

MR. BARKER: Do you know the date?

MR. MARCANTONIO: This is most fantastic.

MR. SABATINO: This makes it very difficult because we were not in a position to answer because it does not say that Jones or Smith did it, where you can get somebody to repudiate it. He says that somebody tried to run him over in Washington.

MR. BARKER: That is from the Sunday News for November 24, 1946, page 3, and the doctor's name is Bela M. Molnar. It is an article written by Charles McHarry and James Desmond. We want to get those articles.

The next one is the Daily Mirror for November 25, 1946, an article by William Henderson and Henry Williams, and both of these articles in the Mirror and the News have pictures of Molnar. There is another one from the Sunday Mirror of November 24, 1946. You don't have an extra copy of that?

MR. MARCANTONIO: No, we don't. They are some of the most fantastic tales I have ever read. A man accused me of the following: Somebody went into his home the night before the election and said, "You had better lay off, or else" and that the person who went in there had a gun in his hand, and second, he says that his wife became so frightened that she slept with a shotgun and then subsequently she was so frightened that she has left him. Third, that sometime ago, while he was in Washington, two of Marcantonio's gorillas, Communist gorillas, tried to run him over.

Then the following day, to keep the story alive, another

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story appears to the effect that he is now worried about his father in Hungary; that he may be injured.

First of all, I find that this man is not a doctor. He is a hairdresser, working in Saks Fifth Avenue. He claims he has an organization of 40,000 people. I never heard of this man before, and if anybody in my district had an organization of 40,000 and I heard of it, I would have known him. He says the organization has 40,000 people. You will find that in the article.

We have been unable to find him to be registered. We did learn that he was at one time connected with the Hungarian Reference Library in about 1941, known as the Telkes, which was an organization banned by the Attorney General and the Justice Department as a Fascist organization. This organization is still conducting its pro-Nazi activities now from some South American countries. Here is an illustration of the kind of charges that are being made. I am absolutely unable to meet these charges unless they are brought out in an open hearing.

If the Committee decides that it wants to continue this investigation, then I think we should have open hearings and these people can come before the Committee and specifically state what they have to charge. Let them make their charges so that I can be in a position to refute this charge. That is only the American way to do things. As it is, I am confronted with nebulous, and vague newspaper stories, but as against all of that, I repeat, that the only way to - I say, the election was an election where

everybody's right to vote was guaranteed, the highest percentage of people voted in my district on the basis of registration than in any other district and that there was more law enforcement representation at the polls in my district than in any other district, and that not a single report of intimidation at the polls was ever made or charged and that the police authorities will have to stand up on that because of the records that are in existence with respect to the election.

I would like to be confronted, Mr. Barker, with the charges that have been made. In the final analysis this Committee is concerned with whether or not this was a free election. Anyone who has charges to make should make them to the Committee. I am here and it is my election that is being investigated, and I should be given a full opportunity to meet those charges, specific charges, and unless I am confronted with specific charges, what can I answer? Shall I sit down here and take newspaper attack after newspaper attack and deny them? Certainly, this Committee, I presume, will deal with specific charges made on the basis of evidence.

MR. BARKER: That is the only manner in which they would deal with it.

MR. MARCANTONIO: Exactly, and unless I am confronted with those specific charges in the form of evidence, what can I say?

MR. SABATINO: May I add this: This newspaper campaign has, as you know, received the impetus that it has through the unfortunate beating that an individual called Scottoriggio received

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on Election morning, which resulted in his death. A representative, an Assistant District Attorney of New York County, who was in the Scottoriggio case on the day that it occurred and who made the investigation, issued the statement, published in the New York "Times" on the day after the election that there was no proof that there was anything political about it. While Scottoriggio was alive and able to talk, there was nothing said.

MR. BARKER: What was the name of the Assistant District Attorney who said that?

MR. SABATINO: Dreiband, Alexander Dreiband, and his statement is quoted in the New York "Times" on the day after election.

