change (as was happening in Britain). Devin-Adair sold the book for \$2.50, but the CCG cut the price to \$1.00 and even lower in bulk purchases, thus creating an incentive to purchase copies by groups such as the American Medical Association (“Editorial: The Rumely Case” 1951, 34; Moser 2005, 187; Schriftgiesser 1951, 205).

Flynn’s message reached a still greater audience when *Reader’s Digest*, which had a circulation of 15 million, carried a condensed version in February 1950. From 1949 to 1950, more than a million copies of the book and its condensed version turned up in the offices of doctors, dentists, and professional people throughout the country.¹³ “In neat piles on waiting room tables,” wrote a critic of the CCG, “where they could

12. Harry S. Truman, informal remarks in New York, October 29, 1948, Harry S. Truman Papers, Harry S. Truman Library and Museum, Independence, Mo., at <http://www.trumanlibrary.org/publicpapers/index.php?pid-2015>.

13. Statement of Edward A. Rumely, April 1951, Folder 21, Box 2, Edward A. Rumely Papers, Special Collections and University Archives, University of Oregon Libraries, Eugene.

not escape the attention of the bored and the apprehensive alike, reposed countless copies of a book that became, if not the most widely read book of the year, one that was at least the most widely distributed” (Schriftgiesser 1951, 194). Similarly, the FD’s newsletter dubbed this CCG effort one “of the largest propaganda drives in recent years” (“A Report on the Rumely Enterprises, Installment I” 1950, 3).

As Flynn’s treatise found its way into nearly every congressional district, the House Lobbying Committee’s investigation finally began to gear up. The committee sent out a probing questionnaire to more than 170 businesses and organizations. It defined lobbying in the broadest possible terms to also include groups that engaged in the indirect formation of political ideas.¹⁴ Although Buchanan vowed to play no favorites and pledged that his goals were only information and transparency, few of the questionnaires went out to businesses or groups led by Fair Dealers. More importantly, the questionnaire itself asked each respondent to “include all expenditures in connection with” only seven specifically named organizations. All but one of these organizations was conservative and libertarian in orientation: American Enterprise Association (the predecessor of the American Enterprise Institute), America’s Future, Inc. (a conservative outlet for Robert McCormick of the *Chicago Tribune*), the Constitution and Free Enterprise Foundation, the Economists National Committee for Monetary Policy (pro-gold standard), the libertarian Foundation for Economic Education, the National Economic Council (a right-wing nationalist group), and the Constitutional Educational League (a smaller, right-wing nationalist group). The lone exception to this pattern was the Public Affairs Institute, a left-of-center group that promoted an even larger welfare state.

The most glaring omissions on the Lobbying Committee’s target list were the CIO and its PAC as well as businesses allied with the administration, such as Kaiser, Latex Corp, Consolidated Vultee, and Ed Pawley’s oil interests.¹⁵ Buchanan himself revealed some explicit bias early on when he said that three out of the eight organizations under fire advocated “a brand of American Fascism; they are against those who believe in a free, progressive America” (qtd. in “Lobby Probers Near Pay Dirt” 1950, 2).

Buchanan’s failure to consult with or even inform the Republican minority on the committee until well after the questionnaire was sent out came to dog him in the coming months. From the beginning, the Republican members were suspicious (Schriftgiesser 1951, 148–49). Nevertheless, everything went smoothly for the Buchanan Committee during the first phase of hearings in April and May as it grilled assorted witnesses from the “housing lobby.” Although some of these Republicans grumbled about overreach, they all cooperated. The most publicized episode of this phase of the hearings came when Buchanan and other Democrats cross-examined Herbert U. Nelson, the head of the National Association of Real Estate Boards, over

14. *Congressional Record*, House, June 15, 1950, 8676.

