

Colloquy of Court and Counsel

The Court: I don't mean nobody in the whole world.

Mr. Isserman: I mean the witness knows it.

The Court: But I mean the people around here (T-9227) don't.

Mr. Isserman: I am sure the witness knows. Your Honor directed him to find it in the exhibit and I would like to offer as an exhibit—

The Court: You know, the material thing is what is there in there that modifies, qualifies or explains the part that the Government put in evidence, and that I should think would be ascertained by any intelligent person reading it through and then offering the parts that are supposed to modify, explain or in some other way have to do with it.

Mr. Isserman: But the subject matter of the debate also throws light on the nature of the debate and the emphasis given.

The Court: Well, Mr. Isserman, you have taken the position here, and your colleagues, throughout that if any part of the paper goes in or any part of a book, we have to have the whole paper and the whole book, and I have ruled against that right from start to finish.

Mr. Isserman: But that is not my position.

The Court: Because if we did we would be here the rest of our lives and I do not want to do that.

Mr. Isserman: Well, the Court is misstating my position.

The Court: Well, go ahead and restate it.

(T-9228) Mr. Isserman: Well, my position is that where a debate takes place and Mr. Green's side of that debate or one of his speeches in that debate, which is published in this book—we are not offering the whole book and we never offered the whole book. We offer only his debate, because generally the debate is around the whole subject.

The Court: And nobody knows what the subject is.

Mr. Isserman: But at this time, if the Court please, I would like to offer as an exhibit the editorial note which appears on page 30 at the head of Mr. Green's talk.

*Excerpts From Defendants' Exhibit 8 x K,
Read into Record*

The Court: Show it to your opponent.

Mr. McGohey: No objection.

The Court: Well, that went in very easily. Now better have the clerk mark that right away.

Mr. Isserman: Yes. I would like to get the substance in just as easily.

(Marked Defendants' Exhibit 8 x K in evidence.)

The Clerk: Do you wish to see this, your Honor?

The Court: No.

* * *

(T-9229) Mr. Isserman: At this time, if the jury please, I would like to read Exhibit 8 x K, which is the editorial note that appears at the head of Mr. Green's talk. It is a short paragraph on the top of page 30 of this exhibit:

"Editorial note: Full text of Comrade Gil Green's opening speech of his debate with Gus Tyler of the Y. P. S. L."—

that is the Young People's Socialist League—

"delivered February 14th in New York City"—
and the year, I think, was 1936.

"The recent steps taken by Hitler to remilitarize the Rhineland and push his campaign for war against the Soviet Union further bear out the correctness of the Y. C. L."—

that is the Young Communist League—

"position. We urge all branches of the Y. C."—
the Y. C. I.—oh, I think it is—

The Court: Yes, that is Young Communist International.

Q. Is that Y. C. I.? A. That is a typographical error.
Q. It should be Y. C. L.?

The Court: I think rightly it is, but anyway, you read it the way it is. It seems to me—

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Mr. Isserman: "We urge all branches of the (T-9230) Y. C. I. to discuss Comrade Green's speech and to take concrete steps to put into life the proposals contained in it for the organization of an effective struggle against war."

Q. Now, Mr. Green, I call your attention to the letters "Y. C. I." which appear in the third line—the fourth line from the bottom—

The Court: He already said it was a typographical error.

Q. That should be "Y. C. L.", should it not? A. Sure; that magazine was circulated only in the United States.

Q. And to the Y. C. L.? A. That's right.

Mr. Isserman: Now if the Court please, I would like to offer into evidence the first paragraph—I am sorry, the first section of Exhibit 181 for identification.

Mr. McGohey: Will you indicate the pages, please?

The Court: Namely, pages—

Mr. Isserman: The material on page 30 running down to the heading "United Action Can Stop War."

The Court: On page?

Mr. Isserman: It is still on page 30.

Mr. McGohey: That is objected to, your Honor.

The Court: Sustained.

Mr. Isserman: The next section I offer as a (T-9231) separate exhibit is the material on page 31 under the heading "The Y. P. S. L. Position" and running over to the next heading on page 32 (handing to Mr. McGohey).

Mr. McGohey: This is objected to, your Honor.

The Court: Objection overruled.

Mr. Isserman, if you will just come around and indicate to Mr. Borman the part—

Mr. Isserman: Yes, I will be very glad to do so.

The Clerk: Here and over here (indicating)?

Mr. Isserman: That is right.

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(Marked Defendants' Exhibit 8 x L in evidence.)

Mr. Isserman: If the Court please, may I confer for a moment with my client?

The Court: Yes, certainly.

Mr. Isserman: On this exhibit.

The Court: You want him to be looking for other parts while you read that part?

Mr. Isserman: I just want to check something.

The Court: He can get his pencil out and if he finds one or two paragraphs that have a bearing he can be marking those for you while you are reading this part.

Mr. Isserman: I will ask him. It will only be a minute.

The Witness: You are not permitted to carry a (T-9232) pencil or pen.

Mr. McGohey: Here we go.

The Court: Well, I think we can find one around here.

(Mr. Isserman confers with the witness.)

The Court: We have only got a few minutes more, Mr. Isserman.

Mr. Isserman: I am aware of that, your Honor.

Now, if the Court please, I would like to offer the paragraph under the heading—top heading on page 33 as a separate exhibit.

Mr. McGohey: That is objected to, your Honor.

The Court: Sustained.

Mr. Isserman: I would like to offer as a separate exhibit the portion on page 39 under the heading—sub-heading which appears on that page and running over to the heading on page 40.

Mr. McGohey: You mean down to this heading "The United Front" on page 40?

Mr. Isserman: That is right.

Mr. McGohey: No objection.

(Marked Defendants' Exhibit 8 x M in evidence.)

(T-9233) Mr. Isserman: I would like to offer as a separate exhibit the material on page 42 under

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the only sub-heading which appears on that page and going to the end of the article.

Mr. McGohey: This is objected to.

The Court: Sustained.

By Mr. Isserman:

Q. Mr. Green, I call your attention to Defendants' Exhibit 8 x M, which is in evidence, and which is part of your debate with Mr. Tyler in 1936, and which appears on page 39 of the exhibit under a heading "Wars for National Liberation," and ask you to read that section up to the sub-heading on the next page.

(A pause.)

The Court: What are you doing there, Mr. Green?

The Witness: Your Honor, I am just looking it over to see what sections of this did get into evidence and to what extent the guts of this thing has been garbled and destroyed.

The Court: I was afraid you were working up to something like that.

Mr. McGohey: He was asked to read something by his own counsel.

The Court: Yes.

I must say, Mr. Green, I wish you would stop (T-9234) doing just the same sort of thing that got you in trouble before.

Mr. Gladstein: Your Honor asked the witness a question and he answered.

The Court: Oh, yes, but I didn't ask a question that warranted an impudent reply like that, impudent and contemptuous reply like that. You know that as well as I do.

Mr. Crockett: I should like to state for the record that I noticed nothing whatever impudent about the witness's reply.

The Court: Well, you wouldn't, Mr. Crockett.

Mr. Isserman: And I object to your Honor's characterization of the witness's answer.

*Excerpts From Defendants' Exhibit 8 x M,
Read into Record*

The Court: Well, you fellows have done so much of it yourselves, I suppose you don't know the difference any more.

Mr. Isserman: I object to that.

Mr. Crockett: I object to that remark and ask that it be stricken.

The Court: Motion denied.

Go ahead and read the part he told you to read, Mr. Green.

The Witness: "Wars for National Liberation.

"And now comrades, it is impossible for me to (T-9235) go further without mentioning something about a new discovery. It has been discovered that Communists are for national-liberation wars, that Communists are for the defense of the small states against the aggression of the big imperialist countries. What a remarkable discovery this is!

"Yes! We Communists plead guilty to the terrible crime of standing for the defense of the national independence of the smaller nations.

"We Communists have always stood for the national independence of small nations. Marxists have always supported wars for national liberation. There is nothing new in this. Can the Young People's Socialist League, which is for the defeat of world imperialism, be opposed to national-liberation wars which tend to weaken imperialism? And is it not the task of the revolutionary to search out every possibility of national revolutionary wars?

"This is precisely the merit of the Seventh World Congress of the Communist International—that it placed its finger on the exact spots where the possibilities for such national-liberation wars exist—Eastern and Central Europe; that it put its finger on the culprit fascist Germany which is chiefly responsible for provoking such wars for national (T-9236) independence by its aggressive designs against these countries.

"We can assure Comrade Tyler and all other doubting Thomases that we know well when the war of a small nation is one for its national independ-

*Excerpts From Defendants' Exhibit 8 x M,
Read into Record*

ence and when it merely becomes the excuse for a new imperialist war as in 1914.

“And to emphasize this point we can do no better than to repeat the words of the Comintern Congress in 1928 which stated the following:

“‘The proletariat must determine its tactics in regard to wars by its country in accordance with the results of a thorough examination of the concrete aspects of the war at each separate stage. National wars may be turned into imperialist wars, and vice versa.’

“Here again—on this third question as on the two preceding ones, the Young People’s Socialist League takes the same position of passivity. If the Young People’s Socialist League had an active policy in the struggle against war, if it had a practical policy, if it gave concrete leadership in the struggle against war, what would it do?

“It would ring the alarm: ‘Workers of the world, fascist Germany threatens these small countries with (T-9237) war. Let us not permit this monster to start such war. Let us make it clear to the mad dog rulers of Germany that the world proletariat is fully mobilized to make such war impossible.’ ”

That is the end of that section in evidence.

The Court: Now, ladies and gentlemen of the jury, remember the admonition I have heretofore given you. Do not discuss the case among yourselves and do not let the matter be discussed by anyone with you. You will express no opinion of the merits of this controversy until finally submitted to you under the instructions of the Court.

We will now take a recess until tomorrow morning at 10.30.

(Adjourned to July 7, 1949, at 10.30 a. m.)

Gilbert Green—Defendant—Redirect

(T-9238)

New York, July 7, 1949;
10.30 a. m.—————
TRIAL RESUMED
—————

(The clerk confers with the Court.)

The Court: Let the record show that the jury is present, and the defendants and the attorneys for the defendants, with the exception of Mr. Gladstein and Mr. McCabe, with respect to whom I am informed the usual stipulation is in preparation for signature and filing, and the attorneys for the Government are present.

GILBERT GREEN, resumed the stand.

Redirect examination continued by Mr. Isserman:

Q. Mr. Green, I show you Exhibit 172 for identification, which is a passport application, which is in evidence, dated in 1936—it bears one date, August 13, 1936—and call your attention to a box on the first page of it which reads as follows, in part: “I have resided outside the United States as follows,” and then appears the words in writing “Central Europe, October 1934 to December 19, 1934,” and I ask you whether or not you have this morning examined the handwriting in the portion which I have just read (handing)? A. I have for the first time examined it this morning.

Q. And is that your handwriting? A. It is not my (T-9239) handwriting.

Q. Was anyone—did you fill out this application outside—

Mr. Isserman: No, withdraw that.

Q. Where did you fill out this application? A. To the best of my recollection it was filled out at the—I don’t know whether it is the Department of Labor or Immigration—whatever the headquarters is. It was on Wall Street,

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I think, the corner of Broad and Wall, but I went down there, I brought my old passport and filled out this application.

Q. Now I call your attention that across the face of the same portion of the exhibit appears to be a signature and a date, and ask you—the date being 8-15-36—and ask you if that is in your handwriting? A. No, it is not, although there are portions of this application in my handwriting.

Q. Well, I am referring now specifically to the signature on the face of the application— A. No.

Q. —which I have indicated.

Now I call your attention to some writing in the upper lefthand corner of the second page which reads as follows—and I will tell you the portion which is in writing—“Passport No.”—and then there is a number (T-9240) in writing; “Issued at Washington on January 23, 1932,” which is in writing, and then there appears to be, after the words “Seen and canceled,” an initial, and ask you if that—

Mr. McGohey: Will you also indicate that the words which you have read but which you have not described as being in handwriting are printing—that appear to be part of the regular form?

Mr. Isserman: That is correct. The portion which is in handwriting is the date and the number which I have indicated, and the initial.

Q. Is that in your handwriting? A. It is not.

Q. Did you—I withdraw that.

Now in the same portion of the first page in which you say “Central Europe, October 1934 to”— A. I didn’t say “Central Europe.”

Q. I withdraw that. In that same portion in which there appear the words “Central Europe” in writing, “from October 1934 to December 1934,” there appears a figure “1905” after this statement which is in print: “My father emigrated to the United States on or about 1905,” and I ask you if the “1905” in that space is in your handwriting or not? A. That is the only thing in my handwriting in that space.

(T-9241) Q. I call your attention to the words “Chicago, Illinois” in the lower lefthand corner of the same

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box and ask you if that is in your handwriting? A. It is not.

Mr. Isserman: If the Court please, I would like to pass this to the jury, if I may.

The Court: Does he claim that was put in afterward?

Q. Did you have with you your old passport? A. I did.

Q. And did that passport show that you were in Central Europe in October 1934 to December 1934?

Mr. McGohey: Objection.

The Court: Sustained.

Mr. McGohey: I suggest that the passport would be the best evidence of what it contains.

The Court: The materiality of this is that he claims it was put in after he signed and swore to it. If that is the claim that is one thing. If he read and signed and swore to it that is something different. What does he claim about that?

Mr. Isserman: We will find out in a moment.

Q. I call your attention, Mr. Green, to the second page—I withdraw that.

Q. I ask you, Mr. Green, if you know who put that (T-9242) handwriting in the application—who put that writing in the application to which I have referred? A. I do not.

Q. And did you answer any questions to the clerk who was there at the time you filled out the application? A. I may have; I do not recall.

Q. And was it a fact that you were in Central Europe between October and December 1934? A. Between the end of October—very end.

Q. And December 1934 you were in Europe? A. Yes, I was in Europe.

Mr. Isserman: If the Court please, I would like to show the handwriting to the jury.

By the Court:

Q. Mr. Green, do you claim that that handwriting was not yours; was put in there after you signed and swore to

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that paper? A. I claim this, your Honor: I at no time claimed that my residence was any other place than the City of New York from the period that I came to New York from New Bedford in 1928 to the time I left New York and went to Chicago in September of 1945.

Q. What I ask you again is, do you claim that that handwriting was put there after you signed and swore to that paper? A. I do not know when it was put in, your Honor. All I know is I did not put that in nor did I (T-9243) swear to that statement and there is a signature over this section here of somebody else, over this particular section.

Q. Now the question is whether that was on there when you signed and swore to it or whether you claim it was put on afterwards, and I have asked you that twice. Now I think we better let it rest as it is.

By Mr. Isserman:

Q. Did you when you swore to this application know that you were stating that you had residence in Central Europe from October to December 1934? A. I did not.

The Court: You can read that to the jury.

Mr. McGohey: I would like to show the exhibit to the Court and call to your Honor's attention that Mr. Isserman has stated that there is a signature that appears over this section of the exhibit. I ask the Court to look at it and I say there is no signature there.

Mr. Isserman: I would like to have Mr. McGohey tell me what is there before that date.

The Court: There is no signature.

Mr. Isserman: It purports to be a signature. I could make an effort to interpret it—

Mr. McGohey: I say it is not a signature. At best it is somebody's initials, which would probably indicate that it was checked by a clerk.

Mr. Sacher: I object to the statements on (T-9244) the part of Mr. McGohey on the ground that they are testimonial in character and ask that your Honor instruct the jury to disregard them.

Mr. McGohey: I am willing to submit it to the jury and let the jury determine whether that is a signature.

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The Court: I think that is the proper thing to do. What counsel says is of no moment. It is for the jury to determine.

Mr. Sacher: Does that apply to the United States Attorney?

The Court: Of course it does.

Mr. McGohey: Of course. The United States Attorney has never said anything else.

(To jury) What appears is this—

Mr. Isserman: I would like to point out the portion to which I refer.

(T-9245) The Court: You may. Now, don't take it away from them.

Mr. Isserman: I won't. I am going to show it to them.

Mr. McGohey: Isn't this it?

Mr. Isserman: The writing to which I made reference first is this writing "Central Europe, October 1934 to December 1934." Mr. Green says this "1905" is his, and this (indicating) is not his writing. And then when I said there is—appears to be a signature and the date, I referred to the writing which is written slant-wise across the box, which Mr. Green says isn't in his handwriting.

The Forelady: Your Honor, are we supposed to inspect the front page, or can—

The Court: Excuse me?

The Forelady: Are we only supposed to look at the front page?

The Court: Oh, you may look at any part you desire.

Mr. McGohey: Everything in there is in evidence.

The Court: Yes, it is all in evidence. You may look at any portion you desire.

Mr. Isserman: I would like the jury to particularly examine the date which is written in the upper righthand (T-9246) corner of the second page, to note the handwriting.

(Exhibit handed to the jury.)

(A pause.)

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The Witness: May I talk with my attorney?

The Court: Yes.

Mr. Isserman, Mr. Green wants to talk to you.

This is off the record.

(Whispered conversation between Mr. Isserman and the witness.)

(A pause.)

Q. I call your attention to the following question and answer which is in—the answer being in writing—and ask you if that is in your own handwriting: “I intend to visit the following countries for the purposes indicated”—that is in print—and then, in writing, “France and Switzerland,” and in writing, “League of Nations, Youth Congress,” and ask you if that is your handwriting? A. That is my handwriting. That refers to the League of Nations in Geneva, Switzerland, and to the World Youth Congress that took place at the headquarters of the League of Nations in Geneva, Switzerland.

(T-9247) Mr. Isserman: May I have Exhibits 175—

Mr. McGohey: Yes, surely.

Mr. Isserman: —178, 179, 180 and 181?

Mr. McGohey: All right; here is 175 (handing).

Mr. Isserman: Thank you.

Mr. McGohey: 180 (handing); 181 (handing).

Did you ask also for 178?

Mr. Isserman: Yes, 178 and 179 as well.

Mr. McGohey: 178 and 181 (handing); and you want 179?

Mr. Isserman: Please.

Mr. McGohey: Here is 179 (handing).

By Mr. Isserman:

Q. I call your attention, Mr. Green, to Exhibit 175 for identification, which was issued in 1931 or '32—

Mr. McGohey: What is that you are referring to? What exhibit is that?