MR. BARKER: Is he an assistant to Frank Hogan?

MR. SABATINO: Yes.

MR. BARKER: The District Attorney? Of New York County?

MR. SABATINO: That is right. He then said, and the Times is a reputable newspaper and not given to reckless statements, that there was nothing political and there was no evidence of any political motivation.

I was just quoting the thought rather than the phraseology.

MR. MARCANTONIO: With respect to the Scottoriggio matter, The Committee has to determine, as I understand it, whether it was part of a pattern, according to the statement attributed to Congressman Priest.

MR. BARKER: I believe you are referring now to the story in the New York "Herald-Tribune"?

MR. MARCANTONIO: That is right, and again I say, let the people present the charges to show that it was part of a pattern.

Let people present evidence that there was a pattern.

MR. BARKER: Well, when you say that was a part of a pattern, you want to say that and qualify it by saying that it was part of a pattern incident to the election?

MR. MARCANTONIO: That is right, incident to the election. I have gone before the Grand Jury and I did waive immunity.

MR. SABATINO: I may add that since the Congressman may be modest about it, that he went over there against my advice and against the advice of his doctor because physically he was almost in the state of coma from his physical condition. The doctor did not want him to go there, but he insisted on going and refused to ask even for a 24 hour delay, even though he placed his own health in jeopardy.

MR. BARKER: He was there more than once, wasn't he?

MR. MARCANTONIO: Twice.

MR. BARKER: I am referring to the first occasion. When you refer to his doctor, would you mind putting the doctor's name in the record?

MR. MARCANTONIO: Doctor Salvatore Cutolo.

MR. BARKER: Is he your personal physician?

MR. MARCANTONIO: He is my personal physician.

MR. BARKER: Is he in your district or outside of it?

MR. MARCANTONIO: No, he lives outside of my district. He has an office in my district. One of his offices is in my district. He is also Deputy Medical Superintendent of Bellevue Hospital.

MR. BARKER: A city institution?

MR. SABATINO: Yes. I had a conference with the doctor

the night of the day that the Congressman was served with a subpoena while in bed. The doctor examined him and said, "Mr. Sabatino, the Congressman should not go tomorrow," but the Congressman insisted on going and he appeared before the Grand Jury and while before the Grand Jury, three times I asked Mr. Grumet not to keep the Congressman too long because of his physical condition, which did not warrant it. And he appeared a second time, without a subpoena.

MR. BARKER: I want to state that in the beginning, since we are on the record, that I stated that you could either discuss this matter on the record or off the record and you said that you might as well have it on the record.

MR. MARCANTONIO: Yes. The reason I want it on the record is that I have no distrust of the Committee or of the investigators, but this matter is very, very important to me and to the people of my district and to the people of the country. For that reason, I would rather have perpetuated what is said in writing so as to protect everybody's interest in the matter.

MR. BARKER: In that connection, Congressman, pardon me for interrupting you, but your testimony before the Grand Jury is also in writing?

MR. MARCANTONIO: That is true; and it is under oath.

MR. SABATINO: We have no access to it; only the District Attorney has access to it.

MR. BARKER: May I state that we, as the Committee, have no access to it, either.

MR. MARCANTONIO: The reason that I cannot reveal my testimony before the Grand Jury is that I was admonished by the foreman of the Grand Jury not to speak and I gave him my word that I would not do it. However, I have no hesitancy whatsoever to have revealed what was said before the Grand Jury. In fact, I do hope that it will be.

MR. BARKER: Do you mean your own testimony?

MR. MARCANTONIO: Yes.

MR. BARKER: Now, Congressman, just for the purpose of the record, I would like for you to roughly outline the boundary of your district. It is entirely in Manhattan, is it not?

MR. MARCANTONIO: It is.

MR. BARKER: Where does your district begin. We have that information from the Congressional Directory (handing excerpt to Mr. Marcantonio).

MR. MARCANTONIO: That is correct.

