

A. Its main import is the statement of the position of the Communist Party of the USA on current questions stated by the general secretary of the Party and the essence of the volume is indicated in its entire ideas, "They cannot jail"—that is the conviction of the author of the book, that he is representing the defense of civil liberties and the defense of the right of liberal or Negro people and the defense of the right to opposition to unjust wars. That these are his own ideas and while a peasant expresses the ideas might be jailed and the ideas in his opinion be true, they cannot be extended, be jailed, a man who has ideas. That is, I think, a fair synopsis of the volume.

Q. In it Mr. Cercone quoted a statement to the effect in calling for peace that there should be no war against the Soviet Union, and the direct quote is the USSR—is there another country. What do you understand him to mean when he states that?

[fol. 2233] A. Here Mr. Dennis has reference to the fact of the nature of the Soviet Union. That is not his view as he expresses in the book and in the Party in which he is a leader, that in that country the elements of the private ownership as production, you have an arrangement, the exploitation of man by man. It is a socialist country.

Q. When you say an element, the exploitation of man by man, what do you mean by that. I know it is a brief statement in the language of political economy. What do you mean in a proper way? Basically it means eliminating the fact because a small group, as we call here, as we probably have here, monopolists, owned the means of production, or a small group owned the land which produces things people eat and wear. Because of that ownership they employ and hire people in our society who, in order to live, work for those who own the means of production. The profit derived by the owners of the means of production is the difference of the workers, what the workers actually produce and what is paid. That is the basic definition of profit.

In other words, one person owning the means through that ownership requires another who doesn't own, requires him to work for him. It is an exploitation benefiting one and exploiting the other. That is what is meant—socialism, the socialism element exploits, exploitation of man by man.

Q. Do you mean in the Soviet Union a man can't have a factory in which he has people who work for him and benefit individually?

A. That is correct.

[fol. 2234] Q. What profit is made is derived by the people in common through the State. Is that right?

A. That is correct.

Q. So when Dennis states it is not just in other countries, he means by that it is an attempt to establish a new system and not established before and is moving forward. That is our contention, is that right?

A. That is right.

Q. Now the Prosecution asked you a question, who is George E. Dimitrov was. You answered briefly that he was Premier of Bulgaria at the time of his death. What history is he known for in the pre-war history of Europe?

A. I should say he is best known by whole humanity, which knows him as the man who defied Hitler, the Nazi Government at the Reich trials in 1933 and he was a leading defendant at the time the Nazis framed the burning of the Reichstag and tried to place this on the shoulders of the Communists. And it is fair to say he earned the admiration of all progressive humanity by his courage in defending himself at that time.

He also was a leader in the struggle against Fascism throughout the World and I would say that one of his other great contributions was his leadership for the United Front idea. The uniting of the United Front to pull the strong Communists and non-Communists in order to resist the coming into power, the pistol Fascist monster. He also lead during the war its underground resistance mostly in [fol. 2235] Eastern Europe in support of the Allies and in support of the Soviet Union when the actual war broke out against Hitler and Mussolini.

Q. Another pamphlet was shown to you by the Prosecution, the Soviet Spirit and I believe you stated you were not familiar with it in detail but you know about it to some extent. Did you know the author of the book, Harry F. Ward?

A. Yes.

Mr. Cercone: I object to anything about the contents.

Mr. Nelson :

Q. Did you know Dr. Ward?

A. Yes, I know him personally. I know his work. Dr. Harry F. Ward is an elderly man, Professor Emeritus at the Theological Seminary of Columbia University. He is a man well in his 80's by now.

Q. And this book was written during 1944, during the time we were at war against Hitler and the Soviet Union was our ally?

A. Yes, and that is why I missed reading it at the time, too.

Q. You were somewhere else at the time?

A. Yes.

Q. You were in the war yourself at the time and probably missed it for that reason, is that right?

A. That is correct.

Q. You were asked whether you read an article called "Cold War in the Classroom." I think you answered yes. What is meant or what does that article deal with?

[fol. 2236] A. It was actually a pamphlet, Mr. Nelson, which was shown.

Q. It has been mentioned.

A. It is a pamphlet by Dr. Samuel Sillen. He had been a professor at the University of Wisconsin and New York University and he is now chief editor for Masses and Mainstream.

Q. He is one of your associates?

A. Yes. He wrote in this pamphlet about the effect of the cold war and the repression of civil liberties, the effect of that upon freedom of students and teachers in our universities forming, such as provoked much controversy by Mr. Fine and so on. Many people have written about Royalty. What is the effect and teaching them? That is the effect in the classroom and it is a descriptive pamphlet.

Q. It calls for what?

A. The end of such repression and witchdom, and a greater freedom to teach in the schools.

Q. We have gone through some of these but since it has been raised the second time by the Prosecution I want to ask you again just briefly regarding the question of Com-

munist' attitude toward elections as a means of advancing toward socialism. Is that or is it not the view of the Communist Party of the United States, that so long as democracy exists and there is a chance to advocate the advance of socialism freely, that the election is one of the most important means by which that should be brought to the [fol. 2237] masses of the people?

A. It is the fundamental means.

Q. That is the position of the Communist Party of the United States, is that right?

A. That is right.

Q. All right, the question was asked whether you are getting wages from the work done on Masses and Mainstream?

A. Yes.

Q. Do you get paid for the Masses and Mainstream?

A. Yes.

Q. Do you get \$34 a day like the Prosecution witness was testifying for editing?

A. No.

A. My take home pay is under \$60. It is about \$58.50 or something like that.

Q. Is anyone paying you for testifying here?

A. No, on the contrary.

Q. Now the question was raised here again about Charles E. Ruttenberg, why he went to jail. Did you have any intention of skirting the issue on why he went to jail? What is your position on that question?

The Court: He mentioned it but he didn't give the details. [fol. 2238] Mr. Nelson: Inference, it is a crime for a man to go to jail for principles.

Mr. Nelson:

Q. Why did he go to jail?

A. As I stated in direct, the fundamental reasons for the imprisonment of Ruttenberg, as was public knowledge, was his opposition to the First Imperialist War which he felt to be an unjust war.

Q. And it is true, a lot of people thought that war was needless and only the big munition makes made money out of it, but that was four or five years later it became true?

A. I think it was true and even asserted by Mr. Wilson in 1919.

Q. What did he say?

A. Mr. Wilson said in 1919 that the basic cause of the war was for commercial supremacy. He said that in statements.

Q. And therefore, opposition to the war wasn't because it was the opposition to the war alone but because of the munition makers making money out of the war?

A. Basically.

Q. His opposition was the same as Debs.

A. Yes, Debs went to prison because he defended him, Rutenberg. That was the occasion of his imprisonment.

Q. Now regarding the article you wrote in Masses and Mainstream on the Korean question. You wrote that article, did you not, to call attention to the American people that that is an unjust war and we should not be in [fol. 2239] it, we should not send our troops over to fight in a needless war. Is that right?

A. That was the purpose and intent of the article.

Q. What is the American people to do to overthrow the Government because they disagree with the policy of the administration?

A. No. I told them to do what I stated, to write to the President of the United States, the Senators, Congressmen and *and* to urge the reversal of the policy and to have the troops withdrawn and urge the people to tell their neighbors and to express themselves that they feel that way.

Q. And your opposition was based on the grounds the policy could be changed in a democratic way?

A. Certainly it can be changed.

Q. And you still believe that?

A. I do.

Q. Isn't it a fact that there are writers and authors who went along with the war at the beginning but now think it is a mistake?

A. Yes, I think that is a mistake. Many people, not only authors, many people have offered an opinion.

Q. So they are not traitors because they oppose that policy?

The Court: You are calling for a conclusion.

Mr. Nelson: These people are going to overthrow the Government whatever the opinions are.

[fol. 2240] The Court: Argue to the jury, gentlemen.

Mr. Cercone: You are trying to fool the jury.

Mr. Nelson: I object to him chastising me in front of the jury. I am fighting the case as best I know how.

Mr. Cercone: You are telling people you don't have ideas and you have dozens of them.

Mr. Nelson: The Court knows I have ideas but——

The Court: Do you want to include me in the trial or try it yourself? If you want to include me direct your remarks to me. If there is any violation you can make your remarks to me and I will be glad to rule on it. Proceed.

Mr. Nelson:

Q. What is your comment on the question, on the point raised here by Musmanno, the prosecution witness, that the books you have written which were found in the head-
[fol. 2241] quarters of the Communist Party are Un-American or don't deal with American questions? Would you comment on that, please?

Q. That is an absurd and ridiculous and a false statement. Every book I ever wrote dealt with my country, the United States of America. The very titles of the book, anyone looking at the books—they are history books, the history of the Negro people in the United States and other books dealing with the United States.

Q. When you criticize the Southern Slave Owners in these books and their opposition to the Government, you consider that a very important contribution to American thought, don't you?

Mr. Cercone: Your Honor, I would like to have a side bar on this.

The Court: Are they books found in the headquarters?

Mr. Nelson: Most of them. And when I cited books, the Negro and the Civil War and the Negro and the Abolitionist Movement, the Negro Slave Revolt in the United States, then Judge Musmanno's comment was that they were books speaking disrespectfully of the United States.

[fol. 2242] The Court: I only asked a question. Are the books referred to found in the Communist headquarters?

Mr. Nelson: I don't know. Some are.

Mr. Cercone: Which ones?

Mr. Nelson: I will show it to you on the exhibit list.

The Court: Any of them offered in evidence?

Mr. Nelson: I haven't, your Honor. I can do it at this time.

The Court: Well, if they are books that were found and you think important to the consideration of the jury, they may be considered along with the others.

Mr. Nelson: Yes. I am glad you called my attention to it.

(Defense Exhibit T marked.)

Mr. Nelson: The Negro in the Civil War, marked 53 on your first list. The Negro in the Abolitionist Movement, Exhibit 180. I may have skipped some but I don't want [fol. 2243] to delay this too long.

Mr. Nelson:

Q. So that most of the books you have written, Doctor, deal with the history of the United States and you specialized in subjects dealing with the Negro question generally, isn't that right?

A. Yes, that is correct.

The Court: Maybe I misunderstood you. I thought you were getting them out to give to the jury.

Mr. Nelson: These that were seized at the headquarters I intended to do that with those, and I have no special way of making use of the others and since they came from the library I don't want to introduce them at this time.

I could introduce these, Exhibit C to Y inclusive.

Mr. Nelson:

Q. Now, Doctor, do any of these books that you have written, do they advocate force and violence to overthrow the Government of the United States by force and violence?

A. No.

Q. Do they suggest the overthrowing of the Government [fol. 2244] of the State of Pennsylvania?

A. No.

Mr. Nelson: Can we have five minutes, your Honor, and approach the bench before we have this break?

The Court: Yes, come forward.

Mr. Nelson: I haven't had a chance to go over all of the questions but I believe I have covered most of them and don't want to repeat if we get through now—what is your ruling—the man can leave?

Mr. Cercone: I have the right of rebuttal.

The Court: Yes, there are a lot of things that may need questioning.

Mr. Nelson: I have one or two things.

The Court: Take five minutes and be as short as possible.

Mr. Cercone: Your Honor, I would just like to make a formal objection based on the decision in the New York case as given in an opinion by Judge Learned Hand, where [fol. 2245] he said that the material did not constitute to violence and force was not admissible since it was self-serving and had no materiality on and to stick to the issue of the case.

Mr. Nelson: I don't know that was said.

The Court: I don't care what he said. I am going to let the jury have everything in that book store.

Mr. Nelson:

Q. In these writings that were quoted here which are critical of the Government policies or in these books which may be critical, do you consider that a wrong thing to be critical of policies when we think that they are wrong?

A. Unless one is critical of that which he feels is wrong there can be no improvement, no progress there and there can be no change. All progress, all advance or reform has come because somebody has criticized that which exists and he didn't like.

Q. So that efforts to stifle that criticism is wrong in your opinion, isn't that right?

A. Such efforts are anti-democratic and anti-progressive and are wrong and are unjust, certainly.

Q. And the right to criticize has always been known, a known thing, an important part of our democracy, isn't that right?

[fol. 2246] A. Yes, one of the most precious parts.

Q. And when the right to criticize is gone what happens to democracy?

A. It is killed, it is curbed.

Q. There were other people besides Communists who in our history complained against the curbs or criticism?

A. Our history is filled with such protests and such things are in our greatest histories.

Q. What are the greatest outstanding things in history, since you are a historian, which indicates the criticism of what we are trying to bring out?

Mr. Cercone: That is objected to. It is objected to as immaterial.

The Court: Argue to the Jury. It is not the issue. I will explain to the Jury what is permissible. That isn't the issue here.

Mr. Nelson: Your Honor, I contend that it is.

The Court: As I outline the issue to the Jury you correct me if I misstate it and take exceptions.

Mr. Nelson: All right, that is all.

[fol. 2247] Cross-examination.