15. *Congressional Record*, House, June 21, 1950, 9031; “Fair Deal Intimidation” 1950; Dunnebecke 1987, 155.

a letter Nelson had sent to his incoming successor, T. H. Maenner, in 1949. Nelson had declared, “I do not believe in democracy. I think it stinks.” The Republicans charged that someone on the committee had improperly leaked and quoted out of context Nelson’s “private correspondence,” thus disproving Buchanan’s vow of an unbiased investigation. Nelson emphasized that his letter had also avowed support for a “republican form of government” with limited powers, but the overall effect of the imbroglio put Buchanan Committee detractors on the defensive (“Real Estate Lobby Put under Inquiry” 1950).

By this time, the investigation was scaring away CCG contributors. On this matter, both friend and foe could agree. “Book sales by the Committee for Constitutional Government,” declared the *UAW-CIO Ammunition* with some encouragement, “have fallen off substantially since the committee’s activities have had some light put on them.”¹⁶ In a more somber note, Rumely admitted to John T. Flynn that “the Buchanan Committee has cost us heavily.”¹⁷

Rumely Defies the Buchanan Committee

Even so, the tide was starting to turn against the investigation. The first signs of trouble for the Buchanan Committee came on June 5, when William C. Mullendore, the president of the Southern California Edison Company and a trustee of the Foundation for Economic Education, stubbornly refused to answer the committee’s questionnaire (“Inland Steel Head Defies Buchanan” 1950). Mullendore blasted the investigation as an “intimidation in limiting the exercise of the right of free speech by millions of citizens in opposing or supporting legislation” and “a brazen attempt at thought control.”¹⁸

Mullendore’s defiance, seconded by Clarence B. Randall, the president of Inland Steel Company, probably stiffened Rumely’s resolve as he prepared to appear before the committee the next day (“Inland Steel Head Defies Buchanan” 1950). Rumely had already decided in May not to comply, opining to Frank Gannett that “[t]hirty or sixty or ninety days in jail in a fight for principle are not without real compensation.”¹⁹ A grimly determined Buchanan repeatedly pressed the witness, but Rumely answered (much as he had at previous congressional inquiries) that he would not “give the names of the people who bought books.” His promise to answer all of the other twenty-five questions from the committee did not appease the Democratic

16. Appendix to *Congressional Record*, House, 1950, A6246.

17. Edward A. Rumely to Flynn, July 7, 1950, Folder: Committee for Constitutional Government, Box 17, Flynn Papers.

18. William C. Mullendore to Frank Buchanan, June 5, 1950, Folder: Committee for Constitutional Government, Box 17, Flynn Papers.

19. Rumely to Frank Gannett, May 26, 1950, Folder: Committee for Constitutional Government, Box 17, Flynn Papers.

majority. After rebuffing Rumely's request to enter a statement of explanation into the record, Buchanan curtly dismissed the witness (U.S. House of Representatives 1950a, 26–29).

In contrast to Rumely, two other key targets of the Buchanan Committee, the National Economic Council, led by Merwin K. Hart, and the Foundation for Economic Education, led by Leonard Read, chose to cooperate with investigators. The head of a third group, Joseph Kamp of the Constitutional Educational League, testified that he was willing to comply but did not know what the committee expected of him (U.S. House of Representatives 1950a, 7–10, 14–17). Both Hart and Read made clear in their testimony that they were testifying under protest. Before Read's testimony, Mullendore had privately warned him that he was “going against a bunch of cut-throats who have very vicious motives.”²⁰

But Read, ever the sunny optimist, was inclined to turn adversity into opportunity, stating to Mullendore that if “the intention is purely for information, enlightenment and philosophy on freedom vs. licensing, then a careful statement is in order.”²¹ In the end, the amiable and erudite Read acquitted himself well, though he stipulated that he thought the committee was exceeding its authority. After hearing Read's testimony, Buchanan, then very much in his critics' crosshairs, stated that he did not consider the Foundation for Economic Education “a propaganda mill” but rather “strictly a research and educational institution, according to your viewpoint” (U.S. House of Representatives 1950c, 110).