MR. BARKER: Can we put this in with your statement?

MR. MARCANTONIO: Yes.

MR. BARKER: And in your district there are five Assembly districts?

MR. MARCANTONIO: There are no solid assembly districts. They are all parts. We have what is called "8th North," the bulk of the 10th; that is, with the exception of 2 or 3 election districts; only 3 districts in the 9th Assembly District; 18 districts in the 14th Assembly District and 34 districts in the 16th Assembly District.

MR. GOODWIN: I think I have them exactly (producing document

MR. BARKER: Of the portions of the five Assembly Districts, there are a total of 130 election districts?

MR. MARCANTONIO: Correct. In the 8th Assembly District, I have 24 election districts; in the 9th, I have 3; in the 10th I have 51; in the 14th, I have 18 and in the 16th I have 34, which gives a total of 130 election districts.

MR. BARKER: In a decision of Justice Botein of the Supreme Court of New York County, copy of which I think you sent to the Chairman of the Committee, which involved a petition of the Democratic Candidate by the name of Patrick Hannigan, your opponent in the August 20th primary - -

MR. MARCANTONIO: In order to describe that, let us get it accurately. He was my opponent in the Democratic primary. He was not the Democratic candidate. In other words, nobody is a candidate of a particular party - -

MR. BARKER: He was a candidate for the Democratic nomination

MR. MARCANTONIO: Yes, in the Democratic primary.

MR. BARKER: In that decision, the Court referred to certain election districts in the South half of your district.

MR. MARCANTONIO: That is right.

MR. BARKER: And said that in those districts you were badly beaten?

MR. MARCANTONIO: Yes.

MR. BARKER: And the court referred to the upperportion of your district and stated that in those Hannigan was badly beaten?

MR. MARCANTONIO: That is right.

MR. BARKER: What was the final disposition of the Judge's opinion?

MR. MARCANTONIO: First of all, I think it is important to put the Judge's decision at this point in the record.

MR. BARKER: All right; you may do so. I was going to ask that it be done. Did you send the Chairman the complete decision?

MR. MARCANTONIO: I did.

MR. BARKER: Will you get that copy and put it in the record?

MR. GOODWIN: Here is what the Judge's conclusion was, finally.

MR. MARCANTONIO: Here is a statement in connection with that decision: "No evidence whatsoever has been introduced of electioneering and coercive tactics or any other form of improper and illegal conduct at the polls."

My opponent, Mr. Hannigan, took an appeal to the Appellate Division, and the Appellate Division affirmed Mr. Justice Botein's decision.

MR. BARKER: Was their decision unanimous or was there any dissent?

MR. MARCANTONIO: It was divided. Their decision was three to two, whereupon my opponent appealed to the Court of Appeals, which is the highest court in the State of New York.

MR. BARKER: Which is the equivalent of the Supreme Court in other states?

MR. MARCANTONIO: Yes, it would be the Supreme Court.

MR. SABATINO: It is a court of last resort.

MR. MARCANTONIO: It is composed of seven judges. The Court of Appeals not only unanimously affirmed the decision of Mr. Justice Botein, but it did something which is rather unusual in these kind of cases. It taxed my opponent with costs. That is done when the Court of Appeals feels that the appeal is unwarranted.

MR. BARKER: Then, when you say they taxed him with costs, you mean that he was taxed with the costs in the lower courts?

MR. MARCANTONIO: In all the courts, amounting to \$170, which, incidentally, was paid only yesterday by his attorney, for \$170.18.

MR. SABATINO: We haven't used the check yet.

MR. GOODWIN: We just got it yesterday.

MR. BARKER: And the check is signed by James G. Donovan?

MR. SABATINO: He is the attorney for Hannigan for those proceedings.

MR. MARCANTONIO: In connection with those legal proceedings, I have a statement prepared that I would like to go in the record.

MR. BARKER: Yes, certainly.

MR. MARCANTONIO: It covers the whole story, and it is marked Statement "B."

