
REPORT OF THE SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS,
TO THE COMMITTEE ON RULES AND ADMINISTRATION, RE
HOOK AGAINST FERGUSON (MICHIGAN)

JULY 28 (legislative day, JUNE 2), 1949.—Ordered to be printed

Mr. MYERS, from the Committee on Rules and Administration,
submitted the following

R E P O R T

[To accompany S. Res. 141]

Our Subcommittee on Privileges and Elections to whom was referred the petition of Frank E. Hook, contesting the election of November 2, 1948, of the Honorable Homer Ferguson for a seat in the United States Senate representing the State of Michigan, has had the matter under consideration and respectfully reports as follows:

Frank E. Hook was a candidate for the above office on the Democratic ticket and Homer Ferguson, then a member of the United States Senate, was a candidate therefor on the Republican ticket. The State board of canvassers for the State of Michigan on December 6, 1948, declared that the incumbent, Homer Ferguson, had been re-elected United States Senator, receiving a total of 1,045,156 votes and that Frank E. Hook received 1,000,329 votes. Shortly thereafter the secretary of state for the State of Michigan made out and delivered to Homer Ferguson a certificate of his election.

Thereupon Homer Ferguson was administered the oath of office as a United States Senator from the State of Michigan on January 3, 1949, and is now serving in that capacity.

NATURE OF CHARGES

On January 5, 1949, the president pro tempore of the United States Senate sent to the Committee on Rules and Administration, and subsequently by such committee to the Subcommittee on Privileges and Elections, a petition filed by Frank E. Hook contesting the election of Homer Ferguson on November 2, 1948, which contained various charges summarized as follows:

That there were innumerable errors, illegalities, irregularities, and fraudulent acts in the conduct of the election held on November 2, 1948.

That contrary to the provisions of the statutes for the State of Michigan the township boards of a large number of predominantly Republican townships failed to appoint bipartisan inspectors for the precincts within their counties.

That in the county of Genesee errors in tabulation by the election boards involving thousands of votes were made in favor of Homer Ferguson, the Republican senatorial candidate.

That in the counties of Ingham and Shiawassee more votes were cast and more ballots were accepted than the total number of registered voters entitled to vote.

That in many instances election officials in charge of the voting booths refused to accept the credentials of duly qualified challengers designated by the Democratic Party and refused to permit Democratic challengers to function according to law.

That in the county of Saginaw thousands of Democratic voters were prevented from casting their votes and exercising their right of franchise by fraudulent acts of the election officials.

That in the counties of Genesee and Ingham the Republican election officials refused or neglected to provide for checkers to check the individuals keeping the tally sheets and these individuals made up an incorrect tally of the votes so as to increase the vote of the Republican candidate.

That one Arthur Summerfield, Republican national committeeman from Michigan was acting with the complete knowledge and approval of the said Homer Ferguson during the years 1947-48 collecting several hundred thousand dollars as political contributions.

ACTION BY SUBCOMMITTEE

On December 15, 1948, your subcommittee sent telegrams to all county, city, town, and village clerks in the State of Michigan requesting them to preserve intact all ballot boxes, ballots, official records, and returns pertaining to the November 2, 1948, election.

No further action was taken by the subcommittee during the Eightieth Congress. Early in January 1949 your subcommittee received telegrams and letters from city and township clerks, emphasizing the need of voting machines and ballot boxes for use at the February 21, 1949, spring primary, or, in the event of no primary, at the April 4, 1949, biennial spring election, and requesting that the voting machines and ballot boxes be released.

Following the receipt of the aforementioned telegrams and letters, your subcommittee sent investigators to Michigan to read the voting machines preparatory to their release in time for the forthcoming elections. Each voting machine was read by two Senate investigators accompanied by at least one, but usually two or three, representatives of the city or township wherein the particular machines were located. During the period of February 1, 1949, to February 26, 1949, these investigators examined 1,199 machines located in 312 different places, in the counties of Bay, Calhoun, Ingham, Jackson, Kent, Macomb, Midland, Oakland, Saginaw, Shiawassee, Washtenaw, and Wayne, which represented more than 90 percent of the total of the machines in the State. A comparison of the vote for the senatorial candidates as read by the investigators and as represented by the State canvassing board reflect errors in the counties of Bay, Calhoun, Kent,

Oakland, Saginaw, Washtenaw, and Wayne which showed a minor discrepancy. Immediately after the checking and tabulation of these machines they were released.

In the investigation of the charge that contrary to the provisions of the statutes of the State of Michigan, the township boards of a large number of predominantly Republican townships failed to appoint bipartisan inspectors for precincts in their counties, we find that the applicable statute ¹ reads as follows:

Same; inspectors of election. SEC. 16. The common council of any city establishing a central polling place may appoint four or more inspectors of election at the last meeting of said common council previous to every election, general or special, and said inspectors shall be governed by the general laws of this State in reference to their powers and duties as election inspectors: *Provided, however,* That in case four inspectors of election shall be appointed, not more than two of the four inspectors shall be of the same political party, and in case more than four such inspectors are appointed, not more than 50 percent, as nearly as possible, of such inspectors shall be of the same political party.