Mr. Isserman: That was 175.

Mr. McGohey: Thanks.

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Q. (Continuing) Then to Exhibit 178, which bears date January 1934, and Exhibit 179 concerning which I believe you testified it was issued in late '31 or early '32, and Exhibit 180, which bears date 1934, June 1934; Exhibit 181, which bears date 1936 (handing). I ask you to examine those exhibits and ask you if they were used by you as a (T-9248) member or official of the Young Communist League or Communist Party at any time after 1938?

Mr. McGohey: Objection.

The Court: I will allow it.

A. They were not.

Q. Within your knowledge were they circulated by the Communist Party or Communist Political Association after 1938? A. They were not. They were out of circulation long before then.

Q. Now I call your attention to Exhibits 175, 179, 180 and 181, leaving out 178 which is in front of you, and call your attention to the fact that they were publications of the Young Communist League, and I ask you if at any time these exhibits were official documents of the Communist Party?

Mr. McGohey: Objection.

A. They were not, but as an official of the Young Communist—

Mr. McGohey: Wait.

The Court: Well, I will overrule the objection.

I am hesitating a little bit because I am not quite sure—I do not know what the witness means by word “official,” but perhaps I will overrule the objection and allow it.

Mr. Isserman: I will ask a follow-up question that will explain it.

(T-9249) The Court: Well, he testified a good deal on that yesterday, you know. Let him answer the question.

Will you read it to him, Mr. Reporter?

* * *

A. They were neither official nor unofficial documents of the Communist Party, although as an official of the Young

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Communist League, at that time I assumed full responsibility for them, even those I did not write or have anything to do with them directly.

Q. How did you—were you present—

Mr. Isserman: I will withdraw that.

Q. Were you present at any meeting of the National Committee or National Board of the Communist Party or of any subdivision of the Communist Party in the period, 1945, April 1945 to July 20, 1948, where the use of exhibits 175, 178, 179, 180 and 181, or any of them, was authorized or recommended?

Mr. McGohey: Objection.

The Court: Sustained.

Q. Were you present at any meeting of the Illinois District of the Communist Party in the period 1945 to 1948, at which the use of the exhibits to which I have just referred, was authorized or recommended?

Mr. McGohey: Objection.

The Court: Sustained.

(T-9250) Q. I call your attention to your testimony in the transcript on pages 8050 to 8056, referring to a meeting of the National Board of the Communist Party some time in early 1938, at which or concerning which, in discussing the Peters' Manual, Communist Party Manual on Organization and Olgin's Manual Why Communism, which are in evidence in this case, you stated the following, in part:

“The substance of what was said at this meeting and said at a number of others as well, namely, this, that there had taken place a change in the entire political situation, that is, as the Party estimated it, a change which had been taking place for a number of years, that therefore these pamphlets and a number of other writings, including some writings of Mr. Foster no longer fit the new situation, no longer represented the policies of the Party for the new period,”

and ask you if there was any specific mention—

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Mr. Gordon: That is in the middle of a sentence.

Mr. Isserman: Well, I will read the whole thing if anybody desires it. I was—let me read the rest of it then, if the Government desires it.

Mr. McGohey: Well, the point of it, your Honor, is I have been accused repeatedly of wrenching things out (T-9251) of context, and Mr. Isserman stops in the middle of the sentence. I think he ought to complete the sentence first.

Mr. Isserman: I will be very glad to; I was only concerned with summarizing it, but I will complete it, and go back a little bit.

“that therefore these pamphlets and a number of other writings, including some writings of Mr. Foster no longer fit the new situation, no longer represented the policies of the Party for the new period, that—also that some of these writings had been narrow and schematic in their application of Marxist-Leninist principles to the United States, and that for both of these reasons, these writings no longer could be used by the Party as expressions of the Party policy as of that time,”

and I ask you whether in that discussion any particular work of Mr. Foster was mentioned?

Mr. McGohey: I object to that, your Honor. I would like to state the reasons, if I may.

(T-9252) The Court: Was this on his direct examination that you read from?

Mr. McGohey: He is reading from direct examination.

Mr. Isserman: That is correct.

Mr. McGohey: And I represent to the Court—the record will bear me out—that this was not touched on in any way in the cross.

Mr. Isserman: But the writings of Foster were touched on.

Mr. McGohey: But this testimony was not.

The Court: No.

By Mr. Isserman:

Q. I ask you whether at any meeting of the National Board, Mr. Green, that discussion of various writings and

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pamphlets to be used by the Party in its teachings were had there was any mention in the year 1938 of Mr. Foster's book "Toward Soviet America"? A. There was.

Q. Will you tell us on what occasion there was? A. On the occasion that I mentioned before in my direct testimony, namely, at that meeting—

Mr. McGohey: If the Court please, I should like to have the time fixed and who was there.

The Court: Yes, I thought he was going to do (T-9253) that but he started to wander.

The Witness: I am going to.

The Court: Just tell us when, where and who was there.

The Witness: That is exactly what I was about to do.

The Court: Well, it seemed as though you were perhaps going to wander and if you will only do that—

The Witness: (To reporter) Will you please read back what I said.

The Court: I think all you need to remember is that it was at that meeting and now you tell us when, where and who was there.

A. (Continuing) It was at a meeting in the spring of 1938, either April or May—the best of my recollection is that it was in April—it was a meeting of the National Board, it was held at the national headquarters of the Communist Party, some of those who were present that I recall were Mr. Foster, Mr. Browder, Mr. Dennis, Mr. Stachel—I don't recall any others—of course I was there, and there was a discussion of the change that had taken place in the entire objective world and national scene, the change in Party policies consequent to that, the fact that old pamphlets and writings no longer fit the new situation, that many of them bore the (T-9254) imprint of ultra leftism and immaturity, and at the time they were written, they were not even good presentations of Marxism-Leninism at the time they were written let alone for the entirely new situation, and in that discussion there was mention made of Mr. Foster's book and Mr. Foster himself made that mention and said that he himself thought that his book no longer corresponded with his present point of view and with the new situation.

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Q. That is the meeting to which you have testified here?

A. Yes.

The Court: (To reporter) May I have that part of the answer read after the words "ultra leftism".

(Record read.)

Mr. Isserman: May I proceed?

The Court: Yes.

Q. Did you read the Foster book when it was published?

Mr. McGohey: Which one?

Mr. Isserman: "Towards Soviet America."

A. I read it when it was published.

Q. When was the last time you read this book? A. Well, I read it once. I read it when it was published or shortly after that, some time in 1932.

Q. Did you at any time in the period January 1, 1938 to July 20, 1948, use this book in any class or meeting at which you spoke or taught on behalf of the Communist (T-9255) Party? A. I have used it in no way whatsoever nor have I read it in that period of time.

Q. I call your attention—

Mr. Isserman: I withdraw that.

May I have the book "From Bryan To Stalin"?

Mr. McGohey: Yes (handing).

Q. I call your attention—

The Court: Just a second.

By the Court:

Q. I don't understand that word "ultra-leftism." What do you say that was understood by you to mean at that meeting? You said Foster's book was one of the ones that was tainted with ultra-leftism, wasn't it? A. Yes.

Q. Now just what is that ultra-leftism? A. Well, it is an estimate and proposals that do not—that are not in accordance with the actual state of affairs and which are completely at variance with what is possible to achieve

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at a given time and what the great majority of the people are ready to do.

Q. So anybody could call anything ultra-leftist and you wouldn't know whether he was right or wrong?

Mr. Isserman: I object to that question, if the Court please. It is argumentative.

The Court: All right. I just don't understand (T-9256) it yet.

By Mr. Isserman:

Q. Will you make further explanation of it, Mr. Green, perhaps by giving an example? A. For example, if in a given stage of development the main issue is that of defense of democratic rights and of blocking the path towards fascism if anyone were to come forward with a proposal and say that is not the issue, that the main issue is that of the fight for the immediate achievement of Socialism that would be ultra-leftism because it would not correspond with what is the historic situation at that time.

By the Court:

Q. Who would decide what was the point of view that was the right one? A. In the last analysis the people would have to decide, the masses would decide what was right and what was wrong. How the Party judges is by the conclusions that it arrives at in its official documents.

Q. In other words, the National Board does the deciding and then after they make the decision a thing is ultra-leftist or not according as they say so? A. Well, all they are doing is expressing their own point of view. They are not asking anybody else to necessarily accept it. It is their point of view.

(T-9257) Q. But when you say it is the view of the masses, it is the view of the masses as interpreted by the National Board? A. Yes, and if we happen to be wrong, we will be corrected by the masses.

By Mr. Isserman:

Q. You have been wrong on occasion, haven't you? A. Oh, yes, I am sorry to have to admit.

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Q. I show you Government's Exhibit 186 for identification, the book "From Bryan To Stalin," which was published in 1937, and call to your attention that it is mentioned in Government's Exhibit 51 under a heading of, I believe it was, "Self Study and additional reading," and I ask you whether or not you had any discussion with Mr. Engelstein concerning the inclusion of that book on the list of Exhibit 51 before that exhibit was published and circulated? A. I did not see a draft of that exhibit before it was published.

Mr. McGohey: Which exhibit are we talking about, "From Bryan To Stalin" or 51?

Mr. Isserman: 51, which is the outline—

The Court: 51, the Herron—the outline produced by the witness Herron?

Mr. Isserman: Yes.

The Court: Now, what you asked him was, did he (T-9258) have a talk with the Educational Director out there, Engelstein.

Mr. Isserman: That is right.

The Court: And he is not answering that, but he is going off on something else.

Now, did you have a talk with him, that is what your lawyer wants to know, about whether that book should be included in the readings or not.

The Witness: I had a talk with him prior to the actual drafting of the exhibit in terms of what—

The Court: The answer is, yes, you did have a talk. Now then, he will ask you, perhaps, what the talk was.

Q. Well, you did have the talk, didn't you? A. Yes, I did.

Q. Now, what was said to him? A. The discussion related to listing books or periodicals which could give the students some background in terms of the history of our own Party, its origin and roots, and Mr. Engelstein felt that this book could do because it dealt with the predecessors of the Communist movement, the development of the movement for Socialism in this country over a whole period of decades.

*Excerpts From Defendants' Exhibit 8 x N,
Read into Record*

Mr. Isserman: At this time, if the Court please, I would like to offer as a defense exhibit the Table of (T-9259) Contents which is found on page 5 of Government's Exhibit 186.

Mr. McGohey: I have no objection, your Honor.

(Marked Defendants' Exhibit 8 x N in evidence.)

Mr. Isserman: At this time I would like to read Exhibit 8 x N to the jury.

The Court: Yes.

Mr. Isserman: Which is the Table of Contents of this book:

"Contents.

"Preface.

"Chapter 1 Beginnings.

"Chapter 2 The Bryan Movement.

"Chapter 3 The Socialist Party.

"Chapter 4 Wage Workers Party.

"Chapter 5 Industrial Workers of the World.

"Chapter 6 Syndicalist League of North America.

"Chapter 7 International Trade Union Educational League.

"Chapter 8 A.F. of L.: The Meat Packing Campaign.

"Chapter 9 A.F. of L.: The Steel Campaign.

"Chapter 10 Red International of Labor Unions.

"Chapter 9 Communist International"—

I am sorry, "Chapter 11 Communist International.

(T-9260) "Chapter 12 Trade Union Educational League.

"Chapter 13 Trade Union Educational League, Continued.

"Chapter 14 Trade Union Unity League.

"Chapter 15 Trade Union Unity League Continued.

"Chapter"—I am sorry. That last was Chapter 15.

"Chapter 16 Communist Party.

"Chapter 17 The Road Ahead."

Gilbert Green—Defendant—Redirect

Q. Did the Young Communist League—

Mr. Isserman: I withdraw that.

Q. I call your attention again to Exhibits 175, 178, 179, 180 and 181, which you have before you, and ask you whether or not the Young Communist League changed its policies subsequent to the publication of these exhibits?
A. It did.

Q. Did you as an official of the Young Communist League write on these changes? A. I did.

Q. And were your writings published? A. They were.

Q. And were they distributed and circulated by the Young Communist League? A. They were.

Mr. Isserman: May this be marked for identification.

(Marked Defendants' Exhibit 8 x O for identification.)

Mr. Isserman: I believe it is the first article, (T-9261) the one entitled "Sweet Sixteen," in which I am interested.

The Court: Yes; I can generally identify them because they are marked in pencil or something, and I see some marks on this one.

Mr. Isserman: I see.

Q. I call your attention to Exhibit 8 x O, which is dated April 1938, and ask you if the article which appears on the first page—on—

The Court: That one "Sweet Sixteen"?

Mr. Isserman: Yes.

Q. —the article marked "Sweet Sixteen," which runs through—runs to page 5, which consists of—well, it runs to page 5, and I ask you if that is the article to which you have reference?

Mr. McGohey: What is the question now?

The Court: Whether he remembers—

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Mr. Isserman: No, whether this is the article to which he had reference when he said he had written on the changes.

A. This is one of many articles in which I dealt with change.

The Court: Didn't you go into that rather fully on his direct examination, with multiplicity of pamphlets and books and things of one kind or another?

Mr. Isserman: This is with reference to the (T-9262) Young Communist League, if the Court please. I wanted to put in one of those, and one on the Communist Party.

The Court: Didn't he state the views he had with the Young Communist League on direct examination? I have some remembrance that he had gone into that rather fully.

Mr. Isserman: Well, he had not gone into it in respect to changes.

The Court: Not this particular book or pamphlet?

Mr. Isserman: Not with reference to the early pamphlets between 1931 and 1936, which the Government has put into evidence.

The Court: All right.

Mr. Isserman: I offer the article as 8 x O-1.

The Court: You had better indicate some particular part of that that you are talking about to Mr. McGohey so we won't take any more time than is necessary here, and if it is the part you have marked with pencil there, why, then, Mr. McGohey will realize that, if I sustain an objection to the entire article, you are then going to offer later without prejudice this part that you will indicate to him.

Mr. Isserman: Let me then do it this way: I offer the entire article but, if there is an objection to it, I offer the parts which are here indicated in (T-9263) pencil.

* * *

Mr. McGohey: If the Court please, may I inquire—no, I will withdraw that, but I should like to make this statement, your Honor, that if this article in Exhibit 8 x O for identification is being offered on the theory that it is a repudiation of

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anything in Exhibits 175, 178, 179, 180 and 181, I have no objection to the whole or any part of it.

The Court: Well, that is what it is being offered for—isn't it, Mr. Isserman?

Mr. Isserman: It is offered to show a change in position and a discussion of the changes.

The Court: And how the views in the other one have now been changed.

Mr. Isserman: I am sorry, I didn't get that.

The Court: Well, that is all right; the way you put it is satisfactory.

Mr. McGohey: I have no objection to it, your Honor.

The Court: Very well.

(Marked Defendants' Exhibit 8 x O-1 in evidence.)

The Court: Now it is just the article "Sweet Sixteen" that goes in.

(T-9264-9274) Mr. Isserman: Yes.

Q. Now, Mr. Green, I call your attention to Exhibit 8 x O-1 and ask you whether that was written by you as an official of the Young Communist League? A. It was.

Q. Now did you in 1938, as an official of the Communist Party, write an article which showed a change of position in respect to the following—first I call your attention to Exhibit 180 for identification, which was one of the exhibits before you, and to the matter which is in evidence under the heading "Roosevelt on Way to Fascism and War"; and then I call your attention to Exhibit 178, and to a portion of that exhibit which is in evidence, and which was read by Mr. McGohey on page 80, last paragraph, which reads as follows:

"It is with this understanding that we must proceed to apply the principles of Leninism in the struggle for winning a majority of the proletarian youth for the revolutionary overthrow of American capitalism and for a Soviet America",

and ask you whether in this article you discussed—

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Mr. McGohey: Which article are we talking about now? You referred to two. I want to know which article.

The Court: I do, too.

(T-9275) Mr. Isserman: I am going to get it in a moment. I will withdraw the question then and reframe it.

The Court: All right.

Q. Did you write an article in 1938 in which as an official of the Communist Party you expressed a position different from the position which I have read to you out of Exhibits 178 and 180?

Mr. McGohey: Object to that question.

The Court: Sustained: You only read from one of them.

Mr. Isserman: I read from two. I called attention to—

The Court: Well, if you are trying to get him to explain to the jury how he made some change, I don't see how they are going to understand it unless you show what he is changing from, and that I take it is the point of the objection. I couldn't get it. You read from just one of them there.

Mr. Isserman: I read from one and gave the title of the other, a sub-section which states that Roosevelt—the heading is "Roosevelt on the Way to Fascism and War", and I think that sufficiently describes the exhibit to get the answer.

Mr. McGohey: Now if the Court please, I press my objection.

The Court: I will sustain the objection.

(T-9276) Q. All right. I now ask you whether you wrote an article in which you took the position—that is, in 1938—in which you took a position different from the paragraph which I have read to you in Exhibit 178 for identification, dealing with Soviet America, and different from the position in 180 for identification, which is stated under the heading "Roosevelt on Way to Fascism and War," and which reads as follows:

Colloquy of Court and Counsel

“Is there any real difference between these murderous attacks of the ‘democratically elected’ Roosevelt Government and the dictatorial fascist Hitler Government? Is it not clear to us young people of America that all the worst features of the fascist way of ruling the masses is unfolding itself within the Roosevelt Government itself?”

Do you understand the question now, Mr. Green? A. I think I do.

Q. Now the question calls first for a yes or no answer.

A. Yes.

Q. Now I show you Exhibit 7 x B for identification, which is an article by you and Mr. Dennis, entitled “Notes on the Defense of American Democracy,” published in *The Communist* of May 1938, and ask you if that is the article to which you have reference? A. It is.

(T-9277) Q. Does that article also show the development of the change from the position of the Communist Party in the early '30s to the change to the position of the Communist Party at the time you wrote the article?

Mr. McGohey: Objection.

The Court: Sustained.

Mr. Isserman: I now offer the article 7 x B for identification in evidence (handing to Mr. McGohey). It is on page 410.