(Statement "B" was made a part of the record, statement appended hereto.)

MR. GOODWIN: I can summarize this analysis of that litigation which was brought by Mr. Hannigan against Mr. Marcantonio for a recount and new election in this manner:

MR. BARKER: May I interrupt you just for a moment. Before

we leave this subject, Congressman, was the decision of the Court of Appeals in writing?

MR. MARCANTONIO: Yes, sir.

MR. SABATINO: It is not yet reported.

MR. GOODWIN: It is filed in the County Clerk's Office.

MR. BARKER: Can we have a copy of that?

MR. MARCANTONIO: Yes.

MR. GOODWIN: I will give you the index number of that case in the County Clerk's Office, in the next building. The file number is 30704, 1946, "Hannigan v. Marcantonio" and there you will find the decision of Judge Botein, the Appellate Division and the Court of Appeals.

MR. SABATINO: You won't find the result reported in the official reports because they are always a number of weeks or months behind, but you will find the official decision in the County Clerk's office.

MR. BARKER: The original?

MR. SABATINO: Yes.

MR. MARCANTONIO: As well as the record up to the Court of Appeals.

MR. BARKER: Including the transcript?

MR. GOODWIN: No, I don't think the transcript of the minutes are there, because the Court granted appellants leave to appeal on the original typewritten papers. There was only one copy of the transcript prepared and that was procured by Mr. Hannigan's counsel, and he loaned that to me in preparing the brief to the Court of Appeals, but that copy can be obtained from Mr. Donovan.

MR. BARKER: The man whose name is on this check?

MR. GOODWIN: Yes, sir. He has a copy of the minutes of that trial, the one you are talking about. They were submitted to the Court, but I don't think you will find them in their files.

MR. MARCANTONIO: Mr. Barker is interested in the decision itself.

MR. BARKER: But, I would like to see the evidence and the testimony. I assume it was reported, and he did have a copy of the transcript and you saw it?

MR. GOODWIN: Yes.

MR. BARKER: James G. Donovan, the attorney for Hannigan, has that transcript?

MR. GOODWIN: Yes. Do you want me to summarize the facts in the case?

MR. BARKER: Please do.

MR. GOODWIN: What happened was this: Mr. Donovan, as Mr. Hannigan's counsel, came to court and orally argued before Judge Botein, charging that there was limitless ballot stuffing on the part of Congressman's Marcantonio's supporters. He also charged that in one particular election district, the result was so absolutely and inconceivably and unbelievably such - he said that the Congressman got 132 and Hannigan received zero, and the Judge asked him in connection with that particular argument whether he had a watcher at that polling place and he said yes, and he told he would hate to tell him the Judge/what happened to him and I insisted that he tell the Judge what happened, if anything, and he said, "Well, Judge, we went up there and we found him rolling drunk in the corner." Or

course, I denied that emphatically, and at the trial there was no evidence whatsoever offered to prove that fact. Now, the same is true of all of the other charges as to ballot stuffing and similar slanders. There was no evidence to substantiate these charges.

MR. BARKER: When you say "ballot stuffing" let me ask you: Is the primary conducted by means of a paper ballot or by voting machine?

MR. MARCANTONIO: Paper balloting. In that particular election district, may I add that I went over to take the count myself.

MR. GOODWIN: In the presence of a newspapermen.

MR. MARCANTONIO: In the presence of an AP reporter. There were police officers there who took the count; there were Republican inspectors who took the count; there were Democratic inspectors there who took the count, and watchers for all sides who took the count. That is significant in that in the same election district about two years before, I carried it 128 to 2 when the Democratic organization was opposed to me in that territory. This year, with the Democratic organization supporting me in that particular territory, I carried it 132 to 2.

MR. GOODWIN: I might refer, Mr. Barker, to 3 newspaper stories which reported that argument of Mr. Donovan's before Judge Botein - the Daily Mirror of August 3d; the World-Telegram of September 11 and the Mournal-American of September 12.