Your investigator interviewed 237 people in the counties of Ingham, Macomb, Shiawassee, and Genesee and as a result of statements taken from and/or interviews had with these parties the investigation substantiated Hook's complaint that some boards were not constituted as required by the above-mentioned statute. A few examples of the evidence they obtained follows:

(a) In precinct c, ward 1, Lansing, six of the eight board members were Republicans.

(b) In precincts a and c, ward 8, Lansing, all of the board members were Republicans.

(c) In Bruce Township, Macomb County, five of the seven members of the board were Republicans.

(d) In Harrison Township, Macomb County, three of the four inspectors were Republicans. The chairman of the board and officer of the day were Republicans.

(e) In Lake Township 85 percent of the 68 officials were estimated to be Republicans by the present township clerk.

(f) In Ray Township, Macomb County, all seven members of the election board were Republicans.

(g) In Richmond Township, Macomb County, all 12 members of the election board were Republicans.

(h) In the city of Owosso, Shiawassee County, only 4 of a total of 11 inspectors were Democrats. All of these men were appointed by Republican city clerks.

(i) In ward 5, city of Owosso, only one of the total of six election inspectors was a Democrat, the balance being Republicans.

(j) In ward 1, Corunna, only one of a total of four election officials was a Democrat.

(k) In precinct 13, city of Flint, only two of the election inspectors were Democrats.

In considering the charge that split Progressive Party tickets were rejected and not counted for the contestant your investigators prepared a sample split ballot with an X in the circle under the Progressive Party emblem, and X in the square to the left of the name of Mr. Hook under the Democratic Party emblem to use when interviewing the voters in Michigan. This was done in lieu of an actual

¹ Section 3044 Comp. Laws 1929: Amended 1933, Act 176; upheld in *Attorney General v. Reading*, 268 Michigan 224

examination of the ballots, such examination of ~~the~~ ballots not having been ordered by your committee. This sample ballot was shown to persons interviewed and substantial evidence was obtained indicating that the senatorial contestant did not receive credit for many ballots split in this manner. Many of the election inspectors interviewed stated that they would not have counted such split ballots for Mr. Hook; that they would not know how to count the ballot; or that they would declare the ballot invalid. Most of these split tickets occurred in Wayne County (Detroit) and in order to ascertain the specific effect it would have had on Mr. Hook's count it would require the examination of all of the ballots.

A few examples substantiating the above are as follows:

(a) In precinct 14, city of Flint, the chairman declined all such ballots.

(b) In precinct 61, city of Flint, split tickets were only counted for candidates under the straight ticket.

Considering the charge that election officials refused to accept the credentials of duly qualified challengers designated by the Democratic Party and refused to permit Democratic challengers to function according to law, a partial investigation developed instances in three of the four counties investigated where challengers were denied the right to function.

There was an overwhelming amount of evidence obtained showing an improper allocation of ~~voting~~ precincts and polling places as well as the undermanning of ~~these~~ polling places and incompetent election boards which resulted in crowding, confusion, and disfranchisement of hundreds of voters.

Our investigators report that in Ingham County at least 600 people were disfranchised; and in some precincts the people were still attempting to vote at 2 a. m. on November 3, 1948. Precincts were so divided and machines so arranged that it was physically impossible to take care of all voting and general chaos set in and militated against the class of people attempting to vote after completion of their day's work. A few examples substantiating this finding are as follows:

(a) In precinct 1, Lansing, it was stated that the precincts should be divided in order to accommodate the voters.

(b) In precinct 3, ward 1, Lansing, witnesses stated that approximately 600 persons were disfranchised because of lack of facilities.

(c) In precinct 6, Lansing Township, many persons were locked out by the janitor and unable to vote.

(d) In the city of Flint, election officials were swamped about supertime with factory workers and experienced difficulty in checking ballot applications with poll lists and depositing them in ballot boxes. Voters were told to leave their ballots on an open table to be deposited later and some witnesses indicated that voted ballots were strewn on the floor. The burden for this situation, of course, rests upon the State officials.

With reference to the charge that in the county of Genesee errors in tabulation by the election boards involving thousands of votes were made in favor of Homer Ferguson, the Republican senatorial candidate, remains open inasmuch as this investigation did not include the recounting of ballots. Numerous statements and reports of irregularities in tallying the vote were made to your investigators, but these statements and reports cannot be substantiated without a recount of the ballots.