Mr. Cercone:

Q. Is your Jefferson School listed among the accredited schools of the country?

A. Is it what; is it listed what?

Q. As among the accredited schools of the country.

A. Do you mean for academic credit?

Q. Yes, is it listed in the American Accredited Association of the United States?

A. No.

Q. It is not accredited?

A. No.

Q. In other words, it is not—may I put it this way, you say it was organized in what year?

A. I didn't say and I am not sure. I am not positive, it is several years.

Q. Well, can you approximate the year. I would prefer the year?

A. I would approximate 1945, but I may be wrong, a year or two either way and I am not sure.

Q. I think I saw in your biography 1944, but I don't know. It is in there?

A. I can't argue about a year.

Q. Do you know who organized the school?

A. Who organized it?

Q. Yes.

[fol. 2248] A. No, I don't know who organized it.

Q. Do you know whether they are members of the Communist Party?

A. No, I don't know that.

Q. You don't know and wouldn't say yes or no on that?

A. No.

Q. Who are some of the members on this staff in this school?

A. Who teaches there, do you mean?

Q. Yes.

A. Do you want to let me have the catalog and then I will refresh myself.

Q. Yes. I thought you would know that.

A. Teaching at this school, at least in the Fall of 1949, were people like Samuel Sillen, Doctor Howard Selden, they are listed here.

Q. Is he a member of the Communist Party?

Mr. Nelson: That is objected to.

The Court: I think you are going far afield. The activities of the school aren't involved here. It is rather descriptive of the place. This witness taught there and we have been through his analysis of these things, that is, the fashion in which they are taught. I don't think the matter of his association is important.

[fol. 2249] The objection is sustained.

Mr. Cercone: We want to get to the one question on that.

Q. Teaching at your school is self-serving, is it not, in that it teaches——

Mr. Nelson: That is objected to. What do you mean?

The Court: The objection is sustained.

Mr. Cercone:

Q. Do you know what the song of the Communist Party of the United States is, its symbol, the song it has adopted as its song?

Mr. Nelson: That is objected to.

The Court: The objection is overruled. Exception noted. Does the Communist Party of the USA have a song?

A. Not to my knowledge.

Mr. Cercone:

Q. Now in your Communist Party program do you consider Imperialist Wars unjust, is that right?

A. Yes, that is right.

Q. When a country does enter an Imperialist War?

[fol. 2250] Mr. Nelson: Your Honor, I don't know my right on the question but to what extent can he go into these matters now? We have gone through these questions and I didn't want to go into them on recross.

The Court: You can object as repetitious. And we have been through the Imperialists and Capitalists and so far as this witness there is no need of prolonging it unless you want to develop something not already developed.

Mr. Cercone:

Q. Imperialist War is considered an unjust war?

A. Yes.

Q. And if a nation in which the Communist members lives is engaged in an Imperialist War they come to do everything to defeat that nation, is that right?

Mr. Nelson: That is objected to. Do you want the answer given?

The Court: The policy of the Party of the USA, the Communist Party, under such circumstances, if you know what is its expression?

[fol. 2251] A. It isn't what the Prosecutor said.

The Court: Restate the question.

Mr. Cercone:

Q. Let us start out—if a country in which the Communists reside is engaged in an Imperialist War, you consider that an unjust war. Is that right?

A. Yes.

Q. And in that country that is engaged in an Imperialist

War, is that where you advocate the bringing on of civil war?

A. No.

Q. That is what I want to know?

A. No. That is what I said.

Mr. Cercione: No further cross examination.

The Court: Is that all?

Mr. Cercione: Yes.

The Court: That is all?

Mr. Nelson: I want to know if the Court would like to adjourn at this time.

The Court: Come forward.

(Jury recessed until tomorrow at 9:30.)

[fol. 2252]

Tuesday, January 22, 1952.

Morning Session

GEORGE SEIBEL, a witness called on behalf of the defendant, having been duly sworn, testified as follows:

Direct examination.

Mr. Nelson:

Q. What is your name, sir?

A. George Seibel.

Q. Where do you live, sir?

A. 601 Clyde Street, Seventh Ward.

Q. Is that the North Side?

A. No, I had to move away from the North Side, sold the house.

Q. What is the work that you do, sir?

A. I am the Head Librarian of the North Side Carnegie Free Library.

Q. And as Head Librarian do you take care of renting of the halls, the various halls to organizations and people?

A. Yes, I do. I am the rental agent for this City.

Q. How long have you had that responsibility or that job?

A. 12 years.

Q. Well, in the course of the 12 years that you have been in charge of the North Side Carnegie Library, do you recall [fol. 2253] at any time renting a hall to the Communist Party of Western Pennsylvania?

A. Yes, I do. In fact, the hall had been rented to them for ten years before I came there, that I know, as far back as '32. So, when I took charge I followed the old custom.

Q. Do you know any particular individual whom you presumed to be a member of the Communist Party that came and rented the hall from you?

A. Only one, Mr. Dolsen. He always asked for them.

Mr. Cercone:

Q. Do you know his full name?

Mr. Nelson:

Q. Do you know the man's first name?

A. I'm not sure—was it Stephen?

Mr. Cercone:

Q. Was it James Dolsen?

A. I may have it down here—no, I haven't got his first name but he came in so often.

Mr. Nelson:

Q. Did he, Mr. Seibel, when he rented a hall from you, did he tell you it was for the Communist Party?

A. Yes, although we didn't need to ask him, we knew—I knew when Dolsen appeared on the scene that that was what he was after.

[fol. 2254] Q. He didn't, as far as you know, when he came up, he didn't try to hide the fact that he was renting the hall for the Communist Party, did he?

A. Oh, no, no.

Q. And do you happen to have a recollection as to whether or not he rented a hall from you in the Summer of 1948, sometime during the month of July or August? Do you recall that?

A. I don't remember the particular date.

Q. You don't have any papers that would refresh—

A. No, we have the records over in the library but I'd have no personal recollection of that but I know he would come about every three or four or five or six months.

Q. And he rented the hall. No questions were asked about it, you would rent the hall to him?

A. They had done it since '32; that was before my time, before Dolsen's time.

Q. I'm sorry I didn't ask you to bring the records.

A. They are very bulky and nothing of importance is in there except the dates and the amount paid.

Mr. Nelson: If the Court please, I am wondering if I could, for the purposes here, not have the man recalled again but could we get a letter from him stating that the hall was rented during the month of July, if it was?

[fol. 2255] The Court: Maybe the District Attorney knows about it or will stipulate to that fact.

Mr. Cercone: I think Mr. Cvetic testified——

Mr. Nelson: He testified about the meeting and I think that the only question here is whether or not that particular meeting was rented by Mr. Dolsen for the Communist Party. I would like to have that straightened out.

A. What happened at that meeting?

Mr. Nelson:

Q. It was a convention, Mr. Seibel?

Mr. Cercone: That is objected to as to what happened.

Mr. Nelson:

Q. I presume you wanted to know to refresh your recollection as to what type of a meeting it was?

A. Yes, sir.

Mr. Nelson: If the Court please, and if Mr. Cercone has no objections——

[fol. 2256] The Court: I think that would be satisfactory, would it not, if Mr. Seibel certify after returning to his office——

Mr. Cercone: That there was a meeting?

The Court: —That there was a rental in July of 1948. Would that be agreeable to you?

Mr. Cercone: Absolutely, your Honor.

The Court:

Q. Will you verify, Mr. Seibel, whether or not the Communist Party rented the assembly hall or the meeting hall of the North Side Carnegie Library in July of 1948?

Mr. Nelson: It was the lecture hall, sir.

A. Well, whenever Dolsen came in we knew that that was Communist Party business. He is the only man that I ever knew. I don't think I ever met you.

The Court:

Q. If it shows Dolsen or the Communist Party, let us [fol. 2257] have any rentals to either one.

A. I will address that to you?

Q. Yes, you may address it to me.

Mr. Nelson: That is all.

The Court: Any cross-examination?

Mr. Cercone: No, thank you, Mr. Seibel.

The Court:

Q. You will have that delivered sometime today?

A. It will be in the mail. Shall I send it over or put it in the mail?

Q. If you have a messenger, send it over, or if not, call me and I will send over for it.

[fol. 2258] Benjamin L. Careathers, a witness called on behalf of the defendant, having been duly sworn, testified as follows:

Direct examination.

Mr. Nelson:

Q. What is your name, sir?

A. My name is Benjamin L. Careathers.

Q. Where do you live?

A. I live at 71 Lafferty Avenue, Pittsburgh.

Q. That is what part of the City?

A. Pittsburgh 10; that is the South Hills.

Q. How long have you lived in Pittsburgh, Mr. Careathers?

A. I lived in Pittsburgh 36 years.

Q. Where did you come from when you came to Pittsburgh?

A. Chattanooga, Tennessee; the South.

Q. Is that where you were born, sir?

A. That is right.

Q. And this is the only place you lived up North the biggest part of your life?

A. The biggest part of my life; I lived at a couple of other places for short periods.

Q. What was your education, Mr. Careathers?

A. Well, my education—I presume you mean by that question the extent of my schooling?

[fol. 2259] Q. That is right.

A. I had no formal schooling; that is, during my childhood and adolescent days I did not go to school. I have studied since then— I guess you would say quite extensively. That was all, however, without any formal schooling.

Q. You never went to a public school down South?

A. No, I never went to public schools.

Q. What is your occupation?

A. My occupation, I am an upholsterer by trade, however, I am not employed at that at this time.

Q. Do you have a family?

A. Yes, I have a family.

Q. Any children?

A. I have three children; one daughter and two sons.

Q. I presume they are grown up, are they?

A. They are all grown up.

Q. Were the sons in the Service in the last War?

A. Yes, both of my sons were in the Service during World War II.

Q. Now, since you have been in the City of Pittsburgh for a long time I presume you have been active in various organizations, have you?

A. I have.

Q. What community organizations have you been active

in, Mr. Careathers? I mean by that the organizations that exist in the community where you live in the City of Pittsburgh. [fol. 2260]

A. Well, I have been active in such organizations as the National Association For The Advancement of Colored People; The Citizens' Co-Ordinating Committee of Greater Pittsburgh; such organizations as the Negro Business and Professional Men's Association; the Allegheny County Committee Against Discrimination; The Workers' Council, which was an organization of negro building trade mechanics, which had for its objective the securing of employment of negro building trade mechanics on the Federal Housings which were being constructed in Pittsburgh or perhaps some others, I can't think—I can't remember.

Q. Were you active in any unemployed organizations?

A. I was active during the early thirties. That was the period of the unemployed crisis. I was active at that time in the Unemployment Council of Allegheny County. Incidentally, I was the County Secretary of that Organization.

Q. That was in the early thirties?

A. The early thirties—'32, I believe it was, and perhaps '32-'33, I think—I'm not just exactly sure on that point.

Q. What was this Allegheny County Council against Discrimination that you speak of?

Mr. Cercone: Your Honor, may we have a side bar on these for just a moment?

The Court: All right.

[fol. 2261] (At side bar.)

Mr. Cercone: Your Honor, I think the activity of this witness is incompetent, immaterial and irrelevant. I think it's all right to say he belonged to the Organizations but I don't know that it's proper to go into the activities of the organizations.

Mr. Nelson: I don't intend to go into it much. I just want to establish the man's identity and what things he has been doing; what type of a man he is.

Mr. Cercone: I don't think that is in the issue here, your Honor. I don't think he has to explain that.

The Court: I think if he is going to qualify as an expert on these matters—

Mr. Nelson: On local activities. You put in a paid agent to testify and he distorted and lied about what I did and what my organization did, and I want to show, through the activities of this man and others, that I may be able [fol. 2262] to present, what we really did do here so the people can form an honest opinion as to what my objectives are; what I do.

Mr. Cercone: I don't think he could be allowed to bring other witnesses——

The Court: I think he can. He certainly can by anyone who knows, who is familiar with his activities but I grant you that I am not going to let him elaborate too much on his association, as to other activities, to incur any prejudice or sympathy but——

Mr. Cercone: It's all right to show that he belonged to it but I don't think it's right to go into all the activity of the organizations.

The Court: Well, they may not know anything about this by name. I will permit him to say the general purposes of each organization but not beyond that.

Mr. Cercone: I agree on that.

[fol. 2263] Mr. Nelson: While we are here, Mr. Cercone made an attack in open court against me. He raised the question of my having attorneys and caucusing with them or whatever the term he used may be. I think that that was very prejudicial, a very prejudicial thing to do, to speak so in open court and he didn't address himself to the Court at that time. I was talking to your Honor at the time and I failed, I failed to make a motion which I want to make now. I want to make a motion now that you order a mistrial and withdrawal of a juror because that is a very prejudicial thing to make and he knows better and he did it deliberately in order to prejudice my case, make it harder for me to conduct this fight as well as I can without being a lawyer; not having the legal experience.

The Court: I recall the incident, the altercation, in which I stated that if you gentlemen included me in it I will settle it and rule on it. You both were engaged in heated remarks, one towards the other, and I was compelled to step aside.