Even so, Read's testimony received little publicity compared to the full-throttled pushback from Mullendore and Rumely. The effect of their resistance was to force the Buchanan Committee onto the defensive, permanently. Press commentary, which had either ignored the investigation or was generally supportive of it, turned abruptly hostile. The committee faced a barrage of unrelenting press attacks in the two weeks after Rumely's testimony. One of the first salvos, an editorial from the *Cleveland Plain Dealer*, “Fair Deal Intimidation” (1950), stressed the selectivity of the investigation, alleging that Buchanan had purposely ignored corporate “pets of the administration” such as the Henry Kaiser enterprises. Similarly, the *Nashville Banner* wondered why the Americans for Democratic Action (ADA) and the CIO PAC were not targeted by the committee's “burdensome and sinister” questionnaire (“Pernicious Probe” 1950), and the *Richmond News-Leader* recommended that Buchanan “take a long running jump in[to] the nearest convenient lake” (“Mr. Buchanan Can Jump” 1950). Even Buchanan's hometown paper, the *Pittsburgh Post-Gazette*, condemned the probe (“Buchanan off the Track” 1950).

More than a few critics of the committee broadened their analysis to include the history of both the investigation and its backers. Robert McCormick's newspaper,

20. Mullendore to Leonard Read, July 5, 1950, Foundation for Economic Education Papers, Foundation for Economic Education, Atlanta, Ga.

21. Read to Mullendore, July 5, 1950, Foundation for Economic Education Papers.

the *Chicago Tribune*, compared Buchanan's inquiry to Hugo Black's "infamous inquisition into lobbying" during the 1930s and emphasized the behind-the-scenes "assistance in his smearing campaign" by "a poison pen outfit misnamed 'Friends of Democracy'" ("Another Black Committee" 1950).

This first wave of anti-Buchanan Committee criticism not only spanned the political spectrum but also included respected establishment outlets. For example, the prestigious journal *Editor and Publisher* called the committee's investigation "an invasion of the guaranteed right of the American people to own, hire or use a printing press without interference" ("Editorial: The Printing Press" 1950), and Marquis Childs, a popular syndicated columnist with impeccable pro-New Deal credentials, had this to say in the *Washington Post*: "Such a precedent is exceedingly dangerous to all of us who cherish the freedoms that have made this nation great" (1950). A rare defender of the Buchanan Committee among columnists was Walter Winchell, remarking that the "pompous" Rumely was being "coy about handing over the names of the dupes" who supported him (1950b). The *CIO News* also kept on the attack on Rumely and the CCG, publishing another of several editorial cartoons depicting the CCG as a puppet of wealthy interests (Love 1950, 6; "Raise the Spotlight a Little Higher" 1950).

The Republican minority on the committee also became increasingly assertive in challenging Buchanan. In a highly favorable academic account of the investigation, political scientist Karl Schriftgiesser summed up the tenor of the partisan divide:

Two members of the minority, Representatives Brown and Halleck, were obsessed with the thought that the committee members, and particularly the chairman, were intent upon absolving all "left wing" lobbies of wrongdoing, and equally intent upon condemning all "right wing" lobbies. If by "right wing" is meant organizations dedicated to all antidemocratic measures that have come before Congress since 1932, and if by "left wing" is meant labor unions, small business organizations, minority groups, consumer lobbies, and the like, the charge has some validity. (1951, 133)

The Red Scare and the Brown Scare Intersect

Taken aback by mounting outrage from the press and his Republican colleagues in Congress, Buchanan scrambled to regain the high ground. In an exchange on the House floor, he announced his intention to send questionnaires to the CIO PAC, the ADA, and key Democratic corporate donors such as Consolidated Vultee and the Kaiser interests. Furthermore, Buchanan reemphasized, the committee did not want to target anyone. This gesture led Republican representative Clare Hoffman of Michigan, probably the most vocal foe of the Buchanan Committee in the U.S. House (and similarly prominent six years earlier in denouncing the Sedition Trial),

to quip that had the committee included the named organizations in the original probe, “there might not have been so much criticism.”²²