With reference to the charge that officials refused or neglected to provide checkers to watch the individuals keeping the tally sheets and that such individuals made up incorrect tally sheets of the votes so as to increase the vote of the Republican candidate, it is felt that the contestant's complaint in this respect was substantiated. Our investigators report that in the city of Flint alone (Genesee County) evidence of such violations on a somewhat flagrant and general scale was obtained, substantiated by at least 23 statements and reports. About 40 percent of the precincts in Michigan were found to have had insufficient checkers. It was further found generally that when tally sheets did not agree balances were forced and evidence of incorrect counting of split and straight ballots was obtained. A few examples substantiating this contention that such charges were true are as follows:

(a) In precinct 68, city of Flint, an election official stated that she collapsed before the count was finished and had no knowledge of the disposition that was made of the records, tally, or equipment.

(b) In precinct 4, city of Flint, it was stated that where discrepancies existed the lower count was used for the final tally.

(c) In precinct 62, city of Flint, witnesses saw Democratic tickets erroneously counted.

(d) In precinct 4, Warren Township, witnesses said that the checkers were so incompetent that they were unable to handle the tally books.

(e) In precinct d, ward 3, Ingham County, the Republican chairman of the ward, who is not an election official, assisted in calling ballots.

In looking into the charge that Arthur Summerfield, Republican national committeeman of Michigan, acting with the complete knowledge and approval of Homer Ferguson during the years 1947-48, collected several hundred thousand dollars as political contributions your committee finds that a plan generally termed "the Summerfield plan" (officially captioned the "Wayne County Republican finance committee") was formulated by Arthur Summerfield. Under the plan, county finance director and committee was appointed in each of the 83 counties in Michigan. All contributions of every type and kind, including contributions to individual candidates, had to be channeled by the county finance director to State Director Summerfield and the latter distributed on an alleged percentage basis. These funds were to be divided between county, State, national, congressional, and senatorial committees.

It has been established that the majority of the county finance directors were directly or indirectly connected with the automobile industry and that the Michigan Automobile Dealers Association in a special directors' meeting held at the Hotel Olds in Lansing, Mich., on March 21, 1946, participated actively in the Summerfield plan.

In connection with the above, investigators interviewed 43 persons in reference to the November 2, 1948, senatorial election and the following information was obtained:

1. That eight persons who were interviewed and who were listed as having contributed a total of \$4,642 to the 1948 campaign, through the Wayne County Republican Finance Committee, denied that they had made any contributions, and were surprised that their names had been used without their consent or knowledge. They did not know how their names had been obtained. Five of these persons are at

present, or have until recently, been employed by the Briggs Manufacturing Co., the Chrysler Corp., the Ford Motor Co., or the General Motors Corp.

2. That the names of two persons, whose contributions totaled \$1,003 could not be located on the Wayne County Republican Finance Committee lists in the possession of this committee.

3. That one person, who was listed as a \$525 contributor to the Wayne County Republican Finance Committee in 1948, said that his contribution was one of several turned in by officials of his corporation; that it was a personal and not a corporate check, and that he was not reimbursed by the corporation. He was uncertain about the amount, and other particulars concerning the transaction and could furnish no substantiating records, bookkeeping or otherwise, to prove that the contribution was a personal one. This contributor's name, as written and spelled by him, could not be located on the lists in the possession of this committee.

4. That five contributions totaling \$2,547 represented corporate checks or funds were made payable to contributor, his representative, a principal stockholder, petty cash, etc., and were exchanged by them for cashier's checks made payable to the Wayne County Republican Finance Committee.

5. That one contribution in the form of a corporation check made payable to the Wayne County Republican Finance Committee was charged to contributor's personal account.

6. That one check made payable to contributor for \$250, joint owner of corporation—was originally charged to corporation, and 6 months later changed to personal account of contributor by reviewing auditor.

7. That two brothers, principal stockholders in an auto sales corporation, one of whom directed the solicitation of funds for the Wayne County Republican Finance Committee, contributed \$625 each; they said they paid cash for cashier's check made payable to Wayne County Republican Finance Committee.

8. That a person whose interest in an auto sales corporation was 50 percent, was reimbursed for 50 percent of his contribution of \$600 by the other corporation member. This contribution was made in two installments—the first one on February 3, 1948. A few days later he "kicked in" an additional \$350 upon the suggestion or advice of the chairman of the Wayne County Republican Finance Committee. The cars sold by this corporation in 1947 amounted to approximately 600.

9. That at least one contribution was solicited by the general purchasing agent for nonproductive buyers of the Ford Co. It was said that he solicited all such buyers.

10. That in 11 cases, the contributions appear to be related to the number of cars sold.

11. That at least five corporation officials interviewed definitely felt, believed, or stated that the amount of their contributions was based on cars sold in 1947.