[fol. 2264] Mr. Nelson: Let me call your attention to this.

I object to Mr. Cerccone reading out of documents without showing them to me. I thought that that was an elementary courtesy that a man ought to show. He knows what is done in a trial and I said, "If I were an attorney you wouldn't treat me this way, you probably would let me have these things but in view of the fact that I'm not, you're trying to get away with things." That's how he come to reply to me and I felt your upholding of him was not fair, your Honor, in that situation.

The Court: Many of these do arise, these altercations that it's sometimes very difficult to distinguish which is the provoker and which is not and I have rather been inclined to hesitate to try to distinguish in many instances who does provoke each altercation so that I think the jury by this time understands the heat which is involved here in the emotions and will not properly charge either side with any intentional misconduct or to prejudice their case and that [fol. 2265] is the attitude that I have been taking on the matter so I think that with the understanding that I have and the jury's observations and understanding which they should have, that it is not cause for a mistrial at this stage of the proceeding. I will overrule your motion and allow you an exception.

(End of side bar.)

The Court: Limit yourself in asking the witness, concerning these organizations with which he is affiliated, just to state the major purposes of the organizations rather than any details of his participation.

Mr. Nelson:

Q. Will you, Mr. Careathers, explain briefly the purposes of these organizations that you have been in, as you have given them? Let's start off with The National Association For The Advancement of Colored People. I believe that was the first one you mentioned.

A. I think the name of the Organization more or less depicts the purpose of it.

It had or has for its objective of advancing and improving the conditions of the negro people. It was organized

[fol. 2266] primarily around the question of the lynching of negro people which took place in the Southern part of this country in the early stage of the organization. However, it did not limit itself to taking up that particular question. Other questions of the oppression of the negro people, Jim Crowing of negro people; the question of rioting against the negro people; and questions of that kind. General questions of that kind, of the oppression of the negro people; it concerned itself with those questions.

In Pittsburgh I was first attracted to the National Association for the Advancement of Colored People because at that particular time it was conducting a campaign for the rights of negroes to teach in the public schools in the City of Pittsburgh when we were denied that privilege at that time.

Q. How long ago was that?

A. That must have been thirty years ago; I don't remember exactly, something like that.

Q. That is the first. And what was the next organization you mentioned? I believe you mentioned The Citizens Co-Ordinating Council of Pittsburgh.

A. The Citizens Co-Ordinating Committee of Greater Pittsburgh. That was an organization organized during the early stages—the early period of the Second World War. It had for its objective conducting campaigns and struggles for the rights of negroes to become a part and participate in industry; to work in industry. Some of the [fol. 2267] campaigns which it conducted was with the Dravo Ship Building Corporation, the Westinghouse, the Pittsburgh Railways Company. It took up with those organizations the necessity and the procuring of work for negroes; for them to be a part and to work in these industries without discrimination.

The Court:

Q. Was that sort of an early movement along the same line as the FEPC?

A. It was an early movement, as the FEPC, and incidentally it was President Roosevelt's executive order, sometime after that, which brought into existence the Fair Em-

ployment Practice Committee. This employed for its objective the same purposes.

Mr. Nelson :

Q. And then I believe you mentioned the Negro Business Men's Association. Will you briefly comment on that?

A. That was an organization of negro business and professional men. It had for its main objective the question of promoting negro businesses and securing opportunities for negro professional persons; to secure employment in their professions. I think that says it in brief.

Q. Then, you had an Allegheny County Council Against Discrimination. Was that an outgrowth of the first or what was that?

A. That wasn't exactly an outgrowth of the first. That organization was organized—I don't just remember when [fol. 2268] it was organized, but it was organized because of the fact of the extensive or the great discrimination against negro people in employment in the City and County governments and employment in other industries in the City, like the department stores and so on which at that time or which still do, deny negro sales people opportunities to work and it has for its objective the conducting of a campaign around these issues; to secure employment in those fields, and as I said, in the City and County governments and other industries in the City, as well as against the discrimination against negroes in the use of public facilities, like parks, swimming pools et cetera, which they were and still are discriminated against in the use of.

Q. And this Allegheny County Council was a quite recent organization, was it?

A. I would say——

Q. I mean, how far back does it go?

A. I would say five or six years. I don't know exactly but in that period.

Q. For my purpose that is sufficient. What was this Workers' Council you mentioned? Was that the full name?

A. Workers Council, that is the full name.

Q. That was the building trade workers?

A. Yeah. That organization was under the sponsorship of The Urban League, of which I was the Vice-Chairman of

that organization. It had for its objective the securing of employment of negro building trade mechanics, especially [fol. 2269] around the question of the construction of the Federal Housings, which took place in—I think in '36 or '37 or maybe '38—I don't know exactly but during that period.

That organization drafted and adopted a resolution calling for a certain number of negro building trade mechanics to be employed on the basis of a penalty to contractors who would secure contracts or had to agree to employ that number and incidentally such resolution was sent to every authoritative person in the country that we could think of and The National Housing Authority adopted such a principle in its program and I understand that was carried out to more or less nationally, the principle of the resolution, which the Workers Council adopted here and, as I said, that was an organization that was under the sponsorship of the Pittsburgh Urban League.

Q. Then I think the last one you mentioned was the Unemployed Organization that you were Secretary of in the County. Just briefly, what was its purposes and what did it do?

A. Well, the Unemployed Council was organized during the unemployed period in the early '30's. It had for its objective the improving of conditions of the unemployed.

It petitioned the Government for relief, for better relief, a better system of relief against evictions. One of the central campaigns which was conducted by the Unemployed Council was to petition the Government to provide money, which it was not doing at that time, to pay the rents of the [fol. 2270] unemployed who were unable to pay and on the basis of that, they were being evicted and in many instances they had to resort to organizational activity to prohibit the eviction, which at the same time placed a burden on the small landlord, property owners, and on the basis of that it took up the question of petitioning the County Government and so forth for an appropriation to pay the rents of the unemployed, which it was successful in securing during that period.

Q. You say "and so forth", you mean the County Government and State Government and Federal Government?

A. That is right.

Q. You don't mean to limit it to the County?

A. No, no, it wasn't limited to the County.

Q. While you were active in these organizations were you known as as Communist? Were you known in these organizations, in any of those, that you were a Communist?

A. Well, I was known in all of those organizations to be a Communist. I never hid that; I never made any attempt to hide that and it was very well known.

Q. And it goes back quite a few years?

A. Quite a few years; over a long period of years.

Q. When did you join the Communist Party, Mr. Carathers? Was that in Pittsburgh, while you were in Pittsburgh?

A. That was in Pittsburgh.

Q. Well, does that go back to the early '30's?

[fol. 2271] A. About to the early '30's; during the '30's.

Q. And why did you join the Communist Party?

A. You asked one question——

Mr. Cercone: I would like to object to that.

The Court: I think the personal reasons for joining is properly objectionable; objection sustained.

A. Shall I answer the question, when did I join?

The Court:

Q. You may answer the question, when you did join, but your personal reasons for doing so, I don't think are relevant here, for decision in this matter.

A. I joined the Communist Party in 1929, I believe it was.

Mr. Nelson: Well, your Honor, I believe the question I asked would throw a little light. I don't intend to go into it much but at least I would like to have this witness give his reasons why he joined. Did he join to overthrow the government by force and violence? That's what I want to know.

[fol. 2272] Mr. Cercone: I object.

The Court: That's not what he intended. What he joined for, the policy of the Party, the purpose of the Party during the period of the indictment and your intentions con-

cerning your activities—so what he intended doing when he joined I think is beyond the realm of our inquiry.

Mr. Nelson: I want to take exception to your ruling.

The Court: We will enter an exception.

Mr. Nelson:

Q. Well, then, were you a member of the Communist Party during the period of this indictment, since we can't go back to the period of your activity before?

The Court: You can explain the policies of the Party and all that but his personal reasons was what I was ruling out.

Mr. Nelson: I see. I didn't understand that.

[fol. 2273] A. Are you prepared to state the period of the indictment?

The Court: Yes. July 19, 1948 to July 19, 1950.

A. I was.

Mr. Nelson: I'm sorry, your Honor. I had October 31st.

The Court: The indictment covers July 19th and over a two-year period. I may be confused on that.

Mr. Nelson: That was extended. There was a motion made extending it.

Mr. Cercone: August 31st, your Honor.

The Court: The Information I think was July 19th so the period of the indictment would probably be extended a little bit. Wait until I check. The indictment alleges that on July 19th or a period prior thereto but I think there is a motion which amends the indictment to read from August 31st to two years prior. Let's assume that it's [fol. 2274] September 1st, 1948 until August 31, 1950.

Mr. Nelson:

Q. Mr. Careathers, since you have been active and been a member of the Party during the period covered by this indictment, I presume you have attended conventions of the Communist Party of Western Pennsylvania?

A. I have.

Q. And you are acquainted with documents and resolutions passed at those conventions, in a general way?

A. I am more or less acquainted with them in a general way.

Q. Do you recall whether you attended—or didn't you attend the convention that took place around the 10th of July, 1948 in the Carnegie Library on the North Side?

A. I remember attending the convention, I can answer that, yes, but I don't exactly remember the date; I think it was sometime in July, I don't remember that exactly.

Q. Were you a delegate to that convention?

A. I was.

Q. Do you recall what was taken up at that convention, just one or two highlights to refresh your recollection or our recollection here? Do you recall any particular things that were taken up at that convention?

A. Well, to the best of my memory the main points taken up at that convention was the election campaign, that was a national election year, and the question of working in [fol. 2275] industries and the negro question. There might have been other questions but those are the questions that I remember offhand.

Q. All right, now. Do you recall this discussion that took place around work in the industries?

A. Just how was that question placed?

Q. What I mean by that, what was the intent of the discussion and what do you understand by the way the issue was presented to that convention?

A. Well, what I understand about this particular question, from the way the issue was presented at this convention, the working in industries, because of the fact that the Communist Party was and is a working-class party and it bases itself upon the workers and the workers are found in industry and in order to work among those workers, there must be, as was pointed out at the convention, efforts to get among those workers in industry to bring to them the program of the Communist Party and to work along the lines of improving their conditions.

Q. Well, in the resolution which I would like to show you or the letter that followed up—see whether you know that letter (indicating) that deals with that convention?

The Court: You better have it marked as an exhibit.

[fol. 2276] Mr. Nelson: Yes, sir, I will, as soon as he looks at it.

A. Yes, I remember this letter.

Mr. Cercone: Your Honor, we object to it as heresay.

The Court: I don't know what it is. May I see it, please? Well, before you offer it in evidence we will have to have more of an explanation as to generally what it is and I will then rule on your objection, Mr. Cercone.

Mr. Nelson:

Q. Mr. Careathers, do you know the name William Albertson?

A. I do.

Q. This letter is signed by Mr. Albertson. Who was he?

A. Mr. Albertson at that time was the Secretary of the Communist Party of Western Pennsylvania.

Q. And this letter that was signed by Mr. Albertson on July 26, 1948 refers, does it not, to the July Convention, July 9th and 11th Convention that took place on the North Side in the Carnegie Library, does it not?

A. That is correct.

[fol. 2277] Q. And it briefly sums up some of the points—

Mr. Cercone: I object to what it says; it's hearsay.

The Court: I think you better establish, was there a letter that was generally sent to all the delegates?

Mr. Nelson:

Q. Was that sent out to the delegates?

The Court: Explain what use the letter was put to before you give us the contents of it.

A. This letter was sent out to all of the delegates attending that convention and Executive Committees of Clubs et cetera.

The Court:

Q. Did it have attached to it this agenda of the activities of the convention?

Mr. Nelson:

Q. Do you recall whether or not this was attached to the mimeographed two-page document which refers to the points that were discussed at the convention?

[fol. 2278] A. Yes. This document, which was a memorandum of the points which were discussed, the decisions made and so on at the convention and was attached to this letter when it was sent out.

The Court: I think it's admissible, Mr. Cercone. You have gone into the matter of the activities at that meeting by the witness Mr. Cvetic and if this is documentary evidence of what was done at that meeting and the instructions to the delegates and so forth, I think that the defendant has a right to use it to show the purposes he alleges were of that convention and what their discussions may have been. Objection overruled.

Mr. Nelson:

Q. Do you recall, Mr. Careathers,—you probably can see by refreshing your memory by looking at this letter that it is stated there that the convention discussed steel concentration and concentration on mining, I believe. Is that correct?

A. That is right.

Q. And what others?

A. Steel concentration, mining concentration, negro work.

Q. Now, Mr. Careathers, was this letter sent out through the mail, do you recall, through the mails?

[fol. 2279] A. Yes, it was sent out through the mails.

Q. And incidentally, do you recall how many people were present at that convention, roughly? I know it's hard to remember actual figures, but about how many people would you say were present, roughly?