Buchanan’s gesture did little to impress the critics, who saw it as little more than window dressing. It may even have backfired on him. Buchanan sent questionnaires to and scheduled hearings for the pro–New Deal ADA and the hard-left Civil Rights Congress (CRC), a group aligned with the Communist Party. The naming of the CRC prompted the *Daily Worker*, which a decade earlier had urged prosecuting Rumely for sedition, to blast the investigation as a “witch hunt” (“House Group Sets Up Frameup” 1950). Whereas ADA leader Francis Biddle, former U.S. attorney general and the instigator of the Sedition Trial in 1944, fully cooperated, his CRC counterpart, William L. Patterson, was defiant (“Lobby Probers to Hear Biddle Tell ADA Story” 1950, 1).²³

Patterson’s confrontation with the committee showed striking parallels to Rumely’s two months earlier. From the outset, he met hostility from the Democratic majority, albeit for somewhat different reasons. Because of the rise of McCarthy earlier that year, New Dealers were feeling besieged and had less reason than ever to give any quarter to an alleged Communist. Attacking Patterson also seemed to give them an opportunity to show that they had not singled out the political Right. The New Deal and anti-Communist “witch hunts” had finally crossed paths.

Intentionally or not, Patterson’s defense was essentially the same as Rumely’s. He attacked the committee’s definition of “indirect lobbying” as overly broad and denied that the CRC’s efforts, though it took stands on legislation, fell within that definition. When pressed by the Buchanan Committee counsel Benedict F. Fitzgerald and Democratic representative Henderson Lanham from Georgia to give the names of contributors, Patterson sounded very much like Rumely:

MR. FITZGERALD: And you refuse to furnish any list of contributors?

MR. PATTERSON: I do. If I am defending my civil rights, as I think I am right now, it’s a question of defending their civil rights—

MR. LANHAM: Let’s not get into that. We are not interested in that. Now answer the question. (U.S. House of Representatives 1950d, 31, 44, 51).

But it was another, more fiery exchange between Patterson and Lanham that brought the most press coverage. It centered on a dispute over Georgia’s record of lynchings. The most explosive moment did not appear in the official record, though it did get attention from both black and leftist newspapers. Patterson’s allegations so

22. *Congressional Record*, House, June 15, 1950, 8680.

23. The Buchanan Committee eventually sent a questionnaire to the CIO, the AFL, and key Democratic corporate donors, including Consolidated Vultee and the various Kaiser-owned interests. It did not call witnesses or hold hearings based on this questionnaire. The reasons for not doing so are unclear, but possible factors might have been Buchanan’s desire to wrap things up before the election in 1952 and his increasing weariness of the whole enterprise (“Lobby Investigation” 1951, 762).

incensed Lanham that the Capitol police had to restrain him as he lunged at the witness, calling him a “black son of a bitch”.²⁴ A deluge of racially charged letters of support from constituents poured into Lanham’s office. In response, Lanham, a self-described “progressive” who had first ridden to office with CIO backing, expressed some regret but for the most part defended his act as justified “because of the provocation from this contemptable [*sic*] chocolate covered Communist.”²⁵

In the aftermath of the Lanham–Patterson confrontation, Aubrey Grossman, the CRC’s national organizational secretary, stressed that the potential threat to the CRC went beyond a single racial incident. He charged the Buchanan Committee with trying to intimidate CRC donors by requiring “the names and addresses of contributors from the states of Mississippi, Georgia and other states for the defense of Willie McGee [a black man sentenced to death on rape charges in Mississippi], the Martinsville Seven, and other similar victims of southern ‘justice.’”²⁶ Perhaps because of controversies like this, staffers in the investigation passed the word to Truman that Buchanan planned to quit as chair once the committee had completed its report.²⁷