In connection with the offer I would like to call your Honor's attention to a statement of the Court on page 9223—

The Court: If you think I have forgotten this exhibit you are mistaken.

Mr. Isserman: No, I just want to call your Honor's attention to something you said at page 9223 yesterday, where your Honor said:

“I may say, incidentally, that I do consider it proper for you to show by this witness that at a later time and within the period of the indictment he changed those views and taught something different in some of these classes. That I consider to be very admissible.”

Colloquy of Court and Counsel

And this is material offered to show the change of position from the prior position as contained in these (T-9278) pamphlets, and the article does exactly that.

Mr. McGohey: I move to strike that part as to what the article does because your Honor has repeatedly warned counsel that they may not discuss the contents of an exhibit.

The Court: Yes.

Mr. McGohey: And I press my objection.

The Court: I don't have to look at it. I think it is admissible now in view of what was brought out on cross-examination, not for the reason stated in this comment as read by Mr. Isserman, because that has to do with what he taught in classes. That was different. But in view of what was brought out on cross-examination and in the the various excerpts and the statements elicited from the witness I will now overrule the objection and admit this paper.

What is the number of it?

The Clerk: 7 x B-1 in evidence.

The Court: I remember that very well.

Now it is just the article by Green and Dennis that is being offered?

Mr. Isserman: That is correct.

(Marked Defendants' Exhibit 7 x B-1 in evidence.)

(T-9279) Mr. Isserman: May I have a minute, if the Court please?

The Court: Yes.

(A pause.)

Mr. Isserman: May I have a moment with the witness? I believe I may save some time.

The Court: You mean to decide which one of you wants to read the article?

Mr. Isserman: No, the question is whether we can dispense with some other exhibits which we had prepared to offer, which may not be necessary.

The Court: Why don't you just dispense with them? You are the lawyer. Why do you have to ask him?

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Mr. Isserman: I have to ask him because it is his views we are talking about, his position.

The Witness: I have hired him, not he me.

The Court I know, but the client that gives orders to his lawyer generally makes a mistake.

Mr. Isserman Not giving orders. This is a one-minute consultation.

The Court: Well, all right, consult away. Off the record.

(Whispered conversation between Mr. Isserman and the witness.)

By Mr. Issermans

(T-9280) Q. Mr. Green, I show you Government's Exhibit 180 for identification, which is a program of the Young Communist League adopted in 1934, and I ask you if at any subsequent time the Young Communist League adopted a program different from the program which is before you? A. It did.

Mr. McGohey: What was the answer?

(Record read.)

The Court: What is the number of that?

Mr. McGohey: 180, your Honor.

Mr. Isserman: I would like to have this marked for identification.

(Marked Defendants' Exhibit 8 x P for identification.)

Q. Did the Young Communist League hold a convention in 1937? A. It did.

Q. Did it adopt a Declaration of Principles? A. It did.

Q. Was that printed and circulated by the Young Communist League? A. It was.

Mr. Isserman: I would like to offer that in evidence, referring only to "Declaration of Principles" contained in that exhibit.

The Court: Not the by-laws?

Mr. Isserman; Not the by-laws.

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(T-9281) The Court: All right.

Mr. Isserman: I think I need one other question to qualify it.

Q. Is—

Mr. Isserman: Excuse me, Mr. McGohey.

Mr. McGohey: Yes.

Q. (Continuing) Is Exhibit 8 x P the Declaration of Principles to which you have reference? A. May I take a look at that for a moment? (After examining) It is.

Mr. McGohey: 8 x P is objected to, your Honor, as offered.

The Court: May I have Exhibit 180, please?

Mr. McGohey: I think the witness has it.

* * *

(9282) The Court (After examining): Objection sustained.

Mr. Isserman: If the Court please, I would like to offer as individual exhibits the following paragraphs—or sections, rather: The one with the sub-heading on page 4 and runs over to 5; the one on—

The Court: Show it to Mr. McGohey. Take them separately.

Mr. Isserman: O.K. (handing to Mr. McGohey).

The Court: This is supposed to show how he changed from what was in Exhibit 180-1.

Mr. Isserman: Yes, a change in program of the YCL.

Mr. McGohey: This offer from 8 x P for identification, consisting of the part beginning under the heading on page 4 and continuing on over to the end of that section on page 5 is objected to.

The Court: Sustained.

By Mr. Isserman:

Q. Mr. Green, after—I withdraw that.

Mr. Isserman: May I see the exhibit?

The Court: Yes (handing).

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Q. I show you Exhibit 180 for identification, which is— which are the Resolutions of the Seventh National Convention, Young Communist League, adopted in 1934, (T-9283) and ask you for what period were these resolutions in operation (handing)? A. From this convention to the Eighth Convention.

Mr. McGohey: May we have the date fixed?

The Witness: Well, this was number—this was 1934. I do not know—

The Court: Meaning Exhibit 180-1?

The Witness: Exhibit 180 for identification.

The Clerk: 180-A.

A. (Continuing) That is the Manifesto and Resolutions of the Seventh National Convention of the Young Communist League held on June 1934. Now these represented the policies of the organization until the subsequent convention, the Eighth Convention.

Q. And that is the convention which adopted the Declaration which is in 8 x P for identification? A. Is that the Eighth Convention?

(Mr. Isserman hands to witness.)

A. Yes, this is the—this (indicating) replaced this (indicating).

Q. You mean 8 x P for identification replaced 180? A. That's right.

Mr. Isserman: I now would like to offer as a separate exhibit the sub-heading on page 5, which runs over to page 6 (handing to Mr. McGohey).

(T-9284) Mr. McGohey: This is objected to, your Honor.

The Court: Sustained.

Mr. Isserman: Then the sub-heading on page 6, which runs over to page 7.

Mr. McGohey: That is objected to.

Mr. Isserman: And the—finally—

The Court: Sustained.

Mr. Isserman: —the sub-heading on page 8, running over to page 9.

Mr. McGohey: The same objection.

The Court: Let me look at that, please.

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(Mr. McGohey hands to the Court.)

Mr. McGohey: Page 8 and 9.

The Court: Yes. (After examining) Sustained.

Mr. Isserman: If the Court please, in the light of the witness's last testimony I now re-offer the entire exhibit, that is, the entire Declaration of Principles.

Mr. McGohey: The same objection.

The Court: Sustained.

By Mr. Isserman:

Q. Now did the YCL have a convention in 1939? A. It did have.

Q. And did it adopt a preamble and constitution at (T-9285) that convention? A. It did.

Q. And did the preamble state the aims of the YCL? A. It did.

* * *

(Marked Defendants' Exhibit 8 x Q for identification.)

Q. Do you know what convention that was of the YCL? A. That was the Ninth Convention.

Q. Were you an official of the YCL at the time of its Ninth Convention in 1939? A. I was.

Q. Were you present when the constitution and the preamble was adopted? A. I was.

Q. Was it subsequently printed and circulated by the YCL? A. It was.

Q. I call your attention to 8 x Q for identification, and ask you if that contains the preamble to the constitution which was adopted at that convention (handing)? A. It does.

Mr. Isserman: I would like to offer in evidence the preamble and the constitution, which starts on page 3 and runs over to page 4 of 8 x Q for identification (handing to Mr. McGohey).

Mr. McGohey: That is objected to, your Honor (handing to Court).

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The Court (After examining): Objection sustained.

(T-9286) Q. Now I call your attention to Exhibit 178-A, being an article in the Communist of January 1934, and to a portion of that exhibit on page—under a heading “Militarism and War” on page 77, and runs over to page 79, and which was read by Mr. McGohey to the jury, and to the following paragraph of that exhibit:

“Today, when the whole world is so close to another imperialist war, these teachings of Lenin and Liebknecht must especially be brought to the American young workers. We must remember the words of Lenin that imperialist war must be fought before war actually starts. Especially must we reach the youth in the armed forces, forced-labor camps and factories with our anti-war activity. In the words of Liebknecht: ‘Anti-militarism is the battle cry of the International youth movement today and in the future more than ever!’ ”

and ask you whether subsequent to January 1934 as an official of the Young Communist League you wrote an article on the same subject in which your position was changed (handing)? A. I wrote an article that dealt with militarism.

(T-9287) Mr. Isserman: I would like to have this marked for identification.

(Marked Defendants’ Exhibit 8 x R for identification.)

The Court: Is there a date on this, Mr. Isserman?

Mr. Isserman: Which one is that, your Honor?

The Court: 8 x R for identification. I have it here. I thought possibly you knew the date of it.

Mr. Isserman: Oh yes, I have the cover. It is dated January 1939.

The Court: January 1939, thank you. Very well.

Colloquy of Court and Counsel

Q. I show you Exhibit 8 x R for identification, an article entitled "Armaments for What?" by Gil Green and ask you if you wrote that article? A. I wrote that article.

Q. Will you tell me when and where it was published?

A. It was published in the Young Communist Review.

Q. And when? A. To the best of my recollection it was the latter part of 1938 or early 1939, around that.

Q. And was it distributed by the Young Communist League? A. Definitely.

Mr. Isserman: I offer 8 x R for identification in evidence.

Mr. McGohey: It is objected to, your Honor.

The Court: Now, Mr. Isserman, before I read (T-9288) that, this is supposed to show that he changed from the writing in 1934 as follows:

"Today, when the whole world is so close to another imperialist war, these teachings of Lenin and Liebknecht must especially be brought to the American young workers. We must remember the words of Lenin that imperialist war must be fought before war actually starts. Especially must we reach the youth in the armed forces, forced-labor camps and factories with our anti-war activity. In the words of Liebknecht: 'Anti-militarism is the battle cry of the national youth movement today and in the future more than ever!'"

Mr. Isserman: That is correct.

The Court: That is what this is supposed to explain or rather show a change from?

Mr. Isserman: That is right.

The Court: (After examining.) Objection sustained. I just can't see it.

Mr. Isserman: I call your attention specially and offer separately the matter which is contained beginning at the bottom of page 26 with the word "specifically" and running over to—

Mr. McGohey: Page 26?

Mr. Isserman: Page 26—the page numbered 26 (T-9289) and running over to the righthand column to include the paragraph marked "Thirdly."

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Mr. McGohey: On that same page?

Mr. Isserman: On the same page.

Mr. McGohey: (After examining) Objected to, your Honor.

The Court: Sustained.

By Mr. Isserman:

Q. Now I call your attention to Exhibit 179, which is the exhibit entitled "Who are the Young Communists?"—

The Court: Before you leave that, the part you read starts out "Today, when the whole world is so close to another imperialist war, these teachings of Lenin and Liebknecht"—"these teachings" are the key words. "These teachings" are set forth in the foregoing part of it. I won't repeat them because they were gone over on Mr. Green's cross-examination. These words you offer have nothing to do—

Mr. Isserman: The key word is the slogan of anti-war activity in the last sentence.

Mr. Sacher: I wish to object to your Honor's remarks, and I wish to state in connection with that matter if this is a jury trial that it should be the jury that should pass on whether or not these writings do or do not represent a change. I object to your Honor's remarks (T-9290) on the ground that they are prejudicial and they constitute an invasion of the province of the jury.

The Court: Objection overruled. If I were to abdicate my function, as you suggest, and let you pour everything in, I suppose we would be here 20 years.

Mr. Isserman: I must object to that remark.

Mr. Sacher: Instead, the course your Honor is following is to make the defendants spend 20 years elsewhere.

The Court: Well, so you say.

By Mr. Isserman:

Q. I call your attention to Exhibit 179. Have you got it there in front of you? A. I have.

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Q. It is entitled "Who are the Young Communists?"—and to the section which is in evidence on pages 20 and 21, under a heading "Fight the Bosses' War" and ask you when you stopped—when you stopped using this pamphlet which I believe your testimony stated was published in 1931 and 1932?

Mr. McGohey: I object.

The Court: What is the part you object to?

Mr. McGohey: The question is when did he stop using something. I object to that question. It assumes a state of facts as to which there is no evidence.

Mr. Isserman: I will reframe the—

The Court: Very well, the question is withdrawn (T-9291) and then you may reframe it.

Mr. Isserman: All right.

Q. Did you at any time, Mr. Green, as an official or member of the YCL stop using the pamphlet which is in front of you? A. Yes.

Mr. McGohey: Objection. Objection, your Honor.

The Court: Just one moment. I don't remember at the moment whether as to 179-A the evidence on cross-examination was that it was used and circulated or not. Just a moment till I consult my notes here.

Was that an article by the witness Green?

Mr. Isserman: No, it is not. It is a pamphlet of the YCL.

The Court: May I see the pamphlet for a moment?

(Pamphlet handed to the Court.)

The Court: Well, I will allow the question. Let me get straight first about the date.

By the Court:

Q. Mr. Green, do you remember when you first, if it be the fact, circulated this as a functionary of the Young Communist League, referring to Exhibit 179 for identifi-

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cation? A. Well, I recall when I looked at it yesterday or the day before the only quotes in there were from the year 1931 and I drew the conclusion that it had been used in 1931 and possibly in 1932. It deals with the Hoover (T-9292) period and the pamphlet itself indicates that it was a recruiting pamphlet and undoubtedly was not used after the Hoover period—in other words, after the latter part of 1932.

The Court: Well, that is what you wanted to bring out, Mr. Isserman?

Mr. Isserman: Yes.

By Mr. Isserman:

Q. Now, when did you cease being an official of the Young Communist League? A. About 1940.

Q. And did you attend a meeting of the Board of the Young Communist League immediately prior to your ceasing to be a member? A. Yes, I attended Board meetings for a long period of time.

Mr. McGohey: What Board, may we have?

Q. And was there—

The Court: This is the Young Communist League Board meetings?

The Witness: That is right.

Mr. McGohey: National Board?

The Court: Are there many different boards of the Young Communist League?

The Witness: There aren't now. There was—there were State Boards.

Q. What Board are you referring to? A. National Board.

(T-9293) The Court: All right.

Q. At a meeting immediately prior to your termination of your connection with the Young Communist League did you discuss the pamphlet which is Exhibit No. 179 for identification? A. I did not discuss that specific pamphlet

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but I discussed the literature and the material that had come out in the organization over a period of previous years.

Q. Did it include the period in which this pamphlet was published? A. Yes.

Q. And did you talk on this literature? A. Yes.

Q. What did you say?

Mr. McGohey: Time and place? May we have the time and place and who was present?

The Court: Yes, we ought not to have to bring that up every time.

Mr. Isserman: Well, the time has been approximately fixed.

Mr. McGohey: Oh, I object to that. I say it was not.

Mr. Isserman: The witness said immediately prior to 1940. We can fix it—

The Court: There was a long period of time prior to 1940. It is so easy to ask him when was it, where was it—

Mr. Isserman: I am going to ask him that.

(T-9294) The Court: —and who was there. If he gives responsive answers it only takes a moment or two.

Q. Would you tell us when and where that meeting was? A. Well, the meeting just prior to my leaving the YCL was held either in—some time in 1940 or the very early months of 1941, and it was something of a farewell meeting, where I took the occasion to discuss—

Mr. McGohey: Where, your Honor?

The Court: Don't get into the discussion until you—you see, there are three things that you always want to know, when was it, where was it and who was there? Now, you have told us when a little vaguely but, nevertheless, as well as you seem to remember it. Now, where was it?

The Witness: It was at a meeting hall in New York but—that is, a meeting room—I don't recall the place right now.

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The Court: Do you remember who was there?

The Witness: Well, Mr. Winston was there, Mr. Weiss—

Mr. McGohey: Who?

The Court: Weiss.

A. (Continuing) Weiss, Mr. Gates was there, I believe Mr. Thompson was there. At the moment, I don't recall—

The Court: This is the National Board of the (T-9295) Young Communist League?

The Witness: Yes.

The Court: All right.

Q. Now, tell us what you said concerning the literature.

A. Well, I, in saying farewell to the smaller group that had made up the Board leadership of the Young Communist League, spoke of the period of my association with the League and the changes that had occurred and sort of historically drew conclusions from all this.

And I referred to the fact that I was very proud of the entire period of time that I had been associated with the Young Communist League, with what it had done in terms of fighting in behalf of the young people of America, in behalf of the people as a whole.

I traced some of the key struggles that the Young Communist League had been involved in and played a leading role in. And I also said that at the same time that there were many foolish and immature things that had been done and said; that at one period of time there was a period in which there was a great deal of bombast in terms of excessive use of revolutionary phrases; that this had been—that this use of this—of these kinds of phrases were harmful at the time, were not correct; that subsequently, especially with the (T-9296) change that had occurred in the objective events, that there had been a change also and a more mature approach of the Young Communist League and its leadership to the problems of the youth; that it is necessary to trace the errors that the league had made in connection with the periods of time in which the League confronted problems, for example; that the errors in the early period were, however, associated with the fact that that was a period of great violence against labor, against the unemployed, against others.

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Q. Just a minute. What early period are you referring to—did you refer to? A. I was referring to the period of my association with the leadership—the early period of my association with the leadership, which was from '28 on to around '35, '36, and the changes that occurred were the process which culminated around '38 and were still changing at the time that I left the organization.

And I said that in connection with some of these old pieces of literature that some of those present in the room don't know them because they weren't in the Young Communist League at that time, and the fact is that they didn't even have a file of this literature in the office, and that the only thing that we did (T-9297) do in regard to some of it was to submit it to the New York Public Library, so at least those who do study history in the future would get a chance to go through that material, but that we did not maintain a file of it ourselves because it had no relevancy in terms of the problems that we faced in the new situation, and there was literature that was outdated and outmoded, and even at the time when it was written for a previous period, was not a correct application of Marxism-Leninism to some of the problems that we faced at that time. That, of course, referred to pamphlets such as those that have been brought into evidence here.

(T-9298) Now, generally that was quite a lengthy talk that I delivered, sort of summing up a period of the history in which I had been personally involved but that is some of the points that I recall at this time.

Mr. Isserman: I would like to have 7 x B for identification.

The Witness: May I add to that, your Honor?

Q. You haven't completed your answer?

The Court: Yes, you may go on.