A. I would say roughly 50 or 60 people, I don't remember exactly.

Q. What is meant by the term "steel concentration" or "mining concentration"? What does that mean? Does that mean what the prosecution witness, Cvetic, said that it meant, to infiltrate the steel industry and electrical in-

dustory to paralyze it and destroy it, in the event of war, as he put it?

A. Well, that doesn't mean that at all.

Q. What does it mean?

A. It didn't mean that at all. By "steel concentration" is meant to concentrate activity among the steelworkers because of the fact, as I said before, that the Communist Party is a working party, a party of the working people, and to work with working people you must get among them; to work with them, improving their conditions, to build the party amongst those workers; to convince them on its program and to also attempt to improve their general conditions of work. Along that line was—I mean was the objective of the question of concentration among steelworkers and the same thing was so with miners; mining, electrical workers, the negro people et cetera.

Q. This convention took place on the North Side—this convention that took place on the North side was an open convention where anybody could walk in or where a con-[fol. 2280] vention that delegates who were elected could only attend?

A. Well, it wasn't an open convention where anybody could walk in. Just like a trade union when it has its convention. Delegates are admitted to the convention; that's why it's a convention, that's why you have delegates elected from the various subordinate organizations to attend that convention and they only were admitted to attend the convention.

Q. It was not a secret convention in the sense that no one in town could have found out that it was a Communist convention, was it? I mean, was it secret in the sense that the hall was gotten under some other name or that the authorities didn't know where it was taking place, was it?

A. No. The authorities knew. It was not a secret convention. The authorities knew where it was taking place, as the gentleman—I forget his name, Mr. Seibel—stated here this morning that the convention was held at the Carnegie Library and he stated that he was in charge of the Carnegie Library for the City Government. It's a public library, controlled by the City of Pittsburgh. They have a record when anyone secures this place for a meet-

ing and, therefore, it could not be a secret meeting in the sense of "secret" that you mentioned here.

Q. It was a membership convention or a convention where delegates were permitted to come in, delegates who were elected but it was not open to anybody in that sense of [fol. 2281] the word?

A. Well, it was not open to—the fact of it was that it was not open to all of the members of the Party, only the delegates who were duly elected.

The Court:

Q. Were you a delegate from what group, Mr. Careathers? You said you were a delegate. Did you represent a group within Western Pennsylvania, is that it?

A. Oh, yes, Western Pennsylvania.

Mr. Nelson:

Q. Have you heard me make a speech at that convention?

A. Yes.

Q. Do you recall any of the substance of the talk I made?

A. Well, that was pretty far back. I can recall the sense of the talk, that is about the best I can do to the best of my memory at this time. The sense of it was along the line which was stated here on the issues which were taken up, that is the question of working among workers in industry, among the negro workers, and if my memory serves me correctly, I think you dealt with the question of the election campaign which was taking place that year. That is to the best of my memory.

Q. Do you recall or have you heard me at that time or any other time advocate force and violence?

[fol. 2282] A. No, I never heard you advocate force and violence at that time or any other time. I think it would be impossible for you to do so for the following reasons: —

Mr. Cercone: I object to that, your Honor.

The Court: I don't think why it would be impossible—

Mr. Nelson: Your Honor, it might throw some light. This man knows me for quite a few years—

Mr. Cercone: I am going to object to the defendant, through the statement to the jury—

The Court: What he explains through the witness——

Mr. Cercone: If he is going to make any explanation he can explain it at side bar or he can explain what he is going to prove. I think it is unfair——

The Court: Your conclusions, Mr. Careathers, that such [fol. 2283] and such was impossible is not permissible. You must limit yourself to the facts. You can show the conditions present and the jury will draw their own conclusions. You may not express yourself, so far as it was impossible, we will rule that out. If you want to express any conditions that were there or anywhere else we will let you express it as a statement of fact.

Mr. Nelson:

Q. Mr. Careathers, if you would have heard me advocate force and violence, what would you have done as a Communist about it?

Mr. Cercone: That is objected to.

The Court: Objection sustained.

Mr. Nelson: Well, your Honor, Cvetic made some remarks there that every time I opened my mouth I talked about overthrowing the Government. Now, here you have a witness who is not getting \$34.00 a day for lying.

The Court: Mr. Cvetic said—he was permitted to say: [fol. 2284] “If he heard murder mentioned, he would have done something about it.” All right, in fairness to the defendant, that was asked of other witnesses and you may answer.

A. On that question of what I would have done, and I imagine many others, I would have been supported in the action; I would have preferred charges for your expulsion from the Party.

Mr. Cercone: Your Honor, may we have a side bar on this?

The Court: Yes, come forward.

(At side bar.)

Mr. Cercone: The question of advocating murder, murder of any individual was not mentioned in the testimony

in chief and in no part of our case was that brought out. It was brought out in cross-examination and that doesn't make it any part of the issue.

The Court: Well, I suppose that is true on cross-examination, when he was interrogated but——

[fol. 2285] Mr. Cercone: We didn't contend that.

Mr. Nelson: Well, your Honor, the prosecution's main case rested on statements made by Cvetie and this man was present at some of those meetings.

The Court: He is allowed to say anything that you said or did. The only thing is that we are getting into the realm of conjecture.

Mr. Nelson: All right. If I go off sometime——

The Court: We'll give you leeway. We will not rule out the answer but limit yourself from conjectures or conclusions on the part of the witness. I overlooked the fact that it was on cross-examination when solicited. Therefore it is admissible.

(End of side bar.)

[fol. 2286] Mr. Nelson:

Q. Have I at any time advocated terrorism or suggested physical attack on any government official?

A. Absolutely not.

Q. What is the Communist position on terrorism, Mr. Careathers?

Mr. Cercone: That calls for an opinion, your Honor.

The Court: Well, insofar as this man is a member of the Communist Party and within the limits of his knowledge, I think that that is permissible. He was a member for a good many years in Western Pennsylvania. He may not be qualified to give the national policy but we will let him answer insofar as the range of his knowledge permits him.

A. Well, the Communist's position on terror and even advocacy of terror is not permissible in the Party and anyone who resorts to that or attempts to provoke that or have discussions on that, they are, if they insist on that position, they are expelled from the Party.

Mr. Nelson:

Q. Why is that?

[fol. 2287] A. Well, that is so because of the fact that the Communist Party bases itself on winning the support of the masses through persuasion, convincing through its program of improving conditions and so on and this cannot be done through terror.

Q. Now, Mr. Careathers, have you, at any time, held any kind of a position in the trade union movement of Western Pennsylvania?

A. Yes, I have.

Q. And what was that position that you held in the trade union movement?

A. I was a member of the organizing staff of the steelworkers organizing committee of the CIO during the period of its organizing and the establishing of the United Steelworkers of America. That was during '36, I believe —'36 and '37.

Q. What was your particular function there? You said you were a member of the staff. Does that mean you were an organizer of the steelworkers organizing committee, is that it?

A. Yes. I was an organizer on the staff of——

Q. Here in Western Pennsylvania?

A. In Western Pennsylvania.

Q. What particular area did you cover?

A. I covered Pittsburgh proper, Aliquippa, Pennsylvania, and Midland, Pennsylvania. In addition to that I was sent to cover certain other places at specific meetings.

Q. You spoke at the meeting for the CIO?

A. I spoke at meetings for the CIO.

[fol. 2288] Q. Who was your immediate superior?

Mr. Cercone: We object to going into the history.

Mr. Nelson: It will be brief.

The Court: I don't know what you expect to prove by this. If Mr. Cercone wants an offer—you better make an offer to see what the purpose is.

(At side bar.)

Mr. Nelson: Well, your Honor, I think it's very obvious what I want to prove and I think it's legitimate. I want

to show that this man is known as a Communist and that he was active in all these committee organizations; that the claim is that we Communists hide our purposes; the claim is that we are working secretly; that we don't admit our membership and that we work in some underground fashion is not true.

The Court: Well, that is all right. What has his superior in the CIO got to do with it?

Mr. Nelson: Just a question or two, whether they knew he was a Communist. I think it's legitimate. The claim is here that we deny and hide. My contention is that we do. We have to get a job and you would never get a job in any place. Where it's possible to admit, we do.

The Court: Do you object to that?

Mr. Cercone: I object.

The Court: For what reason?

Mr. Cercone: Well, in the first place, I think it's irrelevant.

The Court: Well, secrecy is involved.

Mr. Cercone: I mean it's not a Communist meeting, just——

The Court: Well, his activities in labor, whether they [fol. 2290] are secret or announced; his capacity and affiliation, that has something to do with this case. As far as leaders are concerned, that doesn't—I'll limit you in bringing out names, I think I will limit you on that.

Mr. Nelson: No names?

The Court: No names. You may ask him other questions.

(End of side bar.)

Mr. Nelson:

Q. Mr. Careathers, was it known to your immediate superior, and we are not interested in names, that you were a Communist?

A. It was known.

Q. When you worked in the CIO?

A. It was known. They discussed that question with me before employing me.

Q. In other words, you were known as a Communist be-

fore that to the public generally and when they hired you, they discussed that matter?

A. They discussed that matter. They asked me whether or not I was known as——

[fol. 2291] Mr. Cercone: That conversation is objected to.

The Court: We will eliminate the conversation.

The Court:

Q. They knew?

A. They knew.

Q. They hired you with that knowledge?

A. That is right.

Mr. Nelson:

Q. And I take it in that period when you worked for the CIO and on the organizing drives, that other Communists did likewise; is that right?

A. Yes.

Q. And I presume you did quite a lot to get workers in the Union while you were working on that job; is that right?

A. I did quite a lot.

Q. Pardon?

A. I did quite a lot. It's very well known throughout the whole valley of workers whom I brought into the Union.

[fol. 2292] The Court:

Q. That was the purpose of your employment, to organize, to secure members?

A. That is right, to secure members for the Union.

Mr. Nelson:

Q. Now, since you have been active in negro organizations and since you are a negro yourself, I presume you understand the Communist's position on the negro question, do you not?

A. I am acquainted with the Communist's position on the negro question.

Q. What was the activity of the Communist Party of Western Pennsylvania during the period of the indictment, in relation to the negro question?

A. Well, with the negro question, like with the trade union question, the activity of the Communist Party was to deal with the many conditions that the negro people suffered, the negro people face. To work towards the improving of those conditions; against the discrimination of negroes in industry, on public works, City, County and State; against the discrimination against negroes and public facilities, parks, swimming pools and places of that kind. That could be stretched out further because of the special circumstances under which the negro people live in Pittsburgh, which made that one of the main principles and programs of the Communist Party to work towards improving this condition of the negroes—these conditions of the negro people.

Q. The prosecution's witness, Cvetic, stated that the Communists used the negro people for its own purposes. How do you characterize that statement? How do you find that to square with life as you know it?

A. Well, I would like to elaborate on that question a little bit, just how I understand it. I can walk out in the street here and meet—

Mr. Cericone: I object to any argument by this witness.

The Court: Limit yourself to the facts. You can give your impressions, but you will have to limit yourself in citing examples to demonstrate.

A. It's pretty hard to demonstrate how bitter I feel about this question without giving examples.

The Court: Giving examples is rather argumentative. The question was: Did the Communist Party use negroes for ulterior purposes? You can answer that yes or no. [fol. 2294] Mr. Nelson: You can answer yes or no and then elaborate.

The Court: We will permit some elaboration but as to specific examples, you will have to be limited on that.

A. Well, I can answer that question in the negative, no, and I'd like to—well, I'm limited here.

Mr. Nelson:

Q. You can give your opinion, as I understand the rule.

The Court: You can give your opinion and you can ask him further.

A. My opinion on that question springs from an extreme position of white chauvinism; that negroes are boys; they are fools; they can't think for themselves; they can't decide and, therefore, anyone can come along and use them. Well, I resent that statement very much that they are used. The answer to this is, no.

Mr. Cercione: Your Honor, that is objected to because it wasn't stated here at all and this is just an observation [fol. 2295] that is not based on any issue.

The Court: I think the reason for the witness's answer in the negative, I think was expressed by another witness, the doctor from Columbia. I think he expressed the same thing, so he was permitted to do so and this witness may do also.

Mr. Cercione: You mean from the Jefferson School of Social Science?

The Court: Yes, from Columbia, who is now a teacher at the Jefferson School.

By Mr. Nelson:

Q. Now, you used the words "white chauvinism". What did you mean by that, Mr. Careathers?

A. I mean by that an expression of racial superiority by white people over other people, especially the negro people. I don't know whether this answer is understood or not, without going into——

The Court: I think it was explained by other witnesses [fol. 2296] and inasmuch—if that is what you mean, the same thing, I think it is properly understood by the jury as meaning white superiority or attitude; the attitude of the white over the negroes.

A. That is correct.

By Mr. Nelson:

Q. Mr. Careathers, while you were active here in the Pittsburgh area, during the period covered under the indict-

ment, did you issue an open letter to the people of Pittsburgh or the people of the Hill District bearing your signature?