Rumely’s conservative defenders were not of one mind when confronted with possible analogies between the Buchanan Committee’s investigations and the McCarthy Committee’s. The CCG avoided the issue entirely (Dunnebecke 1987, 174). For his part, John T. Flynn, a champion of McCarthy, rejected any comparison out of hand. According to Flynn, ongoing congressional anti-Communist investigations, unlike the Buchanan Committee’s probe, had “nothing to do with the right of Communists to write books” but rather focused on “the behavior of men who are Communists—who refuse to admit they are Communists—and who sneak into the State Department, the Intelligence departments and the public schools at public expense [to] corrupt the minds of American children against their government.”²⁸ Flynn; Representative Clare Hoffman; former representative John McDowell, who had served on the House Committee on Un-American Activities; and others on the right observed that many of the same leftists criticizing Red hunters for violation of civil liberties had supported the sedition prosecution.²⁹

24. “Dixie Congressman Hurls Racial Epithets” 1950; *Congressional Record*, House, August 11, 1950, 12388–89.

25. Brattain 2001, 154–55; Henderson Lanham to R. E. Busey, August 7, 1959, Box 31, Folder 1, Henderson Lanham Papers, Richard B. Russell Library for Political Research and Studies, University of Georgia Libraries, Athens; Aubrey Grossman to Members of Congress, August 28, 1950, A, Lobbying Activities (1949–1950), George H. Wilson Collection, Box 11, Folder 11, Carl Albert Center Archives.

26. Grossman to Members of Congress, August 28, 1950.

27. David D. Lloyd, Memorandum for the Files, Subject: Continuation of the Buchanan Committee, August 2, 1950, Files of David D. Lloyd, Truman Papers.

28. Radio broadcast, March 23, 1953, transcript, 4, Folder 65-129, Box 15, Flynn Papers.

29. *Congressional Record*, June 15, 1950, 8692; John McDowell to Westbrook Pegler, December 19, 1951, Folder: Communism—Opponents of Committee for Constitutional Government, 1949–1950, Pegler Papers.

In August 1950, the Buchanan Committee approved along narrow partisan lines three separate contempt resolutions and sent them to the House floor for a vote. The first and most publicized centered on Rumely, the second on Patterson, and the third on Joseph Kamp (“Lobby Group Cites Three in Contempt” 1950; “Kamp Is Acquitted of Contempt Charge” 1952). In the floor debate, John W. McCormack, the Democratic majority leader, went to bat for the Buchanan Committee. In language as incendiary as just about any uttered by Joseph McCarthy, he excoriated Rumely as “a spy in World War I, and man who is nothing but a Fascist, who is an opponent of American institutions and American Government.”³⁰ Wright Patman, an old nemesis of the CCG, also weighed in, comparing Rumely to a “cancer on the American body politic.” “Rumely,” he declared, “and the coterie of blind Tories that support him are sending across the Nation a book written by a psychopath named John T. Flynn.”³¹ Although Buchanan avowed again that he had led a completely evenhanded investigation, he was unable to resist the temptation to dig at the CCG as an un-American “anti-Fair-Deal propaganda mill for reaction” that was “seeking to kill off the liberal-labor movement in America” (Buchanan 1950, 17).

Virtually everyone in the House who opposed the Rumely contempt resolution was a conservative, with the notable exception of Vito Marcantonio. As Congress’s lone American Labor Party member, he was easily its most left-wing voice. Marcantonio portrayed himself as an absolutist champion of free speech even for a “Fascist” such as Rumely. If Rumely’s conservative defenders were sincere in their calls to uphold the First Amendment, Marcantonio asserted, consistency dictated a vote against the Patterson contempt resolution.³² Despite Marcantonio’s claims, his record on free speech was at best mixed. During World War II, for example, he had not only applauded prosecutions for sedition but also urged tougher action against right-wing critics of the war.³³ The final vote on the resolution citing Rumely for contempt was close, 183 to 175.³⁴ Nearly every Republican opposed the resolution, joined by Marcantonio and forty-two Democrats, almost all of the latter group from the South. The overall alignment in the vote citing Kamp for contempt, which received much less publicity, was similar, though more lopsided, 215 to 115.³⁵

The Patterson contempt resolution also passed, but by a much more sizeable majority. Although the debate took place during the height of McCarthyism, Republicans cast virtually all of the 106 votes against it. This outcome prompted the

30. *Congressional Record*, House, August 30, 1950, 13892.