A. I just recall that at the time I did speak of the changes that occurred in our attitude towards the Roosevelt Administration and that in the early period we did believe that fascism was unavoidable in terms of capitalism; that the entire capitalist class was the force that brought

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fascism on and that only the achievement of socialism, through the establishment of a workers' government, could keep fascism from coming; that in the early period of the Roosevelt Administration we, therefore, viewed the Roosevelt Administration in the same light; that, however—and also that in that period that there were conflicting currents in the Roosevelt Administration and that the Roosevelt Administration had not clearly defined its own course, but that in '35 and subsequent to that there was a process of change, and that we later on re-evaluated the Roosevelt Administration as a (T-9299) result of changes that had also taken place in it and definitely saw that the danger of fascism did not come from the Roosevelt Administration but came from the opponents of the Roosevelt Administration.

At that time, also, I pointed out that at the time this was occurring that we had also a changed evaluation of the Roosevelt Administration as compared with the period prior to the outbreak of the European war; that we felt that the Roosevelt Administration—

The Court: You were speaking for the Young Communist League, you and your associates in the Young Communist League? You said "we". I was just wondering.

The Witness: Yes, I was speaking of my own point of view and the collective point of view.

A. (Continuing) —that at that time we were in disagreement with the Roosevelt Administration because it had not taken a stand against the policy of Chamberlain in Britain and Daladier in France; it had not pressed for an alliance with the Soviet Union; and that, on the contrary, with the war breaking out, the Roosevelt Administration seemed to be developing a strong anti-Soviet orientation, and that there was a danger, in pursuance of such a policy, that an attempt would be made to bring about a united front of the imperialist powers against the Soviet Union, the united front, (T-9300) Britain, France and possibly the United States, would ally itself with Nazi Germany in the war against—in a war against the Soviet Union, and that our objective was to try to bring about a coalition between the United States and the Soviet Union; that if that could

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be done, then it would be possible to bring together that force—that preponderance of force that could bring the war to a close rapidly and without a victory of Nazi Germany.

Q. Now, when you made this statement to the Board of the YCL were you then also an official of the Communist Party? A. I was.

Q. And were you on its National Board? A. I was.

Q. And on the sub-committee of that committee, which was then the governing board? A. I believe so, but I am not certain whether I was on the Board or the Political Bureau, whatever it was called at that particular time.

Q. Did these views you expressed also express the views of the Communist Party? A. At least I thought I did express those views.

Q. I call your attention to Exhibit 7 x B for identification—

The Court: Just a second. Were you speaking to these other members of the National Board of the Young Communist League at this meeting of that National Board, were you speaking to them as an official of the (T-9301) Communist Party?

The Witness: Your Honor, I was speaking—

The Court: I thought you were just having a little farewell meeting of your own Board and, in view of Mr. Isserman's question, I thought I would get it clear. Were you there just talking with them all as members of the National Board of the Young Communist League or were you speaking there as an official of the Communist Party and a member of the National Committee of the Communist Party?

Mr. Isserman: I object to that question as to form. These are not necessarily alternatives.

The Court: Overruled. Well, you brought the thing up and you left it in a fog and I intend to dissipate the fog whether you like it or you don't.

Mr. Isserman: I have objected to the question because its form is not correct, it is in the alternative.

The Court: Overruled.

Do you understand the question?

*Excerpts From Defendants' Exhibit 7 x B-1,
Read into Record*

The Witness: Yes, I understand.

The Court: Please answer.

The Witness: I was there as a member of the Board and as a member of the leadership, my last meeting there, and they all knew I was a member of the National Committee of the Communist Party but I did not come (T-9302) there and speak as an official of the Communist Party.

The Court: That is what I wanted to know.

Q. Now I call your attention to 7 x B for identification—

Mr. Isserman: Does the Court have the original exhibit?

The Court: 7 x B? No, I have this 179 for identification here.

Mr. Isserman: I return these, Mr. McGohey (handing exhibits).

Mr. McGohey: Thank you.

(T-9303) Q. (Continuing) —which exhibit is an issue of *The Communist* for May 1938, and which contains the article “Notes on the Defense of American Democracy by Gene Dennis and Gil Green,” and I ask you now, Mr. Green, to read that article. (Handing.) A. (Reading):

“Notes on the Defense of American Democracy by Gene Dennis and Gil Green.

“When Communists declare their complete adherence to the principles of democracy, announcing their readiness to defend it from fascist foes, reactionary bourgeois scribes and professional skeptics accuse us of artful ‘maneuvers,’ while Trotskyite-Lovestoneite traitors, posing as ‘Marxists,’ shout ‘betrayal.’ Both these schools of ‘thought,’ if vilification and treachery can be classified as such, have a common platform. They desire to confuse the masses as to what Communism stands for, to distort truth in the interests of reaction and fascism.”

The Court: Is that a copy that I can use, Mr. Isserman?

*Excerpts From Defendants' Exhibit 7 x B-1,
Read into Record*

Mr. Isserman: You can use my copy; it is marked up (handing to Court).

The Court: That is all right. I would like to follow it that way. I will give it back to you just (T-9304) as soon as he is through with it.

A. (Continuing):

“The Communist movement, as expressed by Marx in The Communist Manifesto, disdains to hide its views. It states its opinions openly and frankly. The Communist Party proclaims the fact that it is the party of the revolutionary working class, the party of socialism. That is why it has been and remains the most energetic, most consistent and most devoted champion of democracy. For socialism is the logical goal of the democratic struggle; it is the highest development of democracy.

“This organic relationship between democracy and socialism is not understood by many people, first by those who, under the influence of the bourgeoisie, are led to believe that communism or socialism constitute a negation of liberty and freedom; and second by those honest Socialists who are influenced by the poison of counter-revolutionary Trotskyism.

“Marx and Engels, the founders of scientific socialism, were in their time stalwart fighters in behalf of democracy. In the epoch of the bourgeois-democratic revolution, they rallied the proletariat to guarantee the victory of bourgeois democracy. They realized that under democracy, even limited bourgeois democracy, the working class (T-9305) could have greater opportunity for organizing, for becoming conscious of its historic mission, for advancing further the struggle for socialism.

“Lenin, likewise, basing himself upon the teachings of Marx and Engels and the experiences of the Russian and international working class, directly participated in and repeatedly stressed the significance of the democratic struggle. In the very first program of the Russian Social-Democratic Party he wrote:

*Excerpts From Defendants' Exhibit 7 x B-1,
Read into Record*

“ ‘Therefore, the most urgent thing the workers must do, the first thing the working class must aim at in bringing its influence to bear upon the government is to achieve political liberty’ ”—

the words “ ‘achieve political liberty’ ” in italics—

“ ‘that is, the guarantee by law’ ”—

in brackets the word “ ‘Constitution’ ”—

“ ‘that all citizens will be able directly to participate in the administration of the state; to secure for all citizens the right to assemble freely, to discuss their affairs, to influence the state affairs through the medium of associations and the press. The achievement of political liberty is becoming the’ ”—

quote and in italics—

(T-9306) “ ‘“urgent task of the workers,” because without it the workers have not, and cannot have, any influence in the affairs of the state, and for that reason must inevitably remain a degraded and voiceless class totally without right.’ ”

That is from “ ‘Selected Works, Vol. I, page 491,’ ” that is, Lenin’s Selected Works; and the article continues:

“ ‘Nor did Lenin, brilliant strategist of the proletarian revolution, see a contradiction between the struggle for democracy and for socialism. To him they were inseparable parts of a single whole.

“ ‘The Trotskyite-Lovestoneite enemies of the working class and the people’s movement have the gall, however, to use the name of Lenin against democracy, to refute Leninism by misquoting Lenin. They distort Lenin’s critique of bourgeois democracy in order to obstruct and destroy the struggle for democracy today. We Communists understand full well the limitations of bourgeois democracy. That is why we are the exponents of and fighters for a higher and more complete form of democracy, socialist democracy. That is why we also combat the views of those who, influenced by Trotskyite-Lovestoneite poison, think that it was correct to fight for

*Excerpts From Defendants' Exhibit 7 x B-1,
Read into Record*

democracy in the period of the bourgeois-democratic (T-9307) revolution, in the lifetime of Marx and Engels and in the days of tsarist Russia, but that today such a struggle is incorrect.

“No one will dispute the fact that in the United States today the people do not face the task of achieving a bourgeois-democratic revolution. This historic task was accomplished, in the main, and in a revolutionary manner, by past generations, through the American Revolution of 1776 and the Civil War of 1861. But even today this task has not yet been completely realized.”—

the word “completely” in italics.

“In the South a nation, the Negro people, continue to live in semi-feudal bondage, denied the elementary rights of citizenship. For the Negro people the broader aspects of bourgeois democracy are still to be attained. Furthermore, every generation of Americans without exception has had to struggle for the realization and extension of existing rights and for the granting of new democratic liberties. Suffrage was won by the American people only when the Bill of Rights was added to the Constitution many years after the birth of the republic. Women’s suffrage was not won until 1920; while a large portion of the American (T-9308) people are denied the full rights of citizenship to this very day. The right to organize and strike had been denied American workers for decades although won and recognized in Europe in the nineteenth century. This right is still being disputed by the American ruling class; it still must be won completely. The same is true of many other democratic rights, hampered, restricted, or completely denied to the people.”

And then there is a sub-heading which says, “The New Factor—Fascism.”

“Most important of all, however, is a new factor”—

and the word “new” is in italics—

*Excerpts From Defendants' Exhibit 7 x B-1,
Read into Record*

“which did not exist in the days of Marx and Engels. We live today in the period of the decline of capitalism, in the epoch of proletarian revolution. The bourgeoisie, unable to rule in the old way, fearing the growing organized power of the toilers, disowns its own revolutionary past and discards its own revolutionary offspring—democracy. This it aims to substitute with its open, brutal, dictatorship—fascism. This is the new factor. This is the significance of the rise of fascism throughout the world. This is the meaning of the offensive of reaction and fascism in the (T-9309) United States. Nurtured by capitalism in its youth, democracy has become a Frankenstein to capitalism in its monopolistic stage, in its age of senility. Such is the dialectic of history.

“Can the proletariat ignore the struggle for democracy under such conditions? Can the working class permit the reactionary bourgeoisie to destroy its own democratic institutions precisely at the moment when these can best serve the interests of the toiling millions? To ignore this struggle, to permit reaction to accomplish its counter-revolutionary objective, is to ensure the victory of fascism and the destruction of the whole labor and progressive movement. In short, it is to betray not only democracy but the struggle for socialism as well!

“Engels, in 1895, already foresaw the changing attitude of the bourgeoisie toward democracy, its turn toward violence to destroy its own democratic, legal institutions. He wrote:”—

and the quote is from his “Introduction, Class Struggles in France, page 27,” a quote from Frederick Engels.

“The irony of world history turns everything upside down. We, the revolutionists’ ”—

in quotes—

(T-9310) “ ‘the rebels’ ”—

in quotes—

“ ‘we are thriving far better on legal methods than on illegal methods and revolt. The parties of order,

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Read into Record*

as they call themselves, are perishing under the legal conditions created by themselves. They cry despairingly with Odilon Barrot: *la legalite nous tue*, legality is the death of us; whereas we, under this legality, get firm muscles and rosy cheeks and look like eternal life.' ''

* * *

(T-9311) AFTERNOON SESSION

(The Court and the clerk confer.)

The Court: Let the record show that the jury is present and the defendants and the attorneys for the defendants with the exception of Mr. Gladstein and Mr. McCabe, concerning whom the usual stipulation has been signed and filed, and the attorneys for the Government are present.

GILBERT GREEN, resumed the stand.

The Court (To the Witness): Now you may continue, Mr. Green, where you left off.

Redirect examination continued by Mr. Isserman:

A. (Continuing reading) I had just concluded reading a quotation from Frederick Engels. I will continue and the article goes on:

"Yes, in the United States as well, reactionary finance capital resorts to force and violence, to illegal methods of struggle. It violates the Wagner Labor Act; tries to nullify the Constitution and with it all democratic liberties. It conducts loud tirades against the danger of 'revolution,' 'dictatorship,' and 'Communism,' while in its own inner circles it repeats: 'Legality is the death of us.'

"No wonder these forces, in their burning hatred of the democratic mass movement, wish to incite (T-9312) putschist, anarchist and ultra-Leftist actions. They wish to find the legal arguments and justifications for wiping out the people's democratic liberties, for instituting open fascist rule. When

*Excerpts From Defendants' Exhibit 7 x B-1,
Read into Record*

their provocations fail, they take the torch in their own hands. Murder, incitement to assassination of the President, vigilante gangs, Black Legions, all become part of their arsenal of weapons against the democratic strivings of the people.

“Thus, all provocateurs, all Trotskyite-Lovestoneite traitors in this period serve their fascist masters best by posing as ‘Leftists.’ To be influenced by them, as are the Socialists with their sectarian cry of ‘Socialism or nothing,’ is the surest road to disaster for the working class; it is to be cut off from all of its democratic allies.”

Then the next sub-heading is “Changed conditions require changed tactics.”

“The Communist position toward bourgeois democracy has not always been the same. Its tactics have varied in accordance with changing conditions of class relationships. But these tactical changes have never constituted a line directed against democracy as such. We have changed our tactics precisely in order to fight better for democracy under different historic (T-9312-A) circumstances. The failure to understand this is one of the reasons for the feeling among certain confused people that we have made an about-face in our attitude toward the democratic struggle. Comrade Manuilsky, one of the outstanding leaders of the Communist International, answers this question by comparing the immediate postwar period with that of today. He says:

(T-9313) “ ‘We Communists have never unreservedly championed bourgeois democracy as the social-democratic leaders have done, nor have we unreservedly opposed it as the anarchists do.

“ ‘We approach the question of bourgeois democracy as subscribers to revolutionary dialectics, as the disciples of Marx, Engels, Lenin and Stalin. For example, during the German revolution (1918-19), when the struggle raged around the question of whether Germany was to be a bourgeois republic or a Soviet republic, when Noske was shooting down the workers on the pretext of protecting the bourgeois republic, at that time, bourgeois democracy

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Read into Record*

was the banner around which all the counter-revolutionary forces of Germany rallied. To have come out in defense of bourgeois democracy under such circumstances would have been tantamount to defending the bourgeois counter-revolution against the proletarian revolution.

“ ‘The situation is different today. Today, the proletariat in most capitalist countries are not confronted with the alternative of bourgeois democracy or proletarian democracy; they are confronted with the alternative of bourgeois (T-9314) democracy or fascism.’ ”

This is the end of the quote taken from *The Work of the Seventh World Congress* by Mr. Manuilsky.

And then the article continues:

“Can anyone dispute the fact that this is also the case in the United States? First, can anyone deny the grave menace of reaction and fascism? Second, does anyone believe that the majority of American people have already been won for socialism? But they are for democracy! They are opposed to fascism. It is from this that we must take our cue.

“It is clear why the Trotskyites and Lovestoneites adopted the line that they do toward the question of democracy. Serving the class enemy, betraying socialism behind leftist phrases,”—

“leftist” in quotation marks—

“they aid the offensive of fascism. This is true on a world scale. They work to overthrow the Soviet republic in the interests of fascism. They are the agents of Franco in Spain and of the Japanese militarists in China. In the U.S. they endeavor to disrupt and disorganize the progressive movement and seek to keep America from becoming a force for world peace, for stopping fascist (T-9315) aggression.

“On the other hand, there is the strange case of certain honest Socialists who really want to become

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true Marxist-Leninists but have become enamored of loud revolutionary phrases, have become poisoned in their thinking by the Trotskyites and Lovestoneites. Let us remind such people of what Lenin said in 1918 to those in his own Party who became captivated by 'Left' ”—

quotation marks—

“phrases”—

and this is the quote from Lenin:

“ ‘And I shall enlighten you, my amiable friends, as to why such disaster overtook you. It is because you devote more effort to learning by heart and committing to memory revolutionary slogans than to thinking them out.’ ”

And then a new sub-head: “Not Only Read Marx—Master Marxism.

“Many honest workers have similarly fallen prey to fascinating Left phrases. They have begun to read the writings of Marx and Lenin, but they have not yet studied and what is more, mastered them. They have only memorized certain passages by heart. (T-9316) They are not yet Marxists, though they may have a ready formula for the most complicated situation. They must learn to understand the words of Engels, that: ‘All history must be studied afresh,’ and that ‘Marxism is not a dogma, but a guide to action.’

“Many people have formerly”—“who formerly were influenced by Social-Democratic ideology remember the disgraceful role of the Socialist leaders in the last war and post-war period. Today they know what we knew all along; that Social-Democratism was and is bankrupt; that by its policy of class-collaboration it is responsible to history for the defeat of the proletarian revolution in Germany and Austria in 1918-19, and for the victory of fascism in these countries in 1933-34. But they have not yet thought the whole thing through. They do not yet fully understand why Bolshevism triumphed

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as the world proletarian ideology; why the Soviet Union under the leadership of Lenin and Stalin has been successful in building socialism, in developing democracy further.

“These people know today that Social-Democracy in defending bourgeois democracy in the world of twenty years ago betrayed the interests of the working class. Therefore, think they, it is (T-9317) likewise wrong to defend bourgeois democracy from the threat of fascism today. But what a difference there is between defending bourgeois democracy against the proletarian revolution as did the Social-Democrats in 1918 and defending bourgeois democracy against the threat of fascism, today!

“The former, the policy of defending the reactionary bourgeoisie against the working class in its struggle for a higher form of democracy; the latter, the policy of defending the working class and democracy against the fascist attempts of the reactionary bourgeoisie.

“Living Marxism, incorporated in the leadership and activity of the Communist International, is the foundation for our position today. We say, as did Comrade Dimitroff at the Seventh World Congress:

“ ‘We are adherents of Soviet democracy, the democracy of the toilers, the most consistent democracy in the world. But in the capitalist countries we defend and shall continue to defend every inch of bourgeois-democratic liberties which are being attacked by fascism and bourgeois reaction, because the interests of the class struggle of the proletariat so dictate.’

“Today the fascist-minded sections of American (T-9317-A) monopoly capital, as part of the world fascist offensive, have embarked upon a concerted reactionary onslaught to restrict, nullify and destroy the democratic parliamentary processes of government, to abrogate civil liberties, to attack and dismember the trade union movement, and to curtail and wipe out all progressive labor and social legislation.