The Court: Isn't that already in evidence?

Mr. Nelson: No, I don't think that the witness identified it. He looked at it, Cvetic looked at it, but didn't identify it until I offered it, but he claimed he didn't see it.

The Court: We will break now if you want to check your records on that.

Recess.

[fol. 2297] (After recess.)

Mr. Cercone: May we come to side bar?

The Court: Come forward, gentlemen.

(At side bar.)

Mr. Cercone: Your Honor, of course, when this witness first took the stand I didn't get the general idea of what was being done here but they are putting the defense of Nelson in indirectly, what Ben Careathers did in any way as a member of the Communist Party. He could be a member of the Red Cross, what difference is that?

The Court: He testified what Steve Nelson didn't do.

Mr. Cercone: He is telling us what he did. He is not on trial. I mean, we are not trying him. He seems to be doing indirectly what he can't do directly.

[fol. 2298] The Court: He is telling his qualifications, what he did.

Mr. Cercone: This time he worked for the Doctor and wasn't the time when he knew Steve Nelson.

The Court: Well, he is not going on with activities in the past. That was to show that at that time there was no secrecy. Now, what is pertinent here is whether there was secrecy during the period of the indictment.

Mr. Nelson: That's right, we're coming to that.

The Court: You limit it to that and this witness may continue to testify along that line.

Mr. Cercone: That's all right.

Mr. Nelson: If your Honor is worrying about the time, [fol. 2299] I am trying to be as brief as I can with this witness. I am not trying to delay.

The Court: I am not concerned with time.

Mr. Cercone: There are no charges about delay.

The Court: The only thing we are interested in is proceeding expeditiously and with no unnecessary delay. You will have an ample opportunity to present your defense in the fullest way possible. All right, try to limit the matter in accordance with your understanding.

(End of side bar.)

Mr. Nelson:

Q. Now, during the activity covered by the indictment, Mr. Careathers, did you, as part of the leadership of the Communist Party in this district of which I was part, to put out this Exhibit A-1 of the defendant, a leaflet addressed to the negro people of the Hill by yourself?

A. I did.

[fol. 2300] Q. What is the main appeal in this leaflet, Mr. Careathers? Just the points, sum them up briefly, if you don't mind.

A. I opened with this statement, addressed to the negro people in the Hill District with these words: "The time has come for all of us to take stock of what we face in the immediate future." And then I go on further—I'll just read another paragraph to you to show what it deals with and then I will read some of the conclusions: "Up until recently most of us have had jobs and have been getting wages. True, for those of us who are negroes the jobs were seldom good ones and our wages were not adequate to meet the needs of our families. We suffered discrimination on the jobs; the bosses refused to upgrade many of us"——

Mr. Cercone: We object to the reading of the letter as secondary evidence, not the best evidence; we have the witness on the stand.

The Court: It is a self-serving statement but I will permit it to be offered.

A. I wouldn't read the whole statement but this is indicative of the position of the Communist Party and incidentally, I might say here, before issuing this, after drafting it, I discussed it with Steve Nelson whom I was

[fol. 2301] closely associated with at that time. "Further, we had the dirtiest and hardest work in the plants. Over the years we fought against these conditions and won many important gains for the negro people."

Now, I could go over all of this but this is indicative of what I dealt with in the letter and the conclusions I wish to state here—I will read it in a minute. "Big business is opposed to the program, to this program, because it would cut into their profits. They fear the unity of negro and white fighting to win these demands. They tried to frighten the negro and white workers so that they will not unite nor fight. They want to keep the negroes and the white workers in his place so they, first, frame up six Communist negro men in Trenton on a murder charge; second, they sent Mrs. Rose Ingram and two of her sons to prison for life because they dared to defend her honor against a white rapist; third, sent seven negro men——"

Mr. Cercone: That is objected to as all hearsay.

A. This is not hearsay, this is facts.

Mr. Cercone: Just a minute.

The Court: Just a minute.

[fol. 2302] Mr. Nelson: Why say hearsay?

The Court: It is hearsay unless the witness was present and knows what was going on, these things that he is reciting, so that as far as the truth of the statements are concerned, this witness is not in a position to affirm those statements as being truthful. He is drawing conclusions, I suppose, and they are his own opinions and own conclusions, and I think the jury understands.

Mr. Cercone: Yes. I just wanted to get that point.

A. There is one I am acquainted, that I can vouch for because I participated in "Refused negroes the right to use the Highland Park Swimming Pool and frame a white worker, Nathan Alberts, who supported the rights of the negro people on a charge of inciting to riot."

The Court: Of course, that is your conclusion on that matter because I tried the case of Nathan Alberts and he was not charged with discriminating or presenting discrimination.

[fol. 2303] He was charged with inciting to riot.

A. That's what I said there.

The Court: That's your impression and your opinion on it, as long as the jury understands.

Mr. Nelson:

Q. It's true, is it not, Mr. Careathers, that the hoodlums who in this case attacked the police officer in Highland Park were freed in this Court, isn't that true?

A. That is true.

Q. Who attacked the negro people that wanted to swim in there, isn't that true?

A. That's right.

Mr. Cercone: We object.

The Court: If you want the truth and now that the facts have been mentioned, they were freed by a jury, weren't they?

A. That's right. That's what I understand.

[fol. 2304] Mr. Nelson:

Q. And Nathan Alberts, the man you say was framed, was a Westinghouse worker, isn't that right?

A. That is correct.

Q. And he was at the scene to report the situation there to his paper, the Westinghouse Workers paper which was supporting the fight against the discrimination, isn't that right?

A. That is correct.

The Court:

Q. Well, why do you say that is correct? Did you testify to that at the trial, Mr. Careathers?

A. I didn't testify at the trial.

Mr. Nelson:

Q. But you know the facts? You were interested—

The Court:

Q. Were you present at the trial?

A. I wasn't present at the trial.

Q. How do you know that Mr. Alberts said that he was a representative of the Westinghouse newspaper?

A. I don't know what he said at the trial but I do know he said that, however.

[fol. 2305] Mr. Nelson:

Q. And because he thought that it was wrong to discriminate against negroes, it is your opinion, is it not, Mr. Careathers, that that man was sent to the County Workhouse for 23 months; isn't that right?

Mr. Cercone: We object.

The Court: The objection is sustained. We are not going to re-try him or go into criticism of the Court or the sentence. However, now that you mentioned the sentence, the sentence was imposed by me.

Mr. Nelson:

Q. Now, Mr. Careathers, there are other such leaflets that you distributed, was there not? Leaflets that you participated in preparing?

A. There were.

Q. I show you here a Steelworkers' Sparks of June, 1949, Vol. 1, No. 5, and see if you recognize the article on the front page dealing with the issue of discrimination against negro workers in the steel industry?

A. I do, I recognize the article.

Mr. Nelson: Let's have it identified.

[fol. 2306] Mr. Cercone: Your Honor, we object to that as being based upon opinion and hearsay and, therefore, not admissible.

Mr. Nelson: Just one article on the front page, I want to call your attention to, your Honor. It would take too long to enter the other material.

The Court: You are objecting to this, Mr. Cercone?

Mr. Cercone: Yes, your Honor.

The Court: Well, I am going to permit that also; objection overruled, exception noted.

Mr. Nelson:

Q. Mr. Careathers, I believe you already mentioned that you were active on various councils and committees which

raised the question of discrimination in various industries. That article there, in that Steelworkers' Communist publication, raises that question, does it not, pertaining to the steelworkers and the particular union which we are not going into?

A. Yes, it raises that question.

[fol. 2307] Q. And the idea of the Communists in that union, between the negro and whites, was to advance that fight to convince the workers that it was wrong for them to discriminate against each other.

A. That was the duty of the Communist Party in that union, both negro and whites and incidentally, I might state here that the position of the Communist Party was that this was not only a question which degraded and hurt negroes in the union, but it degraded and hurt white workers as well and, therefore, it was to the interest of all workers to fight against this kind of a thing, this kind of discrimination.

Q. Did it ever occur in the period covered in the indictment here, in your experience, that there may have been some white Communists who were reluctant to advance that fight?

A. Oh, yes, that occurred; that there were some white Communists who just come into the Party, had not had an opportunity to learn and understand its program and as such, were against this kind of a fight, against the discrimination.

Q. What was the position of the Party towards them, towards these individuals?

A. The position of the Party towards such individuals was to explain this question to them; the effect of that kind of a policy upon the negro people, the negro workers, as well as the white workers and try to convince them of their own position on this and improve them on this question. There have been instances of where that cannot be [fol. 2308] done with a particular white worker and if he absolutely refused to understand this policy, he was expelled from the Party.

Q. And the charge in that case would have been white chauvinism?

A. White chauvinism, that's right.

Q. You were active in that period, along with myself and others, in other phases of work besides the specific fields that you were particularly acquainted with, the negro field, weren't you, Mr. Careathers?

A. That is correct.

Q. Do you recall whether or not the Party in that period campaigned to veto the Taft-Hartley law? Do you recall a leaflet put out "Make the Veto Stick"?

A. Might I just see that to refresh my memory?

Q. Yes, and it will be marked as an exhibit.

Mr. Cercone: This is objected to as a self-serving declaration, your Honor.

The Court: Objection overruled, exception noted.

Mr. Nelson:

Q. You are acquainted with that leaflet, Mr. Careathers, are you? "Make the Veto Stick", an appeal to workers to write to their Congress, is that right?

[fol. 2309] A. Yes, I am acquainted with that.

Q. Or to write to President Truman?

A. I am acquainted with that.

Q. What does that leaflet urge the people to do?

A. This leaflet was issued after the passage of the Taft-Hartley Law by Congress and before it became law or before the President of the United States had signed it, making it law, this leaflet calls upon the people to express themselves to their Congressman, to write to the President of the United States, urging him to veto this law or to make the veto stick, which President Truman vetoed that law and that was urging the people and Congress and so on to make the veto stick; to keep this infamous anti-labor legislation from becoming the law of the land.

Q. And that was one of the activities of the Party here in the Pittsburgh area, was it?

A. That was one of their activities; the issuing and distributing of that leaflet.

Q. And writing to Congressmen urging them to uphold the veto; is that correct?

A. That is correct.

Q. Now, I show you a leaflet issued by the Communist

Party of Western Pennsylvania relative to the steel strike of 1948. Do you recall this particular leaflet?

[fol. 2310] The Court:

Q. What is the heading?

A. "Support the steel strike".

Mr. Nelson: Before you read the leaflet, let me show it to Mr. Cercone.

Mr. Cercone: This is objected to for the same grounds.

The Court: Objection overruled, exception noted.

Mr. Nelson:

Q. This leaflet is a reprint of a statement by Mr. William Z. Foster, is it not?

A. That is correct. A reprint of a statement by William Z. Foster which appeared in the Daily Worker, October 4th.

Q. Do you recall what the main appeal of that leaflet is with regards to the steelworkers strike, what the main import of it is? If you don't remember——

A. I remember the leaflet but I'd have to refresh my memory a little bit——

The Court: The exhibit will speak for itself.

[fol. 2311] A. On the main import.

Mr. Nelson: Will you mark this for identification?

Mr. Cercone: The same objection.

The Court: Objection overruled. Exception noted.

Mr. Nelson:

Q. See whether you know, Mr. Careathers, whether that leaflet was put out by the Party here, dealing again with the steelworkers strike?

A. I remember the leaflet.

Q. And that was generally the practice of the Party, was it not, Mr. Careathers, that during the strike of various workers, irrespective of what union members were, as long as it was a legitimate beef with the employer, they were supported by the Communist Party, is that right?

A. That is right.

The Court: Really, you are speaking into the mouth of the witness.

Mr. Nelson: Well, you will have to excuse me. This [fol. 2312] witness, I don't have to speak into his mouth, your Honor.

The Court: Let him give the policies himself.

Mr. Nelson: He can speak for himself very well. I was trying to make it brief.

The Court: It's another way of saying it's a leading question and objectionable. Rephrase it.

Mr. Nelson:

Q. Mr. Careathers, please indicate what the position of the Communist Party was towards this particular strike?

A. The position of the Communist Party in this particular strike was to support the Union, the workers in the Union in their demands and it was done openly and these leaflets were delegated by proper authority and so on, as on questions like this.

The Court:

Q. Did you ever advocate settlement of a strike?

A. Did I ever advocate settlement of a strike?

Q. Yes.

[fol. 2313] A. Of course.

Q. Does any of those pamphlets deal with settlements?

A. They deal with achieving the demands of the workers, which would be equivalent to settling the strike had they been successful in doing that.

Mr. Nelson:

Q. Now, I show you defendant's Exhibit A-6 and see whether you know the contents of that leaflet?

Mr. Cercone: That same objection to that exhibit, your Honor.

The Court: Objection overruled. Exception noted.

Mr. Nelson:

Q. Now, I show you this leaflet which reads: "Storm trooper attacked on North Side Communist meeting

threatens rights of every American." Do you remember that leaflet?