31. *Congressional Record*, House, August 29, 1950, 13787.

32. *Congressional Record*, House, August 30, 1950, 13900–13901.

33. *Congressional Record*, House, February 8, 1943, 728–29.

34. *Congressional Record*, House, August 30, 1950, 13893.

35. “Vote to Cite Rumely, Patterson, Kamp for Contempt of House Lobbying Committee,” n.d., Files of David D. Lloyd, Truman Papers.

Daily Worker, once in the front ranks demanding sedition charges against Rumely, do cautiously praise the Republican–Marcantonio alignment as evidence that the “logic of Marcantonio’s words had an effect.” Or perhaps, it added, “some Republicans were worried by having to explain their vote in defense of this avowed reactionary propagandist for Wall Street” (Hall 1950).

By contrast, southern Democrats who were against the Rumely resolution were not likewise against the Patterson resolution even though the charges were essentially the same. For the southerners and twenty-eight Republicans who also backed the resolution, race or anticommunism or both apparently trumped all other considerations. Democratic representative John Rankin of Mississippi, perhaps the most notorious racist in Congress, justified his split vote by characterizing the CCG as an organization “for constitutional government” but the CRC as a “Communist outfit” supporting “the overthrow of Government.”³⁶ Most southern Democrats—including, of course, Lanham—voted to cite Rumely for contempt. To Lanham, “the extreme right [including those who subscribed to Rumely’s ‘peculiar brand of Fascism’] are as dangerous to our way of life as those to the extreme left.”³⁷

Although the Buchanan Committee was able to sway a narrow House majority to cite Rumely for contempt, its battle to win over the press was proving futile. If anything, editorial voices on the other side were becoming more virulent because Rumely’s defiance was making him a sympathetic figure to many. “We believe,” charged the *Wall Street Journal* in language that was becoming a staple of the critics, that “the Buchanan committee’s course, now approved by a bare majority of the House members present, is objectionable and even dangerous” (“Buchanan Committee Dangers” 1950). The Lobbying Committee’s defenders outside the halls of Congress fought an uphill battle to stem the tide against it. In an article for the *Nation*, Willard Shelton praised the committee’s “first-rate job,” including the “biting language” of its final report, which had characterized *The Road Ahead* as a “moody panegyric to the eighteenth-century” (Shelton 1950, 281–82).

In the months after the vote, interest in these cases and in the Buchanan Committee itself gradually died down with one notable exception: the columns of Pulitzer Prize-winning columnist Westbrook Pegler. Pegler’s acerbic, over-the-top, right-wing populist commentary reached millions of readers during the 1940s and 1950s. At first, Pegler, though suspicious of the Buchanan Committee, paid relatively little attention to it. After Congress cited Rumely for contempt, however, he went on the offensive and never let up. In column after column, he depicted the Buchanan Committee as the grand culmination of New Deal political suppression stretching back to the Sedition Trial of 1944 and earlier.

36. *Congressional Record*, House, August 30, 1950, 13902.

37. Lanham to Henry DeLand Strack, August 16, 1950, Series II, Box 31, Folder 7, Lanham Papers; *Congressional Record*, House, August 30, 1950, 13902–3.

Compared to that of other critics, however, Pegler's line of attack was almost entirely unique. His main concerns were not the free speech or even partisan angles. Rather, he remained fixated on the hidden and, in his view, sinister role in the investigation of an interlocking network that included the SANL, the Society for the Prevention of World War III (a group that favored a harsh peace toward Germany), and the FD. He branded the investigation an "absolute fake" because it "deliberately exempted" any consideration of these groups. Buchanan's real goal, Pegler charged, was to put "into hostile hands the names of the anti-Communist, nationalistic patriots including many who had bought John T. Flynn's anti-Socialist and anti-Communist book" (1950b). The cast of characters in Pegler's columns were largely absent from other commentary during the period. It included James Sheldon of the SANL, Leon Birkhead of the FD, and Isidore Lipschutz, the financial angel of both the SANL and the Society for the Prevention of World War III (Pegler 1950a, 1950b, 1950c, 1951).