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(T-9318) "Therefore, under present conditions the defense of American democracy is not only a defensive struggle for safeguarding the democratic institutions and rights of the people, but simultaneously becomes a counter-offensive of the working class and people against the rule of finance capital.

"Thus the dialectics of history create the seemingly paradoxical situation in which to defend bourgeois democracy means to take the field of political struggle against the dominant sections of the bourgeoisie, the financiers of fascism and war—the Morgans, and duPonts, the Girdlers and Fords, the Hearsts and the Vandenbergs.

"Not to understand that the fight against reaction and fascism is the main historic task of the present and the new form in which the political struggle of the working class and people for their final emancipation from capitalism is now being conducted—is not to grasp Marxism-Leninism as a guide to action. It means to abandon Marxism, to disarm the proletariat, and to deliver the democratic people into fascist bondage."

Then the next sub-heading reads:

"The defense of Democracy Requires a Democratic Front of Struggle."

"It is precisely because in the organization of (T-9319) the anti-fascist mass movement to preserve and extend democratic liberties and processes it is now possible and vital to mobilize the working class in alliance with the farmers, the professionals, small business people and also even temporarily with certain liberal sections of the bourgeoisie who stand opposed to the unrestricted power of finance capital—that the Trotskyite-Lovestoneite scum strive to prevent the formation of a broad, anti-fascist democratic front. This is why they slander the tactics of the democratic, as well as the People's Front policy as that of 'class-collaboration.'

"But this policy of the democratic front is the antithesis of class collaboration. It is a policy based

*Excerpts From Defendants' Exhibit 7 x B-1,
Read into Record*

upon proletarian unity of action as the axis for uniting all anti-fascists sections of the American people in struggle against the most reactionary circles of monopoly capital. It is not a policy of reliance and dependence of the proletariat upon the bourgeoisie, but a policy in which independent labor political action and leadership are exercised in a wide democratic front so as to influence, guide and organize the democratic mass movement of the people. It is a policy of political action based upon the teachings of Lenin such as set forth in (T-9320) 1897 in his advice to the Russian workers on the struggle for proletarian hegemony in a democratic movement."

And next is a quotation from Lenin, and I will read it:

" 'The attitude of the working class, as the fighter against absolutism (read today: reaction and fascism—Dennis-Green), toward all the other social classes and groups that are in the political opposition is precisely determined by the fundamental principles of Social-Democracy (read today: communism) as expounded in the famous Communist Manifesto. Social-Democrats (Communists) support the progressive social classes against the reactionary classes, the bourgeoisie against representatives of privileged and feudal landownership and the bureaucracy . . . This support does not presuppose, and does not require any compromise with non-Social Democratic programs and principles—it is support given to an ally against a particular enemy. Moreover, the Social-Democrats render this support in order to accelerate the fall of the common enemy; they do not expect anything for themselves from these temporary allies, and concede nothing to them. The Social-Democrats support every revolutionary movement against the (T-9321) present social system, they support all oppressed peoples, persecuted religions, oppressed estates, etc., in their fight for equal rights.' "

That is the end of the quote from Lenin's Selected Works, Vol. 1.

*Excerpts From Defendants' Exhibit 7 x B-1,
Read into Record*

“The anti-fascist policy of support of democracy aims not to strengthen but to limit, restrict and thereby weaken the power of monopoly capital over the economy and political life of our country. The working class together with the broad sections of the population, in developing the democratic and People’s Front policy of defense of democracy, takes as its starting point the protection of the standards of living and the safeguarding of the democratic rights of the people as provided for in the American Constitution and the Bill of Rights, and as embodied in such labor legislation as the Wagner Labor Relations Act.

“The anti-fascist democratic People’s Front policy of defense of democracy, progress and peace, consists in waging a many-sided, consistent struggle for establishing, protecting and extending trade union rights and conditions, civil liberties, and equal rights for the Negro people. It stubbornly fights for the realization of the people’s will and mandate by Congress; (T-9322) for guaranteeing the unrestricted power of Congress to enact social and labor legislation; for curbing and ending the usurped powers of the Supreme Court.

“It includes further the policy of establishing the democratic control of the people over American foreign policy so as to bring the U.S.A. forward on the international arena as an active and consistent defender of world peace. It demands that Congress enact and enforce federal legislation for curbing the monopolies and trusts, for establishing government control and ownership of the railways, banks and public utilities, for finally establishing a system of taxation based upon ability to pay, where the trusts and monopolies must bear the tax burden.

“This policy further insists that working class and its allies come forward in defense of American democracy as the sole inheritors and defenders of the great progressive and revolutionary traditions and rights of the American people, such as embodied in the Declaration of Independence.”

Then there is a quote from the Declaration of Independence which reads:

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Read into Record*

“ ‘Whenever any form of government becomes destructive to these ends (life, liberty and the pursuit of happiness) it is the right of the people (T-9323) to alter or abolish it . . . it is their right, it is their duty to throw off such government and to provide new safeguards for their future security . . . ’ ”

That is the end of the quote from the Declaration of Independence.

“True to the spirit of this heritage and inalienable democratic right, the American working people, united in a democratic front of struggle, will defeat the attempts of the Tories of fascism from coming into power. They will utilize existing democratic rights to preserve and extend life, liberty and pursuit of happiness for the American people and as a springboard for solving future historic tasks.”

Then we come to a new section that has no sub-heading.

“The question is asked, does our unreserved support of American Democratic institutions and liberties signify that we Communists have become supporters of existing bourgeois-democratic governments such as the Roosevelt government?

“Our position toward the Roosevelt government in the present situation is conditioned by many factors, chiefly by the concrete relation of class forces in (T-9323-A) the country, by the central question of defeating reaction and fascism at all costs, and the extent to which the policy of the government contributes, even in a small degree to this end.

(T-9324) “We consider that the Roosevelt government was and remains a bourgeois government having at present a liberal bourgeois-democratic program. Our Party has vigorously supported all progressive features and legislative proposals of the Roosevelt administration which, despite their manifest limitations, promote the people’s interests, such as the Supreme Court Reform Bill, the Wagner Labor Relations Act, the Wages and Hours Bill, its Re-

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organization Bill, and the present works and relief recovery program, recognizing full well the limitations of these measures.

“Our Party supports only that which is progressive in governmental policy and opposes all concessions and capitulations to the reactionaries whether on the issues of relief, subsidies to the banks, or on foreign policy. We have consistently stressed the gap between the progressive declarations of policy by Roosevelt and the various reactionary and compromising actions of his administration, such as on the question of peace. We have pointed out the hesitations, and vacillations and inconsistencies of the Roosevelt administration. We constantly work to mobilize an effective democratic mass (T-9325) movement to bring pressure upon Roosevelt and Congress for realizing the progressive aspects of his platform.

“At the same time we Communists vigorously oppose, and organize mass resistance to, the coalition of reactionary Democrats and Republicans in Congress who are working to defeat Roosevelt’s progressive reform legislation. Moreover, we uncompromisingly oppose and fight against the preparations of the reactionary sections of finance capital to overthrow the Roosevelt government by force and violence.

“Moreover, our Party recognizes that within the Roosevelt government, just as within Congress, there is a democratic wing, moving in a more consistently progressive direction, which must be drawn into the developing democratic front movement and into a government based upon its program and policies.”

The next section is headed “For a Democratic Front Government.”

Now “This raises a cardinal question. While our Party opposes and will struggle against all attempts to overthrow or supplant the Roosevelt government by a government of reaction—we believe (T-9326) that the immediate democratic interests of the people require that even fulfilment of the limited, non-

*Excerpts From Defendants' Exhibit 7 x B-1,
Read into Record*

socialist progressive statement of policy of Roosevelt requires the establishment of a government based upon and representing and responsible to a democratic front which unites in common action the widest masses of the people.

“This is why our Party raises before the entire labor and progressive movement as the chief tasks of the hour, as the immediate objective to ensure the defeat of reaction and fascism now, the supreme need of organizing a wide democratic-front mass movement and Congressional election campaign. Such a formation will not only speed up the development of a powerful People’s Front against reaction and the fascist warmakers and make possible the establishment of a real People’s Front anti-fascist government—but it opens as an immediate perspective the possibility of electing a Congress that can ensure the fulfilment of the people’s mandate of 1936, for democracy, security, jobs and peace.

“In the present situation, when the defense of bourgeois democracy means to defend both the present and future interests of the American working (T-9327) class and people, Comrade Browder has clearly placed the position of our Party, the position of Marxism-Leninism;”—

and then there is a quote from Browder which reads:

“ . . . the Communist Party opposes with all its power, and will help to crush, by all proper and democratic means, any clique, group, circle, faction, or party, which conspires or acts to subvert, undermine, weaken, or overthrow, any or all institutions of American democracy whereby the majority of the American people have obtained power to determine in any degree their own destiny.

“ . . . We of the Communist Party will fight with all our power to defeat, offering our lives if necessary, any and every effort, whether it comes from within or from without, to impose over the American people and nation the will of any selfish minority group or party or clique or conspiracy.’ ”

Taken from: “Traitors in American History,” pages 27-28.

*Excerpts From Defendants' Exhibit 7 x B-1,
Read into Record*

Then the article continues:

“Our Party in deeds, as well as words, has given life and meaning to this policy. In every struggle against reaction for democratic and trade union rights, on every front, from Detroit to the deep South, from New York to San Francisco, (T-9328) our Party has proved the most stalwart upholder of the cause of democracy. Above all, by its international working class solidarity, by the glorious action of hundreds of its best sons and members who are fighting in democratic Spain to defend world liberty and peace against fascist aggression and enslavement, our Party has raised to a new high point the banner of democracy as defended by our revolutionary ancestors—Washington, Paine, Jefferson and Lincoln—and as championed by the great international fighters for freedom—Marx and Engels, Lenin and Stalin.

“We take this position because in defending American democracy we not only aim to protect existing bourgeois democratic rights and institutions, but”—

and the rest of this sentence is in italics—

“but simultaneously to extend present political liberties, as well as rapidly to create the conditions for the establishment of a genuinely democratic anti-fascist government.

“We Communists approach the defense of American democracy with our eyes to the future and not to the past. This is why our immediate goal is not limited only to the defense of bourgeois democracy (T-9329) as such, but is focused on the possibility and necessity of conducting an uncompromising struggle for a democratic mass movement and government against reaction and fascism. This is why we bend every effort to defend American democracy and to give it a”—

and this is in italics—

“new class content based upon a new relationship of class forces such as will be made possible by the victory of democracy over fascism.

Gilbert Green—Defendant—Recross

“In pursuing this policy we will not only help save our class, our people and our country from the horrors of fascist enslavement, but we advance the historic objectives of the working class for achieving the socialist reorganization of society and the establishment of socialist, proletarian democracy, the highest form, and most democratic of all democracies, such as triumphantly flourishes on one-sixth of the globe, in the land of victorious socialism, the U.S.S.R.

“In pursuing this policy, we carry out, in accordance with the concrete conditions of our time, the teachings of Lenin when he counseled the workers of all countries:

“‘. . . it would be a fundamental mistake to (T-9330) suppose that the struggle for democracy can divert the proletariat from the socialist revolution, or obscure, or overshadow it, etc. On the contrary, just as socialism cannot be victorious unless it introduces complete democracy, so the proletariat will be unable to prepare for victory over the bourgeoisie unless it wages a many-sided, consistent and revolutionary struggle for democracy.’”

From “Selected Works, Vol. V, page 268,” and this ends the article.

Mr. Isserman: No further questions, if the Court please.

Recross examination by Mr. McGohey:

Q. Mr. Green, in April 1938 when you attended the meeting of the National Board, which you say repudiated Foster's book as immature, how old were you? A. In 1938.

Q. Yes. A. I was 32.

Q. How old was Mr. Foster? A. That I do not know.

Q. Well, isn't it true that Mr. Foster at that time was in his—that Mr. Foster, rather, at the time when he wrote “Toward Soviet America” in 1932 was in his early 50s?

A. He very likely was. He was a mature man.

Q. And had he not at that time been the Party's (T-9331) candidate for president on three occasions? A. I believe he had been.

Gilbert Green—Defendant—Recross

Q. Would you say, then, that unlike you Mr. Foster had not matured at the age of 18 years?

Mr. Sacher: I object to that.

A. No. I believe that Mr. Foster very likely matured earlier than 18, but I doubt whether there is any man today that holds the exact same views that he held 19 or 20 years ago.

Q. Would you say, then, that Mr. Foster was mature at the time he wrote "Toward Soviet America"? A. I say he was a mature man—

Mr. Sacher: I object to that; there is no testimony that Mr. Foster wasn't mature at any time.
The Court: Overruled.

Q. Now will you tell us, Mr. Green, how was this so-called decision of the National Board repudiating "Toward Soviet America" communicated to the members of the Communist Party who had bought and read that book? A. First of all, by that time the book was completely out of circulation; it had been out for some time; secondly, if I recall correctly, there was a statement made at the 1938 convention pertaining to documents, writings of the past that did not fit the new situation, and that was repudiated also at subsequent conventions, (T-9332) and also in the year 1939, if I recollect, Mr. Foster himself publicly repudiated some of the sections and those that were quoted here by the prosecution from the book "Toward Soviet America."

Q. Now will you answer my question and tell me how it was communicated to the members of the Party who had bought and read the book, that the book had been repudiated by Foster or by the Communist Party.

Mr. Isserman: I object. He has answered the question, if the Court please.

Mr. McGohey: I submit that he has not.

The Court: He certainly did not.

Mr. Isserman: I object to the Court's characterization.

The Court: Objection overruled.

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Now see if you can give an answer to that, Mr. Green.

The Witness: The decisions and conclusions of the 1938 convention were simple and clear to a babe in the woods as being different from those arrived at by the Party previously.

Q. Will you tell me, Mr. Green, where or when and in what manner the Communist Party or the National Committee of the Communist Party or the National Board of the Communist Party or the Political Bureau of the (T-9333) Communist Party advised the members of the Communist Party that Foster's book "Toward Soviet America" had been repudiated?

Mr. Isserman: I object. He has answered the question.

The Court: Overruled.

A. I have already tried to tell you, Mr. McGohey—

The Court: Are you trying to tell Mr. McGohey that they did not inform the Party? Is that what you are trying to say?

Mr. Isserman: I object to that.

The Witness: I have already said that, if I recall correctly, at the 1938 convention there were distinct statements made to the effect that the previous writings did not hold for the new period. Secondly, that in 1939, Mr. Foster himself publicly repudiated certain sections of that book.

Q. Did The Communist, which was the theoretical organ of the Party at that time, carry any instructions to the members of the Party to disregard Foster's book "Toward Soviet America" as no longer representing a correct view of Marxism-Leninism? A. I do not know.

Q. Did the Daily Worker— A. I don't recall everything that has appeared in The Communist over all these years.

(T-9334) Q. Well, you have told us that the meeting of the Board, of which you were a member and at which you were present, decided that Foster's book "Toward Soviet America" was immature and ultra-leftist, did you not? A.

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And a number of other writings, including some of my own.

Q. We are talking now about "Toward Soviet America." You were at that meeting, were you not? A. Yes, I was.

Q. And you testified this morning that that meeting decided that "Toward Soviet America" was ultra-leftist and immature.

Mr. Isserman: If the Court please, that is not the evidence.

The Court: Well, that's what is in my notes, with this exception—

Mr. Isserman: That Mr. Foster had said that.

The Court: —that it was ultra-leftist and immature.

Mr. Isserman: That Mr. Foster had said that.

Mr. McGohey: Well, I will accept that.

Q. That you were at a meeting at which Mr. Foster said "Toward Soviet America" was ultra-leftist and immature. A. Some parts of it, yes.

Q. And Mr. Foster said that at the meeting? A. Yes.

Q. And you and the others at the meeting, I assume, agreed with him, is that correct? A. That is correct.

(T-9335) Q. Now will you tell me whether or not that decision by Mr. Foster and the rest of the members of the committee, of whom you were one, was ever communicated to the Party membership in *The Communist*, which was the official theoretical organ of the Party at that time? A. Mr. McGohey, I have already said that I do not know what has appeared in each issue of *The Communist*.

Q. Now let me ask you this question: did the committee at the time they decided that Foster's book was ultra-left and immature, adopt a resolution with respect to it? A. No. It was part of the discussion, a discussion in which we drew the conclusions for the convention and where we framed for the first time that section in the preamble to the Constitution.

Q. Now did they direct that there be any announcement for the Party members to be published in *The Communist*? A. No, there were no directions there.

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Q. Did they make any—adopt any resolution that some resolution should be put in the Daily Worker? A. What we determined there was what they would do at the convention.

Q. Did they adopt any resolution directing that an instruction be published in the Daily Worker? Now they did or they didn't. I ask you, did they or did they not? A. That meeting was concerned with working out (T-9336) the policy for the '38 convention of the Party, and that policy was made clear to the entire Party and to the American people.

Q. Do you want me to understand by your answer that that committee did not make any such direction, that the conclusions of the committee be published in the Daily Worker? A. The reports of that convention were published subsequently.

Q. I am talking now, Mr. Green, about the meeting of the National Board or the National Committee or the Political Bureau which you say decided that Foster's book "Toward Soviet America" was ultra-left and immature. A. And I am telling you, Mr. McGohey, that the meeting wasn't convened for the purpose of discussing Foster's book.

Q. I didn't ask you its purpose. I asked you, afterwards did they put in the Daily Worker any direction to the members of the Communist Party with respect to the so-called repudiation of Foster's book "Toward Soviet America"? A. By printing in the press the conclusions arrived at by the convention that was to all who could read.

Q. Did they put in the Daily Worker, before the convention, any direction with respect to Foster's book as decided upon at the meeting? A. I do not recall any directives in regard to any statement in the Daily Worker (T-9337) coming from that meeting.

Q. Now was there any— A. But I do know that the Foster book has not been circulated.

Q. Was there any— A. And that he himself repudiated it a number of times.

Q. Did the National Board or the National Committee or the Political Bureau which made this decision about Foster's book publish any direction with respect to it in

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The Worker? A. I do not know, Mr. McGohey. I know that book has been—those sections of it have been repudiated a number of times.