A. I remember this leaflet.

Q. What was the occasion for it, for the issuing of that leaflet, do you know, by the Communist Party of Western Pennsylvania?

A. Yes, sir.

Mr. Cercone: That is objected to unless the witness was [fol. 2314] present.

Mr. Nelson:

Q. Were you present?

A. I was present at the meeting.

Mr. Nelson:

Q. Were you present?

A. I was present at the meeting.

Q. And do you remember very well that you were present?

A. I remember very well that I was present. I can't forget that.

Q. What was the occasion for the putting out of that leaflet?

A. The occasion for putting out that leaflet followed an open public meeting held at the North Side Public Library by the Communist Party and this meeting was attacked by hoodlums in an attempt to really prohibit the holding of this meeting, which was held in the open, public fashion, that the Communist Party held meetings to bring its message to the people. The people were stoned, even a policeman was stoned by the hoodlums surrounding this meeting and so on, and it was attacked openly without, and the hoodlums were not prohibited in their attack by the police officers at that particular meeting and this leaflet, following the meeting, was put out to call to the attention of the people of the City of Pittsburgh the source of the force and violence which the Communist Party often is accused of, which it came from the other source. That was an outstanding instance of this. I attended that meeting and this leaflet was issued for the purpose of calling to the atten-

tion, as I said, for the people of Pittsburgh to what was going on.

[fol. 2315] Q. Now, Mr. Careathers, do you know of the Communist Party of Western Pennsylvania during that period that we speak of now; did it take up other issues, such as taxation in Allegheny County or the City of Pittsburgh?

Mr. Cercone: That is objected to as not being within the period of the indictment.

The Court: Objection overruled. Exception noted.

A. Yes, the Party took up such issues as taxation and other issues affecting the people.

Mr. Nelson: Will you mark this?

Mr. Cercone: The same objection.

The Court: Objection overruled.

Exception noted.

Mr. Nelson:

Q. Mr. Careathers, I show you now Exhibit A-7 and see whether you recognize this as being a statement prepared by the Communist Party to a body here that was discussing [fol. 2316] the matter of taxation in the City of Pittsburgh?

A. Yes, I recognize this; I remember this.

The Court: May I see it?

Mr. Nelson: Will you mark this?

Mr. Nelson:

Q. Do you recall what the main appeal there is? What is the proposal of the Communist Party regarding the matter of taxation in the City of Pittsburgh or Allegheny County?

A. I would have to read this to refresh my memory.

The Court: I think it is addressed to Council on various tax questions, amusement tax.

Mr. Nelson: That is correct.

Mr. Nelson:

Q. Do you recognize this as a document of the Communist Party dealing with that question?

A. Yes, I participated in the drafting of the leaflet but it was some little time ago. Although the question was raised, I don't remember.

[fol. 2317] The Court:

Q. Anyway, it was addressed to City Council?

A. That is right. City Council was discussing taxes at that time.

Mr. Nelson:

Q. Do you recall a leaflet which I show you, "An open letter from Ben Careathers, "Exhibit A-8?

A. I recall it. I recall this leaflet.

Q. What was the occasion for putting out this leaflet, Mr. Careathers?

A. I drafted this leaflet as an open letter to Judge——

Mr. Cercone: I want to object. Have you seen it, your Honor?

The Court: No.

Mr. Cercone: I think it should have been confronted when the witness was on the stand, when Judge Musmanno was on the stand, and I think he should have asked him about it then and given him an opportunity to explain it.

The Court: Well, this would indicate that it is a published communication on a personal basis to Judge Mus-[fol. 2318] manno and does not indicate to me that it is such a public gesture or policy that is undertaken for the benefit of any particular group. I don't think that it is admissible, Mr. Nelson, any more than if I write a letter to the Pittsburgh Press or give a mimeographed copy of a letter I address to someone else. It doesn't indicate——

Mr. Nelson: May I ask whether the man wrote the letter?

The Court: You may ask whether he wrote the letter or not but I can't accept it into evidence because it is too much of a personal nature between this witness and the other witness mentioned.

Mr. Nelson: Well, it has a bearing on this case, your Honor.

The Court: You will have to come forward and tell me how it has a bearing on the case.

(At side bar.)

[fol. 2319] Mr. Nelson: Your Honor, Mr. Careathers was in the office of the Communist Party in the Bakewell Building when Judge Musmanno appeared, I think Judge Musmanno testified to that, and they had a conversation relative to the purpose of Judge Musmanno's trip and Mr. Careathers told him what he thought was wrong with that, of that type of an attack on an individual because of political belief and the contents in this letter were distributed by the thousands——

The Court: That is argument——

Mr. Nelson: And also appeared in the newspapers of the Worker, the same article, so it wasn't a thing that was not known as a matter of public knowledge.

The Court: It is not a question of being known. It is the expression of this one witness rather than the statement of anything that may be of use to this jury. Now, anything that was said in that by this witness can be expressed by him here, if he wants to, if there is anything [fol. 2320] relevant concerning that witness, whether it is addressed to Judge Musmanno or not.

Mr. Nelson: You mean I can ask questions about——

The Court: You can ask questions, as you have been permitted to do, concerning the policies or action taken by the Communist Party over there and I have given you great leeway to tell what you have done but this is too much of a personal nature, expressing the thoughts of Ben Careathers towards Judge Musmanno and he can express them here if he wants, if there is anything relevant concerning that witness but not what he wrote sometime ago.

Mr. Nelson: One more thing, your Honor. I want to tell the Court that I was denied the opportunity to go through other leaflets that are in possession of the prosecution. Last Sunday I finally managed to get an hour in with Mr. Cercione but he wouldn't let me look at the stuff. [fol. 2321] He asked me what I wanted. There is a file of material that no man can remember exactly what there is in it and I know there are very important things that would have a bearing on the issues here and I was denied access to them.

Now, I know that during the last trial the attorneys in the case were able to look over the material and pick out

what they wanted. It's true I didn't appear there, but I believe it was Mr. Pollitt that did, with Mr. Helwig, and they had to spend hours going over the stuff. Now, I was denied this right and it's hurting my chances in the case in that I can't have the evidence which is in possession of the prosecution.

The Court: Well, we'll hear what Mr. Cercone has to say.

Mr. Cercone: He has a complete list of everything that we had. I just asked him to give us a list of what he wanted and he gave us a list of what he wanted and he got [fol. 2322] it. The fact that he doesn't see where I get it is no indication that I am trying to deprive him of anything. He got a complete list of everything we have and whatever he wants he can have.

Mr. Nelson: You can't tell anything by just having "file of leaflets" unless I see the file I can't tell what is in it.

The Court: That is a pretty broad statement, "a file of leaflets". Why don't you submit the file to him?

Mr. Cercone: Sure. Is that what you want?

Mr. Nelson: That is not all the things I wanted.

The Court: You should make accessible to him everything that you have. Bring it in and let him use it. As far as anything else——

[fol. 2323] Mr. Cercone: I told him the stuff was on the inventory.

The Court: If it is properly identified on the inventory, I see no reason to deny him access to them but on the other hand there seems to be no necessity to let us just peruse them if you know what they are.

Mr. Cercone: They did the same thing last time too. If he is familiar with what they are, if he tells us what they are we will let him have them. I didn't deny him anything.

The Court: Bring your folder or whatever it is of the leaflets and let him utilize what he needs. You can bring them into Court.

Mr. Cercone: In fact, most of them are on the cart. I will bring the rest in this afternoon or tomorrow morning.

The Court: Why can't you get them by one o'clock? We don't want to have to postpone. We are going to go to four o'clock today.

[fol. 2324] Mr. Cercone: All right, I'll do everything I can.

The Court: Bring them in here at noon time and he can have until 1:15——

Mr. Cercone: The only thing, your Honor, I do have a little work to do in the case during the lunch hour.

The Court: Can't you let someone else——

Mr. Cercone: I can have someone else get them and have them here by one o'clock and he can take a few minutes and look at them and see what he needs out of them or what they are. It is probably just a matter of refreshing his recollection. He probably knows a good many of them but it's just a matter of remembering what they were.

Mr. Nelson: That's true.

(End of side bar).

[fol. 2325] Mr. Nelson:

Q. Now, Mr. Careathers, you recall writing this leaflet, "An Open Letter to Judge Musmanno", do you?

A. I do.

Q. And what was the occasion for writing that letter to him?

Mr. Cercone: Objection.

The Court: Sustained.

Mr. Nelson: I understood that I could ask questions, your Honor.

The Court: No, I don't think that has anything to do with the case at all. As I said, it was a personal matter between this witness and Judge Musmanno and if he published it openly, of course, people knew about it, but it hasn't any relevancy as it expresses the thoughts of this man in connection with Judge Musmanno.

Mr. Nelson:

Q. Were you at the Communist Headquarters in the Bakewell Building on one of the dates that Judge Musmanno appeared there, Mr. Careathers?

[fol. 2326] A. I was.

Q. And what was the subject of the conversation, briefly, between you and the Judge at the time?

Mr. Cercone: That is objected to.

The Court: The objection is overruled. Judge Musmanno gave the substance of a conversation and this man, if present, may do so in the same fashion.

A. Judge Musmanno first asked me if I knew who he was. I told him I did. Then I asked him if he knew who I was. He said he did. And then he asked if Steve Nelson was in and I told him, no, and he said that he wanted to see Steve Nelson. I couldn't tell him at that time when you would be there and then he asked me for some pamphlets, he wanted to buy some pamphlets. I asked him if he would mind looking and he looked around and I sold him—I think 75 or 85 cents worth of pamphlets, I don't remember, and then the Judge said to me, "Careathers, I'm going to take steps to introduce legislation to outlaw or get rid of the Communist Party." Well, I said, "Judge, you know Hitler did the same thing in Germany." And he said, yes. I said, "But you can't find him now." The conversation went along that line and he said he didn't want to discuss it much [fol. 2327] more and after that he took the pamphlets, which I sold him, and left. That was the first day he came.

Mr. Nelson:

Q. All right. Do you have any more to add to that?

A. Not on that, that was about all that was said.

Q. Did you show him the pamphlets? Were they open on the bookshelf where he was able to pick out what he wanted?

A. All the pamphlets, books and everything were open to the public. Anyone could walk in and see. He picked out—he looked through and picked out what he wanted and anyone could do that.

Q. They were not hidden anywhere?

A. Not at all.

Mr. Nelson: We can break now, your Honor, as I am just going into a new question and it will be just as convenient——

The Court: We will recess until 1:15.

Noon recess.

[fol. 2328] Tuesday, January 22nd, 1952.

Afternoon session.

BEN CAREATHERS, called by the defendant, having been first duly sworn, testified as follows:

Direct examination.

Mr. Nelson:

Q. Mr. Careathers, on July 19th, I believe it was that you testified that you were at the Communist Party Headquarters when Judge Musmanno came in and got some pamphlets from you?

A. That is correct. I think it was July 19th.

Q. Do you know whether or not Judge Musmanno was a candidate at that time for Lieutenant Governor?

Mr. Cercone: That is objected to as immaterial. It was all brought out and I object to it as repetitious.

The Court: The objection is overruled.

A. To my knowledge I don't think he was. I think, however, he was campaigning for the Governorship. He later became a candidate for Lieutenant Governor.

Q. Your belief was at that time he was campaigning to [fol. 2329] be a candidate for Governor?

A. That is correct.

Q. And it was later he became a candidate for Lieutenant Governor?

A. Later he secured the nomination for Lieutenant Governor.

Q. Did that subject come up between you and he for discussion at that time?

A. No, that subject didn't come up.

Q. Now, Mr. Careathers, you testified to various types of activities you participated in during the period of time under indictment. Have you participated in any election or electoral activities either prior or during that period?

A. I have.

Q. Did you ever participate as a Communist in these campaigns?

A. Yes, I did. I participated as a Communist.

Q. Did you, at anytime, run for an office yourself on the Communist Party ticket?

A. Yes, I have quite a few times ran for office on the Communist Party ticket.

Q. Well, was it the practice at all times to have Communist candidates in these elections when elections came up either time you have been active in the Communist Party, or were there exceptions to it?

A. There were exceptions to having Communist candidates. Do you want me to elaborate on that a little bit?

Q. Yes.

[fol. 2330] A. Give a reason why there was exceptions?

Q. Yes, that is right.

A. There were times when the Party, and this is especially so where localities where Negro candidates were running for office on other Party tickets. There were times the Party would forego the placing of a Communist candidate on the ballot in order to strengthen and give them an opportunity to give support for Negro candidates, especially, but it wasn't fully limited to that, but that is one of the specific reasons.

Q. And in those situations the Communists called upon others to support this particular candidate even though they may not have been of the same political party, is that right?

A. That is correct.

Q. What did you say was the compelling reason for the Communists to withdraw their own candidate and support these others even though they had been Democrats, I presume, they had been some other political persuasion? What is the main reason for that?