Pegler's fixation on conspiracy was famously obsessive, but he was not entirely off base. For more than a decade, a network of left-of-center groups had worked publicly and behind the scenes both to discredit anti-New Dealers such as Rumely and to turn the force of government against them. Pegler's relentless attacks created some discomfort among those he targeted. During the same month that the House cited Rumely for contempt, Birkhead urged the Department of Justice to prosecute Pegler for sedition under the Smith Act because of comments critical of U.S. involvement in the Korean War. But while the role played by the FD, the SANL, and other organizations in advancing the Buchanan Committee's efforts certainly merits more scrutiny, it should also not be exaggerated. Buchanan and his compatriots, quite consciously, were carrying on an antilobbying investigative tradition that predated the formation of these groups.³⁸

The next major legal round after the contempt vote went against Rumely. In April 1951, U.S. Federal District judge Richmond B. Keetch gave him a six-month suspended sentence for contempt and a thousand-dollar fine, saying that he would have sent the sixty-eight-year-old defendant to jail save for his advanced age ("Rumely Sentenced" 1951). Rumely was unmoved: "I already had given them 95 percent of what they wanted. But on that one point—'who bought your books?' we would not yield" (qtd. in "Rumely Pleads Press Freedom" 1951). Rumely's longtime nemesis Walter Winchell exulted that he got "real satisfaction out of the conviction last week of Edw. A. Rumely . . . a convicted pro-German agent" (1951). Few newspapers or columnists agreed with Winchell, though the *Washington Post* editorialized that the ruling served to put people on notice that they "can withhold information from Congress only at their peril" ("Contempt of Congress" 1951). Even the editorial staffs of the *New Republic* and the *Nation* as well as columnist Drew Pearson, who had egged on Buchanan at the beginning, were generally silent.

38. L. M. Birkhead to J. Howard McGrath, August 11, 1950, Folder: Communism, Friends of Democracy, 1941–1966, Pegler Papers.

Challenging the Buchanan Committee in the Courts

Buchanan was not able to savor his apparent vindication in the courts for long. Only days after Rumely's conviction, Buchanan died from an internal hemorrhage after an exploratory operation. He was forty-eight. His colleague, Representative Lanham, had "no doubt but that the misrepresentation and vilification to which he was subjected contributed to his untimely death."³⁹ Pegler was less charitable, wondering why Buchanan had launched his lobbying crusade in the first place: "Maybe one of Lipschutz's gum-shoe men had uncovered his past and put the heat on him" (1951).

The war of attrition in Congress and the courts, however, had badly damaged the CCG. The investigation created a chilling effect as formerly dependable contributors closed their wallets, expressing fear of being named and targeted. Rumely complained that donors had become skittish because of the congressional investigation, "causing heavy financial loss for the Committee."⁴⁰

Top officials of the Truman administration agreed, albeit from a different perspective, that the investigation had scared away donors. In August 1950, David D. Lloyd, who had previously worked as research director of the liberal ADA, observed that "[c]ontinuing disclosure [of] the financial sources of the anti-Fair New Deal propaganda which is now flooding the country would, of course, be welcome during the Fall."⁴¹ He praised Buchanan's discovery of "a new undercover Liberty League" run by wealthy interests (qtd. in Hechler 1996, 52). Truman himself, shortly before the election of 1952, singled out the CCG as a "reactionary group" that "specializes in calling progressive legislation communistic."⁴²

Despite these setbacks, the next round went to Rumely in a big way. In 1952, the Court of Appeals of the District of Columbia Circuit Court overturned his contempt conviction. The ruling demolished the entire foundation of the Buchanan Committee by holding that "indirect lobbying" was not "an evil and a danger" but was "the healthy essence of the democratic process" (*Rumely v. United States*, 197 F. 2d, 166 [1952]). When the case reached the U.S. Supreme Court a year later, Rumely won again. In a narrowly applied decision holding that the mere dissemination of political literature did not constitute lobbying, the Court unanimously overturned the conviction (*United States v. Rumely*, 345 U.S. 41 [1953]). Justice Sherman Minton, because of his role in the investigation of Rumely in 1937, recused himself (Dunnebecke 1987, 146–47).