Q. Did this meeting of the National Board or the National Committee or the Political Bureau give any direction in writing after that meeting in any publication of the Communist Party? A. The policies of the convention were that—

Q. No, Mr. Green; I am asking you about what was done by the committee with respect to informing the membership of the Party about the committee's decision concerning Foster's book "Toward Soviet America." A. The committee's action was to work out a policy to present to the convention which in turn would go to the Party membership, and that is what it did.

Q. Will you please answer my question whether it did or did not, after its meeting, put any direction in (T-9338) any Communist press or publication with respect to its decision concerning Foster's book? A. I am just telling you that that Foster book was raised—

Q. I asked you— A. —together with a number of others.

Q. Mr. Green, did or did not the committee put anything in the paper to direct the membership?

The Court: Now that is a simple question. You have given these various answers again and again here which don't touch the point at all. Now did they direct that something be put in some publication or did they not?

Mr. Isserman: I object to that.

The Witness: They moved—

Mr. Isserman: Just a minute, Mr. Green. I must object to the Court's characterization of the answers because they are an explanation of what happened and a precise explanation.

The Court: Well, he wasn't asked for an explanation.

Mr. Isserman: Well, I think that is what the jury should have, what the facts are.

The Court: It may be his way of saying no, that they didn't direct that any publication be made. That is a reasonable inference from what he is saying.

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(T-9339) Mr. McGohey: I am trying, your Honor, to develop for the jury the fact whether or not this committee which allegedly repudiated the book thereafter put in its Party press any direction—

The Court: Yes.

Mr. McGohey: —to its members with respect to the book. That is the fact I am trying to establish.

The Court: Yes.

Mr. Crockett: I submit that question has been answered by the witness's statement that it appears in the Constitution. That is a Party document.

The Court: Well, maybe—well, all right. Let us hear an answer to the question, Mr. Green.

Q. The question I desire answered, Mr. Green, is whether or not this meeting which you say repudiated Foster's book, put any direction in any Party publication, directing the membership to the fact that the committee had decided that Foster's book was ultra-left and immature? A. And I am telling you, Mr. McGohey, that that meeting decided what policies to present to the convention of the Party and that those policies were in turn presented to the membership of the Party, and those policies were different than the policies that the Party had had at the time that Mr. Foster wrote that book.

Q. I take it that you mean— A. And that subsequently (T-9340) Mr. Foster a number of times repudiated certain sections of that book, and you can't deny that, can you, Mr. McGohey?

Q. I take it—

The Court: Now just a second, Mr. Green. Don't begin asking Mr. McGohey whether he can deny this or that. You have been asked a very simple question that you have not yet answered, although it has been put to you eight or nine times, and it is this; did that National Board, at that meeting at which Foster's book was repudiated, direct that any publication be made in writing of such repudiation? Now either they gave such direction or they did not. Which is it?

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Mr. Isserman: I object to that question.

The Court: Overruled.

The Witness: I refuse to answer that question yes or no because it is the kind of question which would lead to wrong conclusions. If I answered it that way, the inference to my saying "no" would mean that this meeting didn't take a position on the book. The fact is that this meeting was concerned with working out the policies for that convention. We were discussing the preamble, the Constitution, the reports, and in relation to that discussion there was a discussion of these past articles and past books. This was not a meeting called to (T-9341) discuss what to do with that book.

The Court: Now you told me a moment ago that if you say "no", or that you are reluctant to say "no" because it would be inferred from that that the meeting had never taken such action of repudiation at all. Now you don't need to worry about the inferences that may be drawn. All you have to do is to answer the question, and you have said that they did take this action with reference to the book, and now you are asked whether they directed that some published notification be made to the members of the Party indicating that the book had been repudiated.

Mr. Sacher: May I ask your Honor whether after he answers the question he will be afforded an opportunity to explain the circumstances—

The Court: I think he has made all the explanations in advance. He likes to do that half the time.

Mr. Sacher: No. I think that the truth cannot be ascertained unless the explanation that he made is made, because then I think the purpose of the inquiry is to lead to the inference that Mr. Green is concerned about.

The Court: Well, the jury are going to decide what is the truth.

Mr. Sacher: Precisely, precisely.

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(T-9342) The Court: Yes. Now the business of the witness is to answer the question.

The Witness: I do not recall any distinct action by that committee in regard to issuing any statement other than what was decided upon to be issued as policy to the convention.

By Mr. McGohey:

Q. Now after the meeting of the committee and before the convention, did you, in *The Communist* or the *Daily Worker* or *The Worker* or in any other Communist Party publication, see any statement by the committee stating that Foster's book had been repudiated?

Mr. Sacher: I object to the question, your Honor.
The Court: Overruled.

A. I do not recall seeing any such statement. Mr. Foster's book was only one of a whole number of writings that no longer fit the new situation.

Q. Now, Mr. Green, during this colloquy Mr. Crockett, of counsel for the defense, made a reference to the 1938 Constitution where he said it appeared that "Toward Soviet America" had been repudiated—

Mr. Crockett: I object to that, your Honor. I think the record will indicate that I did not say "the 1938 Constitution." I said "the Constitution."

The Court: "The preamble to the Constitution" (T-9343) were your words.

Mr. Crockett: I said "the preamble"—

Mr. Isserman: I object to the—

Mr. Crockett: I said "the Constitution." I didn't say what year.

Mr. McGohey: Your Honor—

Mr. Isserman: And I object to the question.

Mr. McGohey: Your Honor, just let me start—

The Court: This gets positively ludicrous.

Mr. McGohey: Your Honor, may I then start with the 1938 Convention?

The Court: Yes. I wouldn't pay too much attention to the fact that some one of the lawyers made an objection, stating certain things. I pay more attention to what the witness says.

Gilbert Green—Defendant—Recross

Q. Now, Mr. Green, do you claim that the 1938 Constitution contains any statement repudiating Foster's book "Toward Soviet America"? A. I don't think that is the place for repudiation—

Q. Well, does it or doesn't it? A. —of a book or an article. No, I never said it was in the Constitution.

Q. Do you claim that anything that is in the Constitution that was adopted in 1945 repudiates the Foster book "Toward Soviet America"?

Mr. Sacher: I object to that.

(T-9344) A. I think the only—

Mr. Sacher: Just a moment, Mr. Green. The Constitution is the best evidence.

The Witness: That is what it stands for.

The Court: You can't shut him up either, Mr. Sacher.

Mr. Sacher: That is all right.

The Court: Mr. Isserman has been trying to do that, has been trying to do that for days.

Q. You say—

The Court: Wait a minute. I want to hear what Mr. Sacher is addressing my attention to.

Yes, Mr. Sacher, let us hear your point.

Mr. Sacher: I object to this line of questioning on the ground that the Constitutions themselves are the best evidence of what they provide.

The Court: Well, you see this was all provoked by that suggestion or conjecture, whatever it was, of Mr. Crockett's. Now I think it is much better to go by what the witness said, and I would drop the subject of the Constitution and get on to something else. As the witness says, that is not the proper place for that sort of thing, and I agree with him.

Q. Now, Mr. Green, was Foster's 1937 book "From Bryan To Stalin" also repudiated at this meeting? A. I have (T-9345) no recollection of that book being discussed there at all.

Q. This book was published in 1937, was it not? A. I believe so.

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Q. Now Mr. Green, I show you Government's Exhibit 51 for identification, being the Outline on Marxist-Leninist Fundamentals for Class Use and Self Study, issued by the State Education Committee, Illinois—State Education Commission, Illinois District Committee, Communist Party of the U. S. A., which you have testified was prepared while you were State Chairman there and was used by you in some of your teaching (handing), and I direct your attention to the last page there. A. You did once before.

Q. I direct you to the last page which recommends this book "From Bryan To Stalin" for self-study. Do you have that? A. As additional reading, one of some 40 or so books recommended in the outline.

Q. Yes, but one of them is "From Bryan To Stalin." A. It is.

Q. Now there is in evidence from this book incorporation by reference to—there is incorporated by reference in this book Foster's book "Toward Soviet America," and I call your attention to the exhibits 186-A and 186-B in that book (handing).

Now will you show me, please, where in that outline where the book "From Bryan to Stalin" is recommended (T-9346) for study, or show me or tell me of any place else in that outline where you warned the students at the Party schools to disregard the reference in "From Bryan To Stalin," which refers to "Toward Soviet America" and the contents of that book.

Mr. Isserman: I object to that question on the ground that it is not proper recross. There is no mention of those exhibits in the redirect examination. I call attention to the particular paragraphs to which Mr. McGohey makes reference.

The Court: Well, I remember, and I see in my notes a reference to a statement on redirect examination that the witness had discussed this book "From Bryan To Stalin," Exhibit 186, with the Educational Director Engelstein, and that the discussion he had was, in substance, that that was put on there just as background to show what they used to do in the old days—

The Witness: I didn't say that, I didn't say that.

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The Court: What was it?

The Witness: What I said was to show the predecessors of the Communist movement and the whole development of the Socialist movement in the United States.

The Court: Well, that sounds like the same thing to me.

(T-9347) You may go on, Mr. McGohey. I will overrule the objection.

Q. Now will you show me where in Exhibit 51, any place in Exhibit 51 where you warned your students that "Toward Soviet America", which is incorporated by reference in "From Bryan To Stalin", represented ultra-left or immature expressions of Marxism-Leninism?

Mr. Isserman: I object to that on the ground that the exhibit speaks for itself, and on the further ground that the question is improper in its reference to incorporation by reference.

The Court: I will sustain the objection. It does appear on the face of the exhibit that there is no reference, such as was referred to in the question.

Q. Now will you tell me, Mr. Green, whether in teaching in that course you ever warned the students in the course that a Soviet—"Toward Soviet America" by Foster had been repudiated by the Party? A. I told you in my previous testimony that I did not teach from this book—in that direct portion of the outline.

Q. You discussed the use of "From Bryan To Stalin" with the Educational Director of the State of Illinois, did you not? A. Oh, yes.

Q. And did you at any time give any instructions (T-9348) to that Educational Director that he should inform the students or that he should inform the teachers and the faculties of the schools that "Toward Soviet America" had been repudiated? A. First of all, Soviet—"Toward Soviet America" was not recommended for reading, as you know—

The Court: Why don't you just answer the question?

Colloquy of Court and Counsel

Q. I don't know it because as a matter of fact I see it right there in "From Bryan To Stalin."

Mr. Sacher: I object to that. That is a misstatement of the exhibit, your Honor. The exhibit does not refer to "Toward Soviet America."

Mr. Gordon: It certainly does.

The Court: It doesn't? Then we will soon see that.

Mr. McGohey: That we will determine.

The Court: Well, it will be by me.

The Witness: Not this exhibit, though (indicating).

The Court: Well—

The Witness: And that is what we taught from.

Mr. McGohey: We are talking about "From Bryan To Stalin," which is an exhibit in evidence.

Mr. Sacher: I was talking about Exhibit 51. That was the last question I heard from Mr. McGohey.

The Court: Well, you remember, Mr. Sacher, that (T-9349) I told the jury just a second ago that there is no reference in Exhibit 51—

Mr. Sacher: Precisely.

The Court: —to the effect—

Mr. Sacher: That is why I objected, precisely.

The Court: —that Mr. Foster's book was repudiated and was not to be studied. There is nothing in there.

Mr. Isserman: Will the Court also tell the jury that there is no reference in the book, Exhibit 51, to "Toward Soviet America."

Mr. Sacher: That is the point.

The Court: But let me find the reference in here.

Where is that, Mr. McGohey?

Mr. Sacher: I am talking about Exhibit 51. Now let us not get away from Exhibit 51.

The Court: Oh, I understand that, but I am not going to let the jury get mixed up.

Mr. Sacher: Yes, but let us not mislead the jury by talking about another exhibit. I am talking about Exhibit 51.

Colloquy of Court and Counsel

The Court: Yes, yes, I know. We will get it all straight in just about a minute.

Mr. Sacher: All right.

The Court (To Mr. McGohey): Now let me have the place where you say that book of Foster's is referred (T-9350) to in the book "From Bryan To Stalin."

(Mr. McGohey indicates.)

The Court: Now ladies and gentlemen, solely for the purpose of straightening out this little confusion here, I will tell you that in this Exhibit 51, which is the outline produced by the witness Herron, the last page has reference to "Additional reading for future self-study," and among the books stated there is one called "Foster From Bryan To Stalin."

Now this book "Foster From Bryan To Stalin" is here as Exhibit 186 for identification. It contains in the portions that have been read in evidence, which are respectively Exhibits 186-A and 186-C, two references to the other book which has been under discussion here, namely, Foster's book "Toward Soviet America." There is no reference in the outline or any statement in the outline that the book by Foster "Toward Soviet America" had been repudiated and should not be studied, or anything to that effect.

(T-9351) Mr. Sacher: Would your Honor please state to the jury that there is no mention whatever of the book Towards Soviet America in this outline, Government's Exhibit 51, as I said before?

The Court: Mr. Sacher, are you deliberately trying to confuse this case?

Mr. Sacher: I am asking your Honor to place before the jury the whole truth on this issue.

The Court: I made a very simple and comprehensive statement of the whole matter.

Mr. Sacher: But it did not cover the point I am asking your Honor to cover.

The Court: It seems to me every time I try to clear it up, you try to befog it again.

Mr. Sacher: I asked your Honor to cover a point which wasn't covered in your statement.

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The Court: I will make no further statement to the jury about it whatsoever.

Mr. Sacher: I object to that.

The Court: Well, you can object away. You always make a rumpus every time you get in here.

Mr. Sacher: I object to that statement. That is not a proper characterization of my conduct.

Mr. McGohey: A reading of what your Honor just said to the jury, your Honor, will make perfectly (T-9352) clear that your Honor started off by saying that Exhibit 51 contained no reference to the book *Towards Soviet America*.

The Court: How anybody could misunderstand is beyond me.

Mr. McGohey: It was the opening statement.

Mr. Sacher: I will stand on the record on it.

Mr. McGohey: So will I.

Mr. Gordon: Read it.

The Court: You will stand on the record in all respects. It won't make such pleasant reading for you some day either.

Mr. Isserman: I move to strike out Mr. McGohey's remark as an incorrect statement of what his Honor put on the record a few minutes ago and ask your Honor's statement be re-read to clear up the misunderstanding.

Mr. McGohey: Fine.

The Court: We won't have any re-reading. We will get right along.

Probably this is a good time to take our afternoon recess of ten minutes.

(Short recess.)

(T-9353) Mr. McGohey: May I proceed, your Honor?

The Court: Yes, if you will, Mr. McGohey.

By Mr. McGohey:

Q. Mr. Green, when you say that by 1938 the advocacy of the Communist Party and the Young Communist League

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had changed from what it was in 1932, 1934, and 1936, do you mean that in those earlier days the Communist Party and the Young Communist League had taught and advocated the overthrow of the Government of the United States by force and violence? A. No, I do not.

Q. Well, now, you said that in Exhibits 8 x O-1 and 7 x B-1, your articles in 1938 revised or repudiated the earlier statements, including those statements of yours, particularly in Exhibits 178-A and 180-A—do you recall that testimony? A. I said that the articles in 1938 dealt with change, yes.

Q. You said they repudiated the earlier position, did you not?

Mr. Isserman: There was no testimony of repudiation at that point.

The Court: I don't think he used the word "repudiated." Here is the way my notes read:

"The Young Communist League changed its policies (T-9354) after Exhibits 175, 178, 179, 180 and 181."

I don't know but what—I think that is what he testified, that they changed the policy, not that they had repudiated it.

Mr. McGohey: That they had changed the policy, I will accept that.

Q. Do you say that? A. Yes.

Q. Do you say that 8 x O-1 and 7 x B changed the policies in your earlier writings contained in 178 and 180-A, as far as the party line was concerned? A. Yes.

Q. As far as teachings of revolutionary overthrow by force and violence of the Government of the United States? A. The earlier ones didn't advocate the overthrow of the Government by force and violence.

Q. Well, in Exhibit 180-A, this Manifesto and Resolutions of the Seventh National Convention of the Young Communist League in 1934 on page 6, there appears this:

"We must turn our guns on our real enemies, not the workers of other countries but our own bosses in this country, fight for a Soviet U.S.A."

Gilbert Green—Defendant—Recross

And in Exhibit 178-A you said in your article entitled “‘Lenin and the Principles of Revolutionary Youth Movement,’” “‘Lenin constantly emphasizes the fact that’”—

(T-9355) Mr. Isserman: What page is that, Mr. McGohey?

Mr. McGohey: Pages 78 and 79.

Q. “Lenin constantly emphasizes the fact that war is a continuation of politics by other means,” and then you go on: “He ridicules the slogan of defense of the fatherland for the proletariat in a capitalist country. He insisted that the first task of internationalism was the struggle against your own bourgeoisie, for defeat of your own ruling class. He told the workers when war starts to turn imperialist war into a civil war.”

Mr. McGohey: Now may I have Exhibit 8 x O, please?

(Mr. Isserman hands booklet to Mr. McGohey.)

Mr. McGohey: And may I also have seven times B?

Mr. Isserman: I think that was taken by the court reporters.

Mr. Gordon: Here is a copy.

The Court: That is the Green-Dennis article?

Mr. McGohey: Yes, your Honor. This is not the exhibit but it is an exact copy.

The Court: All right.

Q. I ask you whether in this Exhibit 8 x O, called “Sweet Sixteen,” and in this 7 x B-1, the article “Notes (T-9356) on Defense of American Democracy,”—I ask you to point out where any place in either of those articles you say that those teachings that I have just read or those principles that I have just read are in any way changed or repudiated. A. There is no direct reference to that in these two articles except in a more general way in terms of a change in the entire world and national scene and a change in our entire approach as to the path by which we were going to move toward socialism, that the first job was the defeat of fascism, to extend democracy, to bring into being

Gilbert Green—Defendant—Re-redirect

and to elect a democratic front government, and from there on move in the direction of socialism.

(T-9357) Q. In other words, in neither of those exhibits 8 x O or 7 x B, do you say that the teachings and principles that you stated prior to 1938 are changed? A. In respect to our attitude towards bourgeois democracy, yes.

Mr. McGohey: I have no further questions.