12. That about February 18, 1948, a luncheon of Ford dealers was held at the Detroit Athletic Club and some of the members present were connected with the Wayne County Republican Finance Committee. That the person interviewed by the investigators stated that on the basis of the number of cars sold he was given the names of five dealers to solicit donations from, did make such solicitations and then

did turn the funds over to the Wayne County Republican Finance Committee.

13. That in the spring of 1948, at a luncheon called by the chairman of the Wayne County Republican Finance Committee, who was also the Ford representative of the Detroit Automobile Dealers Association, together with the treasurer of the Wayne County Republican Finance Committee (a former motor corporation official and at present a dealer), they estimated the total budget necessary for the 1948 campaign, and determined how much the contributor (person interviewed by the committee) should ask of the five dealers allocated to him for campaign contributions, such solicitations to be based on amount of business, number of employees, and number of cars sold.

14. That at a meeting held at the Wardell Hotel, Detroit, on or about February 6, 1948, at which most Ford dealers were present, contributions were discussed.

15. That in the spring of 1948, at a meeting of Mercury dealers (Dearborn district dealers), at which approximately 20 members were present, contributions were discussed.

16. That at another meeting of Lincoln-Mercury dealers held in the spring of 1948 at which one "Bill" Weber presided, contributions for the 1948 Republican campaign were discussed, with a yardstick being established based on the corporation's size, and car sales.

17. That 20 corporate contributors have been indicted by Federal grand juries in Michigan for violation of the Corrupt Practices Act. To date, seven of those corporations indicted have pleaded nolo contendere and have been sentenced.

In the investigation of this Summerfield plan we found no evidence that showed Summerfield was acting with the direct knowledge and approval of Homer Ferguson as charged.

Looking to the section of the Corrupt Practices Act² which states in part—

No political committee shall receive contributions aggregating more than \$3,000,000 or make expenditures aggregating more than \$3,000,000 during any calendar year.

Your subcommittee examined copies of some reports of receipts and expenditures which were delivered to us from the county clerks of various counties throughout the State of Michigan. In examining a copy of the report received from the Wayne County clerk alone it shows receipts amounting to \$724,707.

MISCELLANEOUS IRREGULARITIES

In a great number of the precincts investigated it was found that the election procedure was faulty and inadequately administered. However, it is not our contention that this faulty and inadequate procedure was coupled with a fraudulent intent. Nor do we feel that these irregularities individually are alleged to have had any particular affect upon the election, but it is easily conceivable that enough of them might collectively work to the prejudice of any candidate or party.

On the basis of the information developed, your subcommittee is of the opinion that in many instances duly qualified and registered voters in Michigan were deprived of their civil right to cast a vote in

this election.³ It does not appear that the failure to provide adequate facilities for holding this election and the obviously inefficient conduct of certain election officials was aimed at particular individual voters. Nevertheless, the effect of having voters turned away from the polls has the end result of depriving such voters of their civil right to cast their ballot for the candidate of their choice.

Also, in the instances where voters cast their ballots for Progressive Party candidates and at the same time voted for the Democratic candidate for Senate (there being no Progressive Party candidate for such office), there was denial of civil rights in that certain election officials arbitrarily voided such ballots and the voters were thereby deprived of the civil right to have their vote counted after it had been cast.

While it is not believed by your subcommittee that any specific criminal intent directed against individual voters was involved in those many instances of irregularities sufficient to warrant a recommendation for criminal prosecution by enforcement authorities, it is felt that these matters should be pointed out in this report and the Michigan State election officials be urged in the future to take all necessary steps to prevent such denials of the voter's civil right to cast a ballot for the candidate of their choosing and have such ballot counted.

In analyzing the investigation made of the contestant's charges there was disclosed many instances in which election laws of the State of Michigan were violated. There has been no indication however that Homer Ferguson was directly responsible for such violations.

CONCLUSIONS

Your subcommittee after having examined into and thoroughly considering all of the contestant's charges and the evidence in support thereof has arrived at the following conclusions:

1. That notwithstanding the fact that there is evidence of some irregularities and illegalities as charged by the contestant, no further investigation should be conducted.
2. That there was no indication that Homer Ferguson was directly or indirectly responsible, nor that he had any knowledge of such violations as there may have been.
3. That Homer Ferguson was duly elected United States Senator from the State of Michigan.

Therefore your Subcommittee on Privileges and Elections recommends the adoption of the following resolution:

Resolved, That Homer Ferguson is hereby declared to be a duly elected Senator of the United States from the State of Michigan for a term of 6 years, commencing on the 3d day of January 1949, and is entitled to be seated as such.

Respectfully submitted.

FRANCIS J. MYERS, *Chairman*.
GUY M. GILLETTE.

I fully concur with the committee findings appearing under the heading "Conclusions." However, I desire to make clear that the balance of the report is based solely on staff investigations.

WILLIAM F. KNOWLAND.

³ 51 and 52 U. S. C. 13.