39. *Congressional Record*, House, April 30, 1951, 4558.

40. Rumely to Member of Congress and Fellow American, April 23, 1953, Committee for Constitutional Government, 1953, Box 5, Folder 51, Gannett Papers.

41. Lloyd, Memorandum for the Files, August 2, 1950.

42. Harry S. Truman, Address at the Armory in Manchester, New Hampshire, October 16, 1952, Truman Papers, at <http://www.trumanlibrary.org/publicpapers/index.php?pid=2274>.

A concurring opinion by the two most liberal justices, William O. Douglas and Hugo Black, endorsed Rumely's free speech and privacy rights in no uncertain terms. The opinion described the Buchanan Committee's demands as "the beginning of surveillance of the press" (*United States v. Rumely*, at 57). The jubilant Rumely could not have asked for more favorable phrasing, and the CCG quoted it repeatedly. Writing to his wife, he boasted: "I broke up the Black-Minton Committee by my opposition and yet Hugo Black writes an opinion in my favor! Once more my lifelong experience with our American courts is confirmed—they do justice!"⁴³

By this time, some prominent liberal Democrats were losing their appetite for investigative crusades against the Right. One factor in this loss of appetite was that they were too busy beating back McCarthyism. By upholding Rumely's free speech, they could better fend off charges of hypocrisy. Even before the House cited Rumely for contempt, for example, the pro-New Deal columnist Marquis Childs held him up as an example of how the First Amendment protected "the extreme right" just as much as it protected Communists (1950). Later, two victims of McCarthyism, Owen Lattimore and Corliss Lamont, cited *United States v. Rumely* in their defense (Lamont 1953, 511; "Lattimore Renews Indictment Attack" 1953; "Probe of Author by Senate" 1953; "Committee Jurisdiction" 1954; Frantz 1957, 26).

The case became not only a U.S. Supreme Court precedent for litigation in civil liberties but also a precedent for *NAACP v. Alabama* (357 U.S. 449 [1958]) in the fight for civil rights. In the latter ruling, the Court upheld the NAACP's challenge to a state requirement that it turn over membership lists. Specially citing *United States v. Rumely*, the Court elaborated that "[c]ompelled disclosure of membership in an organization engaged in advocacy of particular beliefs is of the same order. Inviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association, particularly where a group espouses dissident beliefs" (at 357). In another parallel, the Court cited the dangers of retaliation and a possible chilling effect. A mandated disclosure of the membership list, it declared, is "likely to affect adversely the ability of petitioner [the NAACP] and its members to pursue their collective effort to foster beliefs which they admittedly have the right to advocate, in that it may induce members to withdraw from the Association and dissuade others from joining it because of fear of exposure of their beliefs shown through their associations and of the consequences of this exposure" (at 357).

Conclusion

The victory in *NAACP v. Alabama* did nothing to improve the CCG's flagging fortunes. It was already fading out as an organization because of years of litigation

43. Rumely to Isabel Rumely, March 9, 1953, Folder 21, Box 2, Rumely Papers.

and a fall-off in contributions, even from its main patron, Frank Gannett. Libertarian journalist Frank Chodorov had seen it coming. Not long after *United States v. Rumely*, Chodorov, who considered “Buchananism” to be a species of “thought control” (1953, 742), concluded that the “Buchanan Committee achieved its purpose of reducing the revenues of a dissident organization” (1954). Although the cumulative impact of the Buchanan investigation had undermined the CCG itself, Rumely had triumphed in the legal arena. Achieving a precedent-setting Supreme Court victory was quite a turnabout for a man who only a few years earlier had been repeatedly condemned as a fascist, federal convict, and German spy.

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