The Witness: And the immediate line of the Party.

Mr. McGohey: I have no further questions.

Redirect examination by Mr. Isserman:

Q. Mr. Green, a few moments ago you said that Mr. Foster had publicly repudiated his book or portions of his book *Towards Soviet America*. Was that—did that repudiation appear in the *Daily Worker*? A. It did.

Q. And did you read it there? A. I did.

Q. And do you remember approximately in what year that was? A. To the best of my recollection it was some time in 1939. I don't recall whether it was the early period or a little later in the year, but it was, to the best of my recollection, in 1939, and that repudiation was a public one and contained in the columns of the *Daily Worker* as well.

Mr. Isserman: No further questions.

Mr. McGohey: If your Honor please, unless there (T-9358) is a date fixed and some exhibit to support it, I move to strike out the answer as not the best evidence.

Mr. Isserman: It is what the witness says.

Mr. McGohey: The witness has given his testimony not what he heard Mr. Foster say but what appeared in some paper on an unnamed date. He doesn't even know the year.

The Court: Is this the *Daily Worker*—you didn't object to the question, though. It seems to me that for whatever it is worth, I will let the answer remain. Search can be made by either side afterwards as to that.

Colloquy of Court and Counsel

You don't remember what issue of the Daily Worker it was, do you?

The Witness: No, your Honor. That would be quite impossible for me to remember, the exact issue. I didn't know this was coming up.

The Court: Your counsel can find it, probably without any trouble.

The Witness: But we didn't know it was coming up.

Mr. Crockett: Or perhaps the United States Attorney can also find it without any trouble. My point is this—

The Court: Let us figure here which one is going to look for it.

Mr. Crockett: No; my point is this: the witness (T-9359) has testified under oath. That is competent evidence. Now, if the United States Attorney wants to refute it, let him look for it, but we don't feel called upon—

The Court: Mr. Crockett, is that your way of saying that you and your colleagues are not even going to look for the issue which contains what the witness says?

Mr. Crockett: No, I wouldn't say that, but I don't want to give the Court the impression that, among all the other things we have got to do, we feel called upon to take time out to look that up in order to satisfy Mr. McGohey. Now, if your Honor asked me, for example, to look it up, I would be glad to do it.

The Court: I may give you a word of advice, which I suppose is generally bad taste unless, it is asked for: I think you had better find it, if it is there. But if you don't care to look, that is all right. I would suppose it would be a helpful piece of evidence in the case, but that is not for me to say, and you will just follow your own advice about it.

I will let the answer stand, Mr. McGohey.

Mr. McGohey: Very well.

Mr. Crockett: I do feel called upon to register an objection to the last remark made by the Court, that bit of friendly advice, I had better find it or we had better find it.

Benjamin J. Davis—Defendant—Direct

(T-9360) The Court: Isn't it obvious, if it is in there, it would be helpful in the case? I suppose you take exception to almost everything I do or say, so I will direct the jury to disregard that, and the advice you may disregard as well, Mr. Crockett, and I take that all back.

Where does that leave us?

Ready for a new witness?

Mr. Isserman: I believe so.

(Witness excused.)

Mr. Isserman: We will be ready in a moment, your Honor.

The Court: That is all right.

Mr. Sacher: If the Court please, I call Councilman Benjamin J. Davis to the stand.

BENJAMIN J. DAVIS, one of the defendants, called as a witness on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. Sacher:

The Court: You may proceed.

Q. Mr. Davis, where do you live? A. One West 126th Street.

Q. When were you born? A. September 8, 1903.

Q. Where were you born? A. Dawson, Georgia.

Q. What were the names of your parents? (T-9361)

A. My father was Senior, and my mother was Jennie Williard Davis.

Q. Where were they born? A. Dawson, Georgia.

Q. Will you tell us briefly what your father's occupation or business was? A. Well, my father was a newspaper publisher; he was a fraternal leader; he was a Republican National Committeeman from Georgia; and he held various positions in civic organizations; at the time he died in 1945 he was the editor of the National Baptist Review.

Q. Will you tell us briefly what your mother's occupation was prior to her marriage? A. Well, my mother was a domestic servant prior to her marriage, and after her

Benjamin J. Davis—Defendant—Direct

marriage she was a housewife, which she remained until her death in 1932.

Q. Did you continue to live in Dawson for some period of time after your birth? A. I did, until about 1909 or '10.

Q. Will you please tell the jury where in Dawson you lived? A. Well, I lived in what is commonly called "on the other side of the railroad track." I don't recall the street. I lived in that section of the town where the Negro people lived on the side of the railroad tracks, on the other side the white people lived.

Q. Who were the members of your father's household while you lived in Dawson? A. Well, there was my grandmother, (T-9362) who was born a slave, and whom I knew, and a couple of uncles and an aunt, one uncle who was born in slavery and still living, an uncle who was a share-cropper or a poor tenant farmer, and various other relatives and sisters.

Q. Would you be good enough, Mr. Davis, to speak up a bit? A. I will try.

Q. Did you attend any school at Dawson? A. Well, when I was about six I attended, for a few weeks, a small, tumbled-down rural school in Dawson, Georgia, and for a few weeks, and that is about all I recall.

Q. Was that school attended by both Negro and white children? A. Only Negro children.

Q. Was it what is known as a segregated school? A. Yes.

Q. Did the laws of Georgia at that time require the segregation of school—of children in schools? A. Yes.

Mr. McGohey: Objection.

The Court: Well, he has already in effect said that in one or two previous answers. I will permit it to remain.

Q. Did there come a time when the family left Dawson? A. Yes, about 1909 or '10. My family moved to Atlanta.

Q. And do you know what the occasion for your family's departure from Dawson was?

Mr. McGohey: Objection.

(T-9363) The Court: Sustained.

Benjamin J. Davis—Defendant—Direct

Q. Where in Atlanta did your family live, Mr. Davis?

A. First, at 286 Martin Street, and then, later, at 268 Boulevard. I think it was 268—286 Martin Street up until about 1921 or '2, and then we moved to Boulevard.

Q. Did you attend a public elementary school at Atlanta?

A. I did, I attended Summer Hill School.

Q. What school was that? A. That is the name of the public school that I attended.

Q. Was that school attended by both Negro and white children? A. Only Negro children.

Q. Did you attend that public school until you graduated or did you leave it at some time to attend some other school? A. Well, as far as I can recall, I attended that school through the sixth grade. Then I went to Morehouse College which at that time had both grades and an academic course and college. So I left Summer Hill Public School at the completion of my sixth grade.

Q. Did you ever attend a public high school in Atlanta?

A. No. As far as I recall, there was no public high schools for Negroes.

Q. And this Morehouse College then was a private school for the tuition in which your father was obliged to pay, is that it? A. Yes.

Q. Will you tell the jury, please, during what years you (T-9364) attended Morehouse College? A. I think from about 1915 until 1921 or '2.

Q. Was Morehouse College a college attended by both Negro and white children? A. Only Negro students.

Q. While you were at Morehouse College did you engage in any extra-curricular activities? A. A little. I did a little debating, I was a member of the glee club and orchestra. Then for a while I played the cornet in the band and the violin in the orchestra. And various other campus activities.

Q. During summer vacations what did you do? A. Well, I worked in Atlanta there sometimes as a soda jerker and bootblack, and sometimes as chauffeur for the then president of Morehouse, the late Dr. John Hogg.

Q. Did you receive any distinctions or honors or scholarships while you attended Morehouse College? A. Well, one or two prizes for oratory and scholarship. Those are about the only ones I remember now.

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Q. Did there come a time when you graduated from Morehouse College? A. Yes, I graduated from the academy, which is equivalent to high school, I think, in 1921.

The Court: You know, I think you could lift your voice just a little, tiny bit, and Mr. Sacher could hear you a little better.

Mr. Sacher: Thank you.

(T-9365) Q. Did you stay on at Morehouse for any period of time after you graduated from the academy? A. Well, I had one year of college at Morehouse, my freshman year. Then I went away to another college to finish my college work.

Q. What college did you go to after you left Morehouse?

A. I went to Amherst College in Amherst, Massachusetts.

Q. And do you recall when you entered Amherst? A. I think it was 1922. I entered there as an unclassified student.

Q. Would you explain briefly, Mr. Davis, what you mean by "unclassified student"? A. Well, Morehouse College did not have the requisite rating which would have entitled me to an automatic sophomore classification at Amherst College. So I got unclassified, sort of on trial my first year at Amherst.

Q. And did there come a time when you were classified?

A. Yes, I kept up pretty well with my class, therefore my second year at Amherst was my junior year.

Q. While you were at Amherst College did you engage in any extra curricular activities? A. Yes. I played varsity football for three years, I did a little debating, I played in the college orchestra, and I sang in the choir.

Q. Did you have any experiences in connection with your football playing at Amherst, of which you have any (T-9366) present recollections?

Mr. McGohey: Objection.

The Court: I am hesitating a little there, Mr. Sacher, because—

Mr. Sacher: I promise to connect it up.

The Court: —what you are about to start upon may be so easily overdone.

Mr. Sacher: I won't overdo it.

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The Court: I have found on certain phases of the case here there has been so much repetition and so much rubbing it in up and down that I felt I had to call a halt to it. I think it is perfectly proper for you to show a certain amount of Mr. Davis's background and I want to let you do it but the minute I get the impression that you are overdoing it I am going, I think, to take a different view. Now I will allow this and if you develop these things in moderation here in a reasonable way, I shall let you do it.

Mr. Sacher: I shall make every effort to do that.

A. Well, while I was in Amherst and on the football team in 1924 we had a game with Princeton.

Q. With what? A. Princeton, and the team arrived at the—I think it was the Palmer Stadium; I am not sure—and the officials of the Stadium wanted to bar me because they thought that I was the team's trainer and that they (T-9367) had not had a Negro play in the bowl, so I was told, in quite some time; and it was only after the intervention of the captain of my team that it was possible for me to enter the stadium and play on the team.

Another experience is one where I was told, after applying for membership in the student musical clubs by one of the officials in charge of the club that I should be on the club but the school had to make Southern trips to Florida and to Virginia and to other places and that they figure that perhaps it would be a little too embarrassing for the club, and that for that reason they would not give me the position.

There were many other experiences but those stand out very vividly.

Q. Were there any—may I respectfully suggest, Mr. Davis, that you are holding your hand up to your mouth and that prevents my hearing you. A. O. K.

Q. Did you receive any distinctions or honors or scholarships while you attended Amherst College? A. None in particular. I did by keeping my average up to a certain height, degree, in college, I was able to get a reduction in my tuition for the three years I was there.

Q. You also, I take it, got your varsity letter for being on the football team? A. Yes, for three years.

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The Court: Three of them?

(T-9368) The Witness: Yes, three years.

Q. What course of study did you take at Amherst College? A. Regular.

Q. Arts, was it? A. Yes, Bachelor of Arts degree.

Q. Did there come a time when you received your degree at Amherst? A. Yes.

Q. What degree did you receive? A. A.B. in 1925.

Q. Does that stand for Bachelor of Arts? A. Yes, so far as I know.

Q. And you say you got that degree in 1925? Is that right? A. Yes.

Q. Did you attend any other college or university after you graduated from Amherst College? A. Yes, I went to Harvard Law School.

Q. When did you enter Harvard Law School? A. I think the fall of 1925.

Q. And did you take the full law course at Harvard Law School? A. Yes.

Q. I am sorry, Mr. Davis, I notice from my notes that I have overlooked an item here in my questions, and I would like to return, if I may, to the period while you were still at Amherst. Was there a time during the period that you were a student at Amherst that you were arrested in Atlanta? A. Yes, I was.

(T-9369) Q. Will you please tell the Court and jury the circumstances surrounding that arrest? A. I think it was during the year 1924. I was on a street car in Atlanta, which is, of course, segregated and Jim Crow. The Negro people sit in the back and the white sit in the front. And a very ill Negro woman got on the car and there were no places for her to sit in the rear Negro section but there were a couple of seats in the front section; so I just sort of had to sit down there anyway and, of course, I was immediately arrested and carried to jail and charged with violating the segregation laws—I can't recall whether the State or the City—and then I was found guilty and a fine was imposed and they suspended sentence, and my father paid the fine and put up a very nice plea for me and got me out of it.

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Q. Now when you went to Harvard was there a moot court which was under the control of the students? A. Yes, it was sort of controlled by students and faculty.

Q. Was that a student law club? Is that what it was? A. Yes, there were student law clubs but I was not a member of the law club.

Q. Did you apply for membership in that law club? A. I did.

(T-9370) Q. Were you accepted? A. I was—I was accepted on condition that I would go into a law club with only Negro students, a Jim Crow law club.

Q. Did you have occasion to discuss that question with the dean of Harvard Law School at that time? A. I did.

Q. Who was the dean then? A. Roscoe Pound.

Mr. McGohey: Objection.

The Witness: I am sorry.

The Court: Yes, I am not going to take the conversation with the dean.

Mr. Sacher: Just so that I may make my record may I just put the question?

The Court: Yes.

Q. Did you have a conversation with Dean Pound concerning this matter? A. I did.

Q. Can you tell us when about that conversation took place?

Mr. McGohey: Objection.

The Court: Sustained.

Q. Will you tell us the substance of your conversation with Dean Pound on that matter?

Mr. McGohey: Objection.

The Court: Sustained.

Q. Did you receive a degree from Harvard Law School? A. Yes, I did.

(T-9371) Q. What degree did you receive? A. L.L.B.

Q. That I take it stands for Bachelor of Laws, is that right? A. Yes, that I take it also.

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Q. Did you leave Harvard in 1928, Mr. Davis? A. Yes.

Q. Did you obtain any employment after you left Harvard? A. Yes, I did. I worked for W. B. Ziff Company.

Q. What was the business in which that company was engaged? A. Well, that company was publishers' representative.

Q. What is that? Will you tell the jury briefly about that, if you will? A. Well, that is kind of a firm that represents newspapers and secures advertisements from business concerns for those newspapers.

Q. And in what capacity were you employed by the Ziff Company? A. Well, I had two capacities—one, I solicited advertising for Negro newspapers, and then I was also editor for a while of an illustrated insert which was inserted into the weekly issues of Negro newspapers, about 150 or 200 of them.

Q. And how long did you remain with the Ziff Company in the capacities which you have described? A. Until Nineteen—the latter part of 1931.

Q. Did you in that year resign from the Ziff Company? (T-9372) A. I did.

The Court: What is the name of that company?
Mr. Sacher: Z-i-f-f.

Q. What did you do after you resigned from the Ziff Company? A. Well, at the time I was living in Baltimore and I went back to Atlanta to begin the practice of law.

Q. Did you apply for admission to the Georgia bar? A. Yes, I took the examination and applied for admission.

Q. And you were duly admitted, were you? A. Yes, I was admitted.

Q. In what year, Mr. Davis? A. In January of 1932.

Q. Did you thereafter enter on the practice of the law in Atlanta? A. I did.

Q. After your admission? A. I did.

Q. At what address was your law office located? A. It was located in the Odd Fellows building at 250 Auburn Avenue.

Benjamin J. Davis—Defendant—Direct

Q. Did there come a time shortly after your admission to the bar during the year 1932 when you came to know a Communist Party organizer in Georgia? A. There did.

Q. When in 1932 did you come to know this man? A. It was about June in 1932.

Q. Where did you meet him for the first time? A. I met him in the Fulton County Jail in Atlanta, (T-9373) Georgia.

Q. What was his name? A. Angelo Herndon.

Q. Did you have a conversation with him at that time? A. I did.

Q. Will you tell us what that conversation was?

Mr. McGohey: Objection.
The Court: Sustained.

Q. Had you prior to your visit to him in the Fulton County Jail learned of his arrest?

Mr. McGohey: Objection.
The Court: Well, I will allow it.

A. Yes, I had.

Q. In what manner did you learn of his arrest?

Mr. McGohey: Objection.
The Court: Sustained.

Q. You have testified that you had a conversation with him on the occasion of this first meeting at the Fulton County Jail, is that right? A. Yes.

Q. Did you after that conversation write a letter to the International Labor Defense in New York City?

Mr. McGohey: Objection.
The Court: Sustained.

Q. Did there come a time when you were retained to act as attorney for Angelo Herndon? A. Yes.

Q. When were you retained? A. In the latter part (T-9374) of 1932.

Q. Who retained you? A. The International Labor Defense.

Q. Were you Mr. Herndon's chief trial attorney? A. I was.

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Q. Will you tell us briefly in what circumstances you were engaged as his chief trial attorney?

Mr. McGohey: Objection.

The Court: Sustained.

Q. Do you recall when Mr. Herndon's trial on the charges then pending against him took place? A. In January of 1933.

Q. Will you please tell the Court and jury on what charge Mr. Herndon was tried?

Mr. McGohey: Objection.

Mr. Sacher: If the Court please, I respectfully suggest that I shall connect this with what I regard as very material.

The Court: Was it a very serious charge?

Mr. Sacher: Yes.

The Court: I will allow it.

A. Well, he was charged with attempting to overthrow the Government with force and violence.

Q. Did you in the course of the trial of that case have occasion to file a challenge to the jury array on the ground that Negroes in Georgia were systematically excluded from (T-9375) service on grand and petit juries?

Mr. McGohey: Objection.

The Court: Sustained.

Mr. Sacher: Will you be good enough, Mr. Borman, to mark pages 337 to 341 of this book for identification?

(Marked Defendants' Exhibit 8 x S for identification.)

Q. Mr. Davis, I show you pages 337 to 341 of this book and ask you to state whether what appears on those pages is a true and correct copy of the indictment on which Angelo Herndon was tried and on which you defended him?

Mr. McGohey: Objection.

The Court: Sustained.

Mr. Sacher: What was your Honor's ruling?

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The Court: I sustained it. We are not trying the Herndon case.

Q. By the way, I show you this book and ask you what that is, Mr. Davis, please?

Mr. McGohey: Objection.

The Court: You wish to have him read the indictment in evidence?

Mr. Sacher: Yes, your Honor, the title and the author, if I may.

Mr. McGohey: Objection.

(T-9376) The Court: I can't see what bearing it has on the case.