A. Yes, they could have been Democrats or some other political persuasion but the reason or reasons were usually to attempt to elect that person in some instances which it thought would carry out certain things which the Communists were interested in. If I may give an example, if I can—

Mr. Cercone: That is objected to.

The Court: Go ahead.

[fol. 2331] A. I have in mind in the First Legislative District of Pittsburgh that constitutes the First, Third and

Fifth Wards in Legislative elections, a number of times I remember that the Communist Party did not place a candidate for Legislature in that district because of the fact that Mr. Homer Brown was a candidate in that district in the particular instances in which I live for re-election.

Q. To the Legislature?

A. To the Legislature. And because of the fact that he had a good record. I think many people conceded that he had the best record in relation to labor and in relations to the Negro people, and the Communist Party thought it would be a mistake to run a candidate which may have taken some of the votes which would have supported him and might be responsible for his defeat. That is an instance. This is not the only instance but some other instances when that same kind of reasoning compelled the Party to forego running a candidate.

Q. Of course in this particular situation you cite you didn't support the man because he was a Communist, did you?

A. Well, no, we didn't. As everybody knows I think, that Mr. Homer Brown was not a Communist. And he didn't agree with certain Communist ideas, many of them as far as that is concerned, and in spite of that for reasons I mentioned here, the Communist Party supported him and has supported other candidates for the same or like reason.

Q. Is it true, Mr. Careathers, or is it not, that you participated in a campaign to see that a Negro was elected to Congress from Pittsburgh because a lot of Negroes have no representative in Congress at the present time. Isn't that true?

Mr. Cerccone: That is objected to.

The Court: It may be objected to the statement as to the form, maybe.

Mr. Nelson: May I reformulate the question?

The Court: Yes.

Mr. Nelson:

Q. Did the Communists support or propose to elect a Negro from the City of Pittsburgh to Congress even though

he was anti-Communist but generally had a good record for the labor and the Negro people. Is that true?

A. That is correct.

Q. Did you participate in such an effort to see such a man was named on the slate?

A. I did. I did participate in such an effort.

Q. The Prosecution witness Cvetic testified that there was a meeting held in the Culture Center on Forbes Street during the Spring of 1949. Do you recall whether you were present at such a meeting where I made a report dealing with the Foreign policies situation and dealt with the question of the drive for the Daily Worker and the Worker? Do you recall attending such a meeting?

[fol. 2333] A. I do. I recall certain things. I recall attending such a meeting.

Q. What is it that fixes your recollection that you were at that meeting, any particular thing?

A. I might say two or three particular things which fixes my recollection as you call it. First, I chaired the meeting. I was the chairman of the meeting. Secondly: I remember the particular discussion of the Foreign Policies. And thirdly: I ran the other points on the agenda, the question of the Press and relation to that. And another thing that refreshes my memory of this particular meeting, there were prizes, I believe, given out at that meeting, I believe, of a book by Smith, another, I don't remember the book but the book was given others who had done outstanding work in reference to the circulation of the Press.

Q. Do you recall, Mr. Careathers, what was the discussion or what were the things that was said by myself on the matter of Foreign Policy at that meeting?

A. Well, I remember at that meeting in relation to Foreign Policies, that there was a discussion, especially affecting Trade Unionists of Greece, where many of them had been persecuted and even murdered by the Greek Pro-Facists Government, and I remember there was some criticism there of my former boss whom I worked under and I was on the staff of the Steelworkers Organizing Committee who was at that time representing the Trade Union movement in Greece and there was criticism on the part

of the Government supporting that Greek Facist Government. [fol. 2334]

Mr. Cercone: Your Honor, I object to all of this as hearsay.

The Court: Well, if something was brought out by your witness Cvetic concerning that meeting, so if this is to rebut what he said we will permit it.

Mr. Cercone: As to what the defendant said?

The Court: I presume it is the discussion in which the defendant participated. It is a discussion in which the defendant participated from the point of view in limiting the discussion.

The Court:

Q. You were the chairman at the meeting but he led the discussion?

A. Yes. If I can continue on that point. As I said there was some criticism leveled against my former boss when I was a member of the staff of the Steelworkers Organizing Committee who had been sent there by his master union and who participated in the support of the Greek Pro-Facist Government and there was criticism against us supporting this Government where Trade-Unionists were persecuted and in some instances murdered.

[fol. 2335] Mr. Nelson:

Q. Do you recall or is that separation too far removed, what was the demand that was raised at that meeting or what was the subject matter to the people, the point they asked about in relation to this question?

A. The people, as I remember, and I think this is correct, they were called upon to express their opposition to our participating in the support of this Facist Government with letters, resolutions to their Congressmen, to the President of the United States, and I don't remember now whether there was a resolution adopted through the leaders of the Steelworkers Organizing Committee or not but I am quite sure of the resolution, and letters to the Congressmen and the President.

Q. Did the subject of America's participation in that war in Greece come up in that discussion?

A. That subject came up in the discussion.

Q. What was the essence of what was said by myself, if you recall, in criticism of the American participation in support of the Greek Pro-Facist Government?

Mr. Cercone: Which, of course, is all leading, your Honor, but I want to object to it.

The Court: It isn't leading. The witness asked that the defendant said concerning this meeting, if you recall.

[fol. 2336] A. As I recall Mr. Nelson in critical remarks to the Government in the support of this Facist Regime, and that is especially so in relation to what it was doing to labor in Greece, that we should not participate in the same or support to that Greek Facist Government where that kind of thing was going on, the murdering of labor, of workers, the prohibition of establishing and developing trade unions and fighting for an opportunity to give expression to the desires of the workers. We should oppose that, and the question was raised, as I mentioned before, in protesting to the President, to our Senators, to our Representatives and so on on this question, asking the cessation of support of that Government in Greece.

Q. Was there any discussion about just and unjust wars in that meeting, do you recall?

A. I recall there was a discussion about just and unjust wars.

Q. Was my characterization of that particular support or effort to support the Facists in Greece characterized as being an unjust war?

A. Yes, that was characterized as being an unjust war in supporting the Greek Government against the Greek people.

Q. Was there anything said at that meeting that it was necessary to overthrow the Government of the United States by force if they don't change the policy that we suggest?

A. As I said this morning there was nothing said at that meeting or any other time. I want that to be perfectly clear. The method of expressing opinions were employed at that meeting as other meetings of the Communist Party through letters, resolutions, telegrams to the Congress-

[fol. 2337] men and to the Senators and the President of the United States. That was the method of titling that particular problem.

Q. Did the subject of the Government of Pennsylvania come up for discussion at that meeting in any way?

A. I can't just recall at this moment. I am trying to make myself remember.

Q. Basically you remember though that the discussion centered around National issues and Foreign, is that right?

Mr. Cercone: That is objected to .

A. Correct. I could answer the question the same as you asked it, what it centered on. I don't like to be led and stand on my own feet.

The Court: He isn't objecting to your answer but the form of the question. He has a right to do that.

Mr. Nelson:

Q. All right, Mr. Careathers, did you, in the course of your activities in the Communist Party teach any classes?

A. Yes, I taught classes.

Q. And what were the subjects that you generally taught. Do you remember?

A. Well, generally the Negro question, current events [fol. 2338] and subjects of that kind. Political economy sometimes and subjects of that kind were the subjects I taught.

Q. Do you recall attending any classes taught by Bill Albertson, in the Spring of 1949, at the address on Wood Street, 417 Wood Street?

A. I remember the classes taught by Bill Albertson at that address and I did not attend the classes as one of the students.

Q. Why?

A. However, I attended the classes *for classes* a couple of times. I remember lecturing on one of the discussions on the Negro question.

Q. Although he conducted a main subject he had visitors that spoke?

A. Well, he had visitors at times who spoke on specific questions to the class, yes.

Q. Were you to any degree familiar with the course that was taught by Albertson generally there as being one of the leaders of the Party? Do you know what that general course was like? What were the topics discussed under it?

A. Well, I know generally what the course was like. I can't relate every session because of the fact I didn't attend.

Q. You weren't present all of the time?

A. No.

Q. Was Cvetic, the prosecution witness at any of those classes that you attended?

A. Yes, I recall. If I am not mistaken that he once at [fol. 2339] tended the classes or twice I recall him being there, but when I lectured on the Negro question I am not positive whether he was there or not. I am not positive about that.

Q. Did you, at that class that you gave or those lectures you gave, did you teach force and violence as a means of accomplishing your political aims in the United States?

A. Absolutely not, absolutely not.

Q. Well, do you know Bill Albertson, do you?

A. I know Bill Albertson.

Q. But you haven't attended all of the sessions there of that class?

A. No.

Q. Did any of the instructors to your knowledge and information and your acquaintanceship with the subject discussed in the Party—did any of them instruct or conduct classes which has, as Cvetic put it in every session, he says the instructor says, "Overthrow the Government" and the meeting started and ended with that sort of hokus-pokus—do you remember that?

A. No. That isn't done.

Q. Not to the best of your knowledge?

A. Not to the best of my knowledge.

Q. How long do you know me, Mr. Careathers, about?

A. Well, I would say at least 18 or 20 years. I think it was, I do not recall when I first met you.

Q. Where was that?

A. I think it was in Harrisburg, I believe, in the late Spring or early Fall of 1933. I think that is correct. I participated, or I led a delegation of Hungry Marchers [fol. 2340] from Pennsylvania—how I remember you—I led it from the Western part of the State and you led it from the Eastern part. That was our first meeting.

Q. And you have known me off and on since then?

A. Yes, quite well.

Q. From what you have known of me and my activities did you ever hear me advocate force and violence or terrorism as a means of accomplishing my political objective?

A. Never.

Q. And you know me pretty well—in fact, you know my family pretty well, isn't that right, Mr. Careathers?

A. Yes. I am very well acquainted with your family.

Q. What is your interest in this case, Mr. Careathers?

A. Well, I would say—

Mr. Cercone: That is objected to as an opinion.

The Court: The objection is overruled.

A. I would say that I am interested in this case in doing what I can in the case to see that justice is meted out. I am interested in you as one who has participated in many endeavors to improve the conditions of the people of this country, and I would say especially the conditions of the Negro people. Thirdly: I am interested in this case from [fol. 2341] the point of view of placing the facts of the accusations and charges, the facts as I know them.

I think the people are entitled to having the facts and I know further than that from being a Negro my people as well as other people suffered during certain periods of history.

Mr. Cercone: I object to that subject matter.

The Court: You can say that you are interested without arguing the facts and I will have to limit you on that. You are interested in Mr. Nelson and to see that justice is done?

Mr. Nelson: May we be permitted to leaving Mr. Careathers go off the stand and go to the other witnesses and take this up after?

Mr. Cercone: How long will it take?

Mr. Nelson: About 10 minutes.

The Court: All right, and you can cross examine. Incidentally, Mr. Nelson, here is the letter from the librarian of the Carnegie North Side Library, Mr. Seibel.

(Mr. Cercone reads the letter.)

The Court: It is stipulated if Mr. Seibel were present [fol. 2342] he would have testified in accordance with the writing on the letter:

“January 22nd, 1952.

On the stationery of the Carnegie Free Library of Allegheny, Federal and Ohio Streets, Pittsburgh 12, Pa., and the heading of George Seibel, Director.

Dear Judge Montgomery: The Communist Party met in our Lecture Hall July 9th-10th-11th of 1948. I have just verified this myself from the records. Dolsen must have arranged it, being the only man we knew.

Sincerely,

George Seibel.”

Mr. Nelson: I overlook, your Honor, the time when I should have shown these leaflets to the jurors. I don't know whether I could repair the damage, not being experienced in it.

The Court: You can recall and ask it then. The leaflets were circulated. You can do that. We should know when that was. It may throw light on it or may not.

[fol. 2343] OSCAR EMERICH, a witness called by the defendant, having been first duly sworn, testified as follows:

Mr. Cercone: We would like to have an offer at side bar.

The Court: Come forward, Mr. Cercone, and Mr. Nelson.

Mr. Nelson: Your Honor, the purpose of this witness is merely to show the record of the State Legislature which would have shown if Musmanno had introduced those bills that he got against Communism, the Communists would be in there, I believe, and I want to see if they are in those journals. I got a subpoena and they are here and I want him to answer the questions.

Mr. Cercone: That is objected to because we didn't bring it out in our case in chief and on cross examination, and Judge Musmanno says it was only a resolution and never came up for a vote, that it was tabled. So that it wouldn't be in the Legislative Journal or whatever this is. In any [fol. 2344] way, it is a matter of cross examination and they haven't a right to bring up something on cross examination. It is also collateral and immaterial in that respect.

Mr. Nelson: I think the questions were put to Judge Musmanno and I want to show that there is no record of those bills.

Mr. Cercone: We didn't bring that up in our case at all.

Mr. Nelson: That is what he claims.

The Court: First, to test his credibility and you want to contradict him.

Mr. Cercone: Judge Musmanno would have to be recalled on that and I think it is too much far afield under these laws of evidence.