We believe that at this trial, all of these wild charges contained in Hennigan's petition and demand for a recount were made solely for the purpose of harassing the Congressman in his campaign against Mr. Bryan.

He made charge after charge in his petition that they had more ballots in the ballot box than there were signatures of voters in the poll books, and that consequently those excess ballots were ballots stuffed in the ballot box. We got before the Judge, and I showed the Judge the work sheets that our workers had prepared in checking these charges in which we checked off every single ballot number assigned to the voters in the poll books, and we checked them with the result in this particular election district, and we showed that every single ballot was accounted for, and that there were no ballots stuffed into the ballot box.

MR. MARCANTONIO: And that there were no excess ballots.

MR. GOODWIN: Mr. Donovan refused to accept our work sheets, and they demanded a count before the Court, and that the signatures in the poll books be compared with the number of ballots counted at the end of the day, and the Judge assigned Mr. Hannigan, court a/attendant and one of my assistants to count these signatures and we started counting through them. After we completed five poll books from five different election districts, the result was exactly what we said they were, showing that Hannigan's charges were entirely false and Donovan withdrew his demand to have the others counted.

MR. BARKER: How long after the primary of August 20th did Hannigan file this petition and ask for a recount?

MR. GOODWIN: He filed it 9 days after the primary election on August 29th. The statute requires you to file it within 10 days. We went to trial on September 17, and we were on trial before Judge Botein September 17, 18 and 19.

The charges filed by Hannigan amounted to about 500 specific charges of irregular ballots that he wanted not counted or counted against the Congressman, and there were other charges of fraud, etc. There was not a single charge of fraud made by Hannigan through his counsel that was substantiated at that trial, and that is what the Judge concluded - that there was absolutely no evidence whatsoever of electioneering, coercive tactics or other form of improper or illegal conduct in the case.

MR. MARCANTONIO: That is the Judge's language.

MR. GOODWIN: That is the Judge's language, and you will find it in the decision. This incident was a part of a pattern. Mr. Donovan would come into court, as he did in other cases I mentioned, and make these wild and reckless charges. The papers would take them up and the next day the district would be flooded with these papers, containing headlines "Marcantonio charged with fraud on ballot stuffing," etc. Of course, we would go to trial and prove that he was all wrong. There was no report about the Congressman being right and the newspapers would be entirely quiet, and there would not be a word about the decision, or maybe just a line that the decision was in favor of the Congressman and that was all.

MR. BARKER: Then, it is your contention, Congressman, that you have had a very hostile press?

MR. MARCANTONIO: My contention is further than that. I will discuss that a little bit later with you after we dispose of this first. This, I think, should go in the record. That is the analysis of Hannigan v. Marcantonio.

MR. BARKER: Before we leave that, how badly did you defeat Hannigan?

MR. MARCANTONIO: I beat him by 565 votes.

MR. BARKER: Out of a total of how many?

MR. MARCANTONIO: 21,000.

MR. BARKER: That 21,000 includes the total votes for yourself and for him, in the aggregate?

MR. MARCANTONIO: Yes; that includes blanks and all the ballots cast.

MR. COODIN: That is an approximate figure. You can verify it.

MR. MARCANTONIO: I think that statement, incorporated in the record, will tell the whole story of the legal proceeding with respect to the contest of the primary victory, which I won.

Also, for background, to give this Committee a full picture of the fraud that was committed against me, I went to put in the record this summary of the legal proceedings that I instituted against the designating petitions that Mr. Hannigan filed and other charges with respect to law violations down at the District Attorney's office made by me. I have a receipt for the evidence that I produced. What has happened to those charges will you have to make your inquiry of Mr. Hogan.

MR. BARKER: In other words, you, yourself, presented to Mr. Hogan, allegations or violations of the election laws against Mr. Hannigan?

MR. MARCANTONIO: That is right.

MR. BARKER: And his supporters?

MR. MARCANTONIO: That is right.