Mr. Sacher: I assure your Honor that in a very short time I will connect it all up with the main issues in the case.

The Court: Well, if you have a notion that instead of briefly sketching the background of the witness, which is customary, we are going to creep along pausing at everything he did—this is when he first started practicing law down in Georgia—that we are going to take all those little incidents or big incidents—whatever they may be—we will simply have an endless thing without sufficient relevancy—

Mr. Sacher: I assure your Honor I have no such intention.

The Court: I am not going to have that book get in evidence here, Mr. Sacher, that Herndon wrote. That is what it is, a book by Herndon. Now, if there is something that this witness did that can be briefly described, such as defending the man and what happened to him, I will allow that, but I am not going to have you put the indictment in evidence and then show all the proceedings that were taken there, so on and so forth.

Mr. Sacher: Well, your Honor, if the time should—

(T-9377) The Court: The fact that as a young man he defended Herndon and whatever the result of it might be, and that he put up a very long and serious fight for him, and became interested in him, I will permit that.

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Mr. Sacher: No, I am going to show the influence of the Herndon case on Mr. Davis's becoming a member of the Communist Party. That is the purpose of my inquiry.

Mr. McGohey: May I object to that.

The Court: If that is what it is, then I think it is not as material as I thought perhaps it was at first.

Mr. Sacher: Will you excuse me, Mr. McGohey?

Q. Do you recall how many days were spent in the trial of Angelo Herndon?

Mr. McGohey: Objection.

The Court: Sustained.

Q. Mr. Davis, was Mr. Herndon tried by an all white jury?

Mr. McGohey: Objection.

The Court: Sustained.

Q. What was the penalty which the statute provided for the offense charged against Mr. Herndon, if you know?

Mr. McGohey: Objection.

The Court: Sustained.

(T-9378) Q. Was Mr. Herndon found guilty or innocent?

Mr. McGohey: Objection.

The Court: Well, you know, I am getting maneuvered into a position here where I appear to do just what I don't want to do. Now, I want to let you bring out in a reasonable way the things that are this man's background, and by this series of questions here which I am sustaining objections to, it puts me in a position of ruling the whole matter out, which is what I don't want to do at all.

If there was some way that he could make a brief statement about it, without having all this paraphernalia, all the indictment, all the various things put in I would allow it. It seems to me that it

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ought to be possible for you to accommodate yourself to that suggestion.

Mr. Sacher: I am trying.

The Court: Let me ask him a question now.

Tell me briefly about this, Mr. Davis.

The Witness: Well, this case was the occasion of a turning point in my life.

(T-9379) The Court: You tell me about that briefly. Explain it without all the details, without the details of the indictment and how many days it took. Just tell me in your own way. Tell the jury.

The Witness: Well, I got into this case and in the course of trying the case I was myself, along with my client Herndon, made the victim of the worst kind of treatment against Negroes. The judge in the case referred to me as “nigger” and “darky” all the way through the case, and to my client in the same way, and threatened many times to jail me along with my client, and treated me in such a way that I could see before me the whole treatment of the Negro people in the South where I had lived all my life, and the fact that I had been a little luckier than the average Negro and, in some ways, the average white, to have gotten such an education was not at all effective in shielding me from what the Negroes had to suffer, whether they were laborers, or whether they were doctors or lawyers or men of wealth.

So I felt at that particular moment that if there was anything I could do to fight against this thing and to identify myself fully with my own people and to also strike a blow against the lynch system against my own people that I was determined to do it.

(T-9380) And naturally in defending Angelo Herndon, who was a young 18-year old Communist, I had to familiarize myself with many of the books which were used—

The Court: That is what the case was about?

The Witness: Correct, correct, yes, it was books—and I read these books and they made sense to me and I thought of them in terms of all of my life experience, of my own father who had crosses—Ku Klux Klan crosses burned on his front yard

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when he first became national committeeman; of my mother who died rather early because of a whole campaign of months of terror by the Ku Klux Klan against my home, and all of this flashed before me and it made connection in the book for which this man was going to be sent to death, because the penalty for this was death and—

The Court: Now you know one thing I want you to do—

The Witness: Yes.

The Court: —don't do what Mr. Green did. When you hear me sustain an objection to something, don't go bringing it in. You are a lawyer—

The Witness: Well, I am sorry. You asked me to tell you—

The Court: I know, and I am telling you that if you will just try to avoid that it is going to make (T-9381) it so much easier, and if you just give direct answers as you go along, as you have been doing, it is going to be helpful.

Now, we will take our recess now until tomorrow morning.

Ladies and gentlemen of the jury, remember the admonition I have heretofore given you, do not discuss the case among yourselves and do not let the matter be discussed by anyone with you. You will express no opinion of the merits of this controversy until finally submitted to you under the instructions of the Court, and we will now take a recess until tomorrow morning at 10.30.

(Adjourned to July 8, 1949, at 10.30 a.m.)

Benjamin J. Davis—Defendant—Direct

(T-9382)

New York, July 8, 1949;
10.30 o'clock a. m.

TRIAL RESUMED

(The Court and the clerk confer.)

The Court: Let the record show that the jury is present and the defendants and the attorneys for the defendants, with the exception of Mr. Gladstein and Mr. Isserman, concerning whom I am informed the usual stipulation is being prepared for signature and filing, and the attorneys for the Government are present.

BENJAMIN J. DAVIS, resumed the stand.

The Court: Yes, you may proceed, Mr. Sacher.

Direct examination continued by Mr. Sacher:

Q. Mr. Davis, when court adjourned yesterday you were in the midst of answering the question which the Court put to you. Will you be good enough to complete the answer to the question which the Court put to you in connection with the Herndon case?

The Court: I thought he had pretty well covered that, hadn't he?

Mr. Sacher: He hasn't completed it as I recall it, your Honor.

(T-9383) The Court: Now bear in mind I don't want a blow-for-blow account of the whole long history of the Herndon case. But the explanation, as I understood it, that Mr. Davis was making is how he happened to become a Communist.

Mr. Sacher: That is correct, your Honor, that is the purpose of the inquiry.

The Court: He must have pretty nearly covered that when we adjourned.

Is there something that you want to add to that, Mr. Davis?

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The Witness: Just a couple of words.

The Court: All right, you may do it.

A. In the case I felt that this Jim Crow which I experienced in the trial was something that I had experienced nationally and wasn't confined to my own State of Georgia but I experienced it in other parts of the country.

Then in reading the material with which I had to familiarize myself in order to defend my client, as I said, that made considerable sense to me, and what I learned from that material, at least the conclusion that I drew from it—

Mr. McGohey: If the Court please, it seems to me if we are going to have testimony about what material the witness read that caused him to become a member of (T-9384) the Party we ought to have the material stated.

The Court: I don't want to go through that Herndon case. I prefer to have him make a brief reference to the material he read and to explain how he happened to become a Communist.

So bear that in mind, Mr. Davis.

A. (Continuing) Well, there was certain material of the Daily Worker, certain Marxist classics that I read, and these convinced me that the question of the struggle for the full citizenship and constitutional rights of the Negro people was one involving not only the question of courage and militancy, which is quite necessary, but one which viewed the struggle of the Negro people as a science, and though I didn't fully comprehend that science it made a good deal of sense to me in the sense that the very basis of it was the unity of the poor whites in the South and the Negro people.

And I also read considerable about the Soviet Union which I had gotten from material with which I defended my client, and I was impressed there because that showed me in my opinion how the whole question of it being perfectly possible for people of many different nationalities and races and creeds to live together on the basis of equality and peace and friendship and brotherhood, and I was considerably convinced by that (T-9385) and this made sense to me in terms of my own personal experiences as a Negro.

Colloquy of Court and Counsel

Then in the face of the remarks made constantly by the judge I considered what could I do at that moment that would enable me to hit this thing, this lynch system, this Jim Crow system. I considered that the best thing I could do was join the Communist Party because that would hurt most and so I did.

Q. How old were you when you joined the Communist Party? A. I think I was 29.

Q. Did anyone solicit—I beg your pardon. Would you like some water? I have some right here.

(Bailliff provides water for the witness.)

Q. Did anyone solicit you at that time to join the Communist Party? A. No, I applied for membership.

Q. To whom did you apply for membership? A. Well, I applied to my client, Angelo Herndon, who at that time was the Communist organizer in Atlanta.

Q. There came a time, didn't there, when the jury returned a verdict in that case?

Mr. McGohey: Objection.

The Court: Sustained.

Mr. Sacher: Just for the purpose of making the record, your Honor, I will put the next one or two questions.

(T-9386) The Court: Yes, I feel that going through all the details of that Herndon case is so remote from what we have to decide here that I am not going to allow it. I have had occasion overnight to study the various opinions written by the various appellate courts on it and I feel that it will simply be an element of confusion here and I am not going to allow it.

Mr. Sacher: I just wish to elicit the bare facts. I do not wish to try—

The Court: You see, the bare facts of the Herndon case will probably take us a week.

Mr. Sacher: No, your Honor.

The Court: And I am not going to allow it anyway. I think the relevancy of what he has already stated is clear to me but it is also clear that if we go into all the details of that Herndon case, it will be so remote and so confusing as not to be helpful in the determination of the issues under this indictment.

Colloquy of Court and Counsel

Mr. Sacher: I respectfully suggest that in view of the impact that the case had on Mr. Davis that at least to the extent of developing that fact, I think it is relevant, your Honor, although I do not wish to—

The Court: You may inquire of him whether or not he worked on that case for several years and then go on to the other phases of his life that you desire to develop (T-9387) prior to the time when we come to these issues.

Mr. Sacher: I shall accept your Honor's suggestion.

The Court: Very well.

Q. Mr. Davis, did you, after the trial of Angelo Herndon, continue to work on that case for a number of years? A. About three years.

Q. Did there come a time when the Supreme Court of the United States held that the law under which he had been indicted, tried and convicted was unconstitutional as applied to him and his activities?

Mr. McGohey: Objection.

The Court: Sustained.

Mr. Sacher: Will your Honor be good enough then to take judicial notice of the fact that the United States Supreme Court in 1937, in the case of Herndon against Lowry, in 301 U. S. 242, held that the statute under which Angelo Herndon was indicted, tried and convicted was unconstitutional as applied to him and the facts set forth in the indictment?

The Court: My recollection is that they found that the evidence was insufficient to support the conviction.

Mr. McGohey: That is correct, your Honor.

Mr. Sacher: In view of your Honor's statement—

The Court: I don't see that it is essential (T-9388) here to go into the various intricacies of the various opinions that were rendered by the judges of the Supreme Court there or the pros and cons on question of law, which I think are no concern of this jury. The struggle to release the man was successful.

Colloquy of Court and Counsel

Mr. Sacher: I should like to call your Honor's attention to the concluding paragraph of the majority opinion of the Supreme Court in the case to which I have—in the citation to which I have referred, namely, the opinion of Mr. Justice Roberts, and respectfully request that the Court charge on the basis of that conclusion.

The Court: No, I am not going to charge the jury as to that case. Its bearing here is so utterly remote that I cannot imagine why it should be essential to go into that. If you want to go into one part of the opinion, doubtless Mr. McGohey will desire to go into other parts of the opinion, and these legal intricacies are matters of no concern to the jury and I am not going to permit it.

Mr. Sacher: Well, if it please the Court, I respectfully submit that the matter of intent in joining the Communist Party constitutes a very important element of the case before us and, therefore, to the extent that that opinion reflects upon the intent which Mr. Davis had and his activities in that case, I think that it (T-9388-A) has materiality and relevancy. After all, the jury consists of intelligent people and they will be instructed by your Honor, and I think we can trust them.

(T-9389) The Court: Yes, I know you have taken the position that everything should go to the jury and they should determine all the questions, and that I shall just sit here and let the evidence pour in, but I am not going to do that. One of my chief concerns in this case has been to make sure that the relatively narrow issue presented by the indictment was constantly borne in mind so that we might not divert it into other matters and into a general chaos and confusion, and I think nothing would serve that better than to go into all the matters of law and fact that were discussed in that Supreme Court opinion, which I believe is so remote as to be of no probative value here.

By Mr. Sacher:

Q. Now Mr. Davis—

Colloquy of Court and Counsel

Mr. McGohey: Pardon me, Mr. Sacher.

Mr. Sacher: Yes.

Mr. McGohey: Your Honor, may I make a brief statement about this matter?

The Court: Yes.

Mr. Sacher: I wish to object to the interruption of my examination of the witness by statements, and I should respectfully request of the Court that I be permitted, except on such occasions as your Honor thinks it necessary and material, to a proper elucidation of the (T-9390) case, that my examination be not interrupted. I think it is important, as your Honor says, that the jury should have a consecutive understanding of the testimony of my client, and I would, therefore, appreciate it if Mr. McGohey would not interrupt.

The Court: Well, you see, neither you nor I know what Mr. McGohey is about to say, and he has uniformly addressed me in a respectful manner here and asked my leave to make a statement, and I see no reason why I should not permit him.

Mr. McGohey, what do you desire to state?

Mr. McGohey: Mr. Sacher's argument, your Honor, about the effect of the Supreme Court opinion in this case may have had upon this defendant's intent seems to require, I believe, in the performance of my duty for my client in this case, the statement, or ask your Honor at least to recall that the testimony this morning is that this man joined the Party in about the year 1932 or 1933, and the opinion—

Mr. Sacher: No, it was 1933, Mr. McGohey.

Mr. McGohey: Well, 1933—and the opinion which is now being argued as something which had an effect of his intention to join the Party didn't come down until four years later, in 1937, so that it couldn't have had very much, if any, bearing upon his intent to do anything in 1933.

(T-9391) Mr. Sacher: May I respectfully have a sentence in reply, your Honor?

The Court: Yes, you may.

Mr. Sacher: To say this, that when the Supreme Court four years later rendered its decision it vindic-

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cated everything that Mr. Davis thought and believed in at the time he joined.

The Court: Well, that is a rather broad statement in view of what he has been saying here, but let us not get into the Supreme Court opinion, and you may go on to something else.

By Mr. Sacher:

Q. Mr. Davis, did you at some time, after the Herndon trial in January 1933, apply for admission to the Federal District Court in the District of Georgia, which embraces the City of Atlanta? A. I did.

Q. Are you still a member in good standing of both the State and Federal bars in Georgia? A. So far as I know I am.

Q. Now, Mr. Davis, for how long a time after you joined the Communist Party in 1933 did you continue to reside in Georgia? A. For approximately two years, I think.

Q. And during that period of time did you engage in any activities as a member of the Communist Party? (T-9392) A. I did.

Q. Will you briefly, and in a general way, state what activities you engaged in, stating as best you can the time and place of each of the activities to which you testified? A. Well, I attended unit meetings of the Party during the years '33 and '34 in Atlanta, meetings with Negro and white workers together. I served a period of time as attorney in the Scottsboro case for—

Q. What was the Scottsboro case—just sufficiently to identify the case, if you will state it? A. It was the case of nine Negro boys who were framed upon a rape charge in 1931, and there was a long fight to free them and to expose the hideous system which kept them in jail, and I became a part of the legal staff associated with the International Labor Defense and the late Joseph R. Brodsky.

Then I represented the Party, the Communist Party as a kind of general counsel.

Then I represented the Party and other groups—

Q. The what—I am sorry. A. The Party, the Communist Party and other groups, at hearings, for example, before Governor Bibb Graves in 1934, where I represented

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a group of Negro citizens and the Communist Party in arguing for commutation of a sentence of a Negro who was (T-9393) charged with some crime there.

Then I also helped in the publication of a paper, which is a paper which reflected the Communist point of view which was called the Southern Worker.

I used to go around and try to find printers who would print the paper, which was difficult because of oppression and terror. I also was—I taught classes among the rank and file, Negro and white Communists in Atlanta, Georgia, such classes as to teach them the prerequisites of voting, teach them history, and generally to help out in any way as a Communist Party member in the State of Georgia.

Q. Did you—does that complete your recollection of the nature of your activities in that period?

The Court: That is, the two years before you left Georgia.

The Witness: Yes.

Mr. Sacher: That's right.

A. I traveled quite a bit, speaking about the country on the Herndon case and on the Scottsboro cases.

That's all I recall right now.

Q. Did you have any professional connection with the case of the so-called Atlanta 6 during that period? A. Yes, I represented the Atlanta 6.

Q. Will you just briefly describe what the nature of (T-9394) that was? A. That was a case of six workers, some of them were Communists, I think,—I am not sure—but they were indicted prior to Herndon under the same statute, and for a while I represented them in Atlanta. There were some Negro men and white women, and I think they were about equally divided, Negro and white.

Q. Did you also have occasion during that period to defend a man by the name of Willie Peterson? A. Yes. That was the case that I appeared before the Governor of Alabama.

Q. Governor Graves? A. I think it was Governor Bibb Graves—I am not sure.

Q. Was there ever a time while you resided in Georgia that you made public disclosure of the fact that you were a member of the Communist Party? A. Well, I—I didn't

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announce it from the house tops. I—no, I would say I didn't, as a general rule.

Q. Why not?

Mr. McGohey: Objection.

The Court: Sustained.

Mr. Sacher: May I respectfully point out, your Honor, that some point has been made in this case of alleged non-disclosure by members of the Communist Party of their membership in the Party—

The Court: Yes, but I have had quite a little (T-9395) experience now on those questions of "Why did you do this?" and so on, and when they are so remote from the issues, as this question is, referring as it does back to Georgia, the activities which he has so fully described there, it seems to me it will add nothing material.

By Mr. Sacher:

Q. Now, Mr. Davis, you have testified that you continued to live in Georgia for approximately two years after you joined the Communist Party; is that right? A. That's right.

Q. So that you left Georgia, would it be correct to say, some time the latter part of 1934 or the early part of 1935? A. That's about right.

Q. Why did you leave Georgia?

Mr. McGohey: Objection.

The Court: Sustained.

Q. Did your departure from Georgia have anything to do with your activities as a member of the Communist Party?

Mr. McGohey: Objection.

(T-9396) *By the Court:*

Q. Let me ask a preliminary question there. Where did you go after you left Georgia? A. To New York. I started to reside in New York.

Q. Did you leave Georgia because the officers or the police disturbed you because you were a Communist? A. I