MR. BARKER: And those charges are still pending in the office of the District Attorney?

MR. MARCANTONIO: Correct.

MR. SABATINO: There is no official action, so far as we know, that has been taken.

MR. GOODWIN: We delivered the evidence on August 13.

MR. BARKER: And that is the summary, marked "A", which is a statement covering that?

MR. MARCANTONIO: Correct.

MR. BARKER: We will put that in the record, following "B."

MR. MARCANTONIO: I also have here a statement with respect to moral intimidation of voters by the Republican Attorney General of this state, that I think should go into the record. It is a most amazing story. It is hard to believe, but fortunately, it is substantiated by the record in a courtproceeding that took place on Election Day before Mr. Justice Dickstein.

MR. BARKER: Is that the former member of the House?

MR. MARCANTONIO: Yes. That was on November 5, and this statement that I have here tells the whole story. It is entitled, "Moral intimidation of voters by the Attorney General"

MR. SABATINO: I would like to supplement that with material that is referred to in that statement. For instance, I do not have with me the minutes of the hearing before Mr. Justice Dickstein, but I can send them to you, - the complete minutes as well as the complaint we filed in connection with that case and all the papers.

MR. BARKER: Would you deliver them to Mr. Allen here?

MR. SABATINO: I can do that.

MR. BARKER: He is going to make a research on all of this. Do you have a transcript of the minutes?

MR. SABATINO: We have a transcript of the minutes, a copy of the summons and complaint, the order to show cause, and the application for injunction against the Attorney General and the Police Commissioner.

MR. BARKER: Will you please identify the Attorney General by name?

MR. MARCANTONIO: It is the Deputy Attorney General - Robert H. Schaefer.

MR. BARKER: Was the proceeding brought against him, or brought against the Attorney General?

MR. MARCANTONIO: Against the Attorney General, and my proceedings were entitled in the name of Congressman Marcantonio against the Police Commissioner, Arthur W. Wallender and the Attorney General, Nathaniel Goldstein. They were, in effect, charges against Mr. Robert H. Schaefer, Deputy Attorney General in charge of the election frauds bureau in the misuse of cameras at polling places. Mr. Schaefer argued the matter before Justice Dickstein in behalf of the Attorney General.

MR. GOODWIN: May I add that while Mr. Justice Dickstein technically denied the relief that we requested, he denied it in the following terms. He said, "The application is denied as long as the Attorney General desists from this practice." I have it right here, and it says, "The application for the injunction is denied, upon the assurance by the Attorney General that photographs will not be taken of people lawfully seeking to exercise their franchise, and may only be taken in the event of the occurrence of

violence, and upon the further condition that the photographers will not so employ their cameras aimed and directed at persons lawfully waiting to exercise their franchise, indicating that pictures are being taken. Upon these assurances, the motion for temporary injunction is denied."

This decision appears in the New York Law Journal of November 7, 1946. The New York Law Journal is the newspaper that carries the decisions of the courts.

MR. SABATINO: It would appear under the name of Judge Dickstein in the column headed "Judge Dickstein's Decisions" in Special Term, New York County.

MR. MARCANTONIO: We had a situation where I walked into this polling place at 113th Street and Second Avenue. I found a man there with an exposed camera facing a line of voters, and I asked him what he was doing, and he stated that he had been assigned there by Mr. Schaefer, the Deputy Attorney General in charge of election frauds. I said he was violating the civil rights of the voters, and I asked the police officers to interfere. They took the position that the matter was ^{of} such importance that they could not make any decision, whereupon the representative of the Attorney General's office in charge of that area came over with another one in charge, and we both agreed to take it up with the top officials, and we went to a building next door where there was a telephone in the home of a friend of mine and I phoned Commissioner Wallander and he phoned the Attorney General's office, and when I say "he" I mean the Attorney General in charge of that area, and the Attorney General's office took the position that they would not remove the camera. Commissioner Wallander said that he would have to, as he