The Court: I don't think you can do it. It is collateral. It is to show bias or prejudice and he denies it and you want to rebut him. Objection sustained. Exception noted. It is beyond the realm of your privilege, Mr. Nelson, and you are protected on the record on it.

[fol. 2345] Ben Careathers recalled.

Mr. Nelson: It might take a little time, your Honor, if I do it one at a time, but I don't know how else the jurors can look at them.

The Court: Let's go over them one at a time and get the date. Get Exhibit A-1, the leaflet addressed to the Negro people in the Hill District.

Mr. Nelson:

Q. Do you recall when that was issued, Mr. Careathers?

A. I don't recall. That was issued, I believe——

Mr. Nelson: It would indicate by the first sentence it was issued in 1948 because it deals with the election that year.

May I pass them to the jurors to examine?

The Court: They will be sent out if you wish to offer them in evidence.

Mr. Nelson: They are all offered.

Mr. Cercone: I have the same objection.

The Court: The objection is overruled. The next was A-2, Steel Sparks—what was the date of this?

[fol. 2346] Mr. Nelson: June, 1949.

Mr. Nelson:

Q. And I call your particular attention, do you recall this, Mr. Careathers, the article dealing with the matter of Jim Crowing against Negro people by one of the locals?

A. Yes, I remember it.

The Court: A-3 was the campaign against the Taft-Hartley Act.

Q. Do you recall what date, approximately?

A. I don't recall the date but it was nearly close to the drastic date of the Taft-Hartley Law.

Q. That would be somewhere around 1948?

A. Yes.

The Court: 9-A is to support the steel strike, reprinted in the Daily Worker by William Z. Foster.

Mr. Nelson:

Q. That was May 4th, 1949, do you recall?

A. That is correct.

The Court: A-5 is Steel Sparks.

Q. This was put out July 11th, 1949?

[fol. 2347] A. Yes, I recall that.

The Court: A-6 is Storm Troopers Attack on Meeting.

Mr. Nelson: I think I already turned that over to the jurors. That was in the Spring of 1948, wasn't it?

A. I think that is correct.

Q. It could have been '49?

A. It was either '48 or '49, probably '49. I think it was but I don't remember exactly.

The Court: A-7 is the Taxation question, a long letter addressed to City Council.

Q. Do you recall the approximate date of that, Mr. Careathers?

A. I think the first part of the year 1949, I believe, when the City Council was discussing the adoption of the program for taxes for the year.

Q. You are not sure about the date?

A. I am not sure about the date, no.

The Court: A-8 was an open letter to Judge Musmanno from the witness which was excluded. These were letters to the delegation and the agenda for the convention at the North Side Carnegie Hall.

[fol. 2348] The Court: Z is marked.

Q. Do you have one listed as M, your Honor?

The Court: M? It is away back somewhere by some other witness but not this witness.

Mr. Nelson:

Q. Now, Mr. Careathers, just for a few moments while the jurors are glancing at the leaflets. One more question to you, Mr. Careathers: during the period of the indictment was this type of activity basically what was done by the Communist Party of Western Pennsylvania?

A. Yes, basically that represents the type of activity which was carried on.

Q. Do you recall whether or not during that period there was any discussion of a peace petition known as the Stockholm Peace Appeal?

A. Yes. I remember a discussion as well as the distribution or the circulation of that petition during that period.

Q. In fact, a whole batch—do you recognize that? In fact, the whole batch was found in the headquarters of the Communist Party in the Bakewell Building and is that the kind of petition that you remember circulating in the City of Pittsburgh?

A. That is right. That is correct.

Q. Was this petition widely distributed in that period that you know of?

[fol. 2349] A. Reasonably widely. There was an attempt to distribute it very broadly and very widely.

Q. What was its main purpose?

A. Well, its main purpose was to call upon the people to express themselves upon the outlawing of the use of the Atom Bomb on any peoples.

Q. How was this to be done?

A. Well, it was to be done, this was an appeal to the Government to take steps to adopt such a resolution in the United Nations and calling upon all peoples to express themselves against this.

Q. In other words, it was an appeal to outlaw the use of the Atomic Bomb and to come to peace terms with the nations of the World. Is that correct?

A. That is correct, to come to peace with the nations of the World.

Q. And these petitions were distributed amongst the citizens and you could sign them if you wanted to and if you didn't want to you didn't have to?

A. That is correct. There was no compulsion. It was a circulation and the people signed it of their own free will if they desired to and if they didn't want to they didn't sign.

(At this time the jurors are reading the pamphlet.)

[fol. 2350] Mr. Nelson:

Q. Just one more question, your Honor, on this petition. Do you recall any prominent national individuals that were connected with this campaign in the United States?

A. Yes. I will recall a few prominent national individuals.

Q. And I mean are they generally known public figures. Is that right?

A. Public figures, that is right.

Q. Do you know whether or not any of them had been labeled or persecuted and charged with being foreign agents because they associated themselves with this peace appeal?

A. I know that Dr. W. E. DuBoe—anyway I know Dr. W. E. DuBoe as the chairman of the committee, the peace center I think it called itself, and there were some other individuals—I don't remember their names—who were associated with him and they were persecuted or prosecuted.

Mr. Cercone: Your Honor, we want to object.

A. I don't know but, no, Dr. DuBoe, he was prosecuted by the Government with so-called being a foreign agent.

Mr. Nelson: What happened to the case?

A. Well, the Judge in the case I believe——

The Court: Not what you believe. We better not go into the trial of somebody else.

[fol. 2351] Mr. Nelson: That is all.

Cross-examination.

Mr. Cercone:

Q. Now you said that you were an organizer for the Steelworkers C.I.O. in 1937. Is that right?

A. 1936 I believe I said, and in 1937.

Q. Isn't it a fact that you only received three pays there?

A. That is not a fact.

Q. It is not a fact?

A. Absolutely not.

Q. Now, is Nathan Albertson a member of the Communist Party?

Mr. Nelson: That is objected to.

The Court: The objection is sustained.

Mr. Cercone:

Q. Now you say you worked as an organizer for the C.I.O. As a matter of fact, you only did this as a Communist in order to get other Communists into Pennsylvania's basic industries, namely, steel, so that the time for revolution you would have Communists?

Mr. Nelson: That is objected to.

The Court: The objection is overruled.

[fol. 2352] Mr. Nelson: It's a lying statement.

Mr. Cercone:

Q. Is that a fact?

A. Mr. District Attorney, you will have to permit me to answer my way, not the way you want. I will answer the question.

Q. Is it true or not?

A. That question is a pro-longed question which necessitates an explanation.

Q. Well, let me simplify the question then. You did that as a Communist so you could get other Communists into the Steel Industry so when the time was ripe you would—Fifth Columns in the industry, namely, steel?

Mr. Nelson: That is objected to. I would like to suggest first the question is leading.

The Court: This is cross examination. He may lead you or suggest things. He said: did you engage in that work in order to gain the entrance of other Communists into the steel organization. That is the question.

Q. Was that your purpose?

A. I will answer the question. However, in answering that question I want to give an explanation. Yes.

The Court: You can elaborate.

[fol. 2353] Mr. Cercone:

Q. Isn't it a fact that you got into organizing work as a Communist only to help get other Communists into basic industries, namely, steel, so when the time was ripe you would have Fifth Columnists in the basic industries?

Mr. Nelson: I object to that and move for a mistrial. I am not charged with being a Fifth Columnist and move for a mistrial on account of the fact prosecution is able to get away with it.

The Court: The objection is overruled. Motion refused. Answer the question.

Mr. Nelson: It can't be answered, that kind of a question.

The Court: I think he can. Answer the question.

A. That was absolutely not my purpose for working for the C.I.O. Now I would like to explain.

Mr. Cercone:

Q. Isn't it a fact?

A. I think you are absolutely unfair. I would like to explain. I joined the staff of the C.I.O. organizing com-

mittee to aid in the best way I could in carrying out its [fol. 2354] purposes and its objectives. Its objective was to organize the steelworkers which meant those workers who are working in the steel mills and I participated along with the other organizer in bringing them into the union.

Q. Isn't it a fact that you went to those unions just as an agitator as part of the Communist program? Answer yes or no.

Mr. Nelson: That is objected to.

The Court: Was there any ulterior purpose, whether the interest in organizing was bonafide or had an ulterior in disorganizing, causing unrest.

A. My purpose as I stated was to organize the steelworkers.

Mr. Cercone:

Q. Answer yes or no. Is it true or not?

A. I told you my purpose and it is indicative of the fact it is not.

Q. I show you a book found in the Communist Headquarters here in Pittsburgh.

Mr. Nelson: I object to the way he is treating the witness on the part of the attorney here, and insist he treat him like a gentleman.

The Court: I will ask the District Attorney to resume his [fol. 2355] place at the counsel table and offer any material and to question him in a way that is proper.

Mr. Cercone:

Q. I show you Commonwealth Exhibit 56, being Left-Wing Communism and Infantile Disorder, written by D. I. Lenin, and found in the Democratic Headquarters—Communist Headquarters—under the control of Steve Nelson?

A. Yes.

Q. Found in the Communist Headquarters?

A. Yes.

Q. I read you page 38 here——

The Court:

Q. Are you familiar with the book?

A. I know about the title of the book but I don't think I have read it.

Mr. Cercone:

Q. You know about the book?

A. Yes.

The Court:

Q. Do you know about the contents of the book?

A. I don't know about the contents of the book. If I might state, first, I am a Negro number one, and secondly, I stand on my own feet, and thirdly, I don't want anyone telling me what to tell. I want to tell my way.

[fol. 2356] Q. I show you Commonwealth Exhibit 56 found in the Communist Headquarters?

A. Yes.

Q. And ask you if you subscribed to this?

A. I don't know what it is.

Q. I will read it to you.

Mr. Nelson: The witness says he is probably familiar with the title but not familiar with the pamphlet.

The Court: It is in evidence and he is a member of the Party and he wants to know if it is a doctrine and he subscribed to it as a member of the Party?

Mr. Cercone:

Q. "We must be able to withstand at all costs——

A. But I don't know what this is.

Q. I show it.

A. We must understand this. What is this? What is this that we have to understand. You have to precede.

Q. "There can be no doubt people like Henderson—do you agree with that—do you subscribe to that?

A. What is your question?

Q. This is a book written by Lenin?

A. First, as I said, I haven't read the book and I don't [fol. 2357] think I should be called upon here to state to

what I subscribed to unless you want to put a specific question?

Q. Yes, if you subscribed to that kind of book?

A. I don't know. I can't say that I do. I can't say that I do because I said I don't remember having read the book.

Q. You didn't read the book?

Mr. Nelson: I object to the way the question is being formulated—the situation the way that book is applied, there may be a different condition.

The Court: Whether the reason is expressed here and you organized in the steelworkers.

A. I may not be able to interpret the reason as expressed there and the only way I can answer the question in an understandable way, I participated with the United States Steelworkers as a member on the staff for the purpose of organizing the steelworkers because at that time they had no organization to which they could give an expression and that was my object all along the line to get them to participate in the work.

Mr. Cercone:

Q. You are familiar with "Foundations of Leninism", aren't you?

A. Yes.

Q. As written by Joseph Stalin—you are familiar with that book?

A. Yes, I am familiar with the book.

[fol. 2358] Q. And that was written by Joseph Stalin and found in the Communist Headquarters, under the control of Steve Nelson and Commonwealth's Exhibit 167, and I direct your attention to this paragraph.

Mr. Nelson: What paragraph is that?

Mr. Cercone: Next to the last paragraph on page 104.

Mr. Cercone: The Revolutionary—it is a third away from the bottom—the Revolutionary will accept the reform in order for the overthrow of Bourgeoise——

Q. Do you subscribe to that?

Mr. Nelson: Your Honor, we went through that and gave interpretations, and it was explained they apply to a differ-

ent condition. This witness did not go into these matters here.

The Court: Probably he didn't undertake an explanation, of these things on direct examination.

Mr. Nelson: I didn't introduce a single one of these on direct.

[fol. 2359] The Court: It is just a matter that these things may be directed to his attention and as to the things he done. That would be very limited, Mr. Cercone. He has made statements.

Mr. Cercone: I am asking a question in connection with his work in the union.

The Court: He has made a statement there was no force fought or advocated on the part of himself or the defendant. I suppose he could be confronted with it but it might indicate the basic philosophy upon which you are relying on there, Leninism, with this witness, because he did not discuss it himself. It would not be proper cross examination.

Mr. Cercone:

Q. Now you say you have known Steve Nelson about 18 years, is that right?

A. That is correct.

Q. During that time did you know him by any other name?

A. No, I didn't.

Q. Do you know he also used the name Louis Evans?

Mr. Nelson: That is objected to.

[fol. 2360] The Court: The objection is sustained. I think we made that rather clear sometime ago unless you are prepared to establish this witness has such knowledge, not just to risk an answer.

Mr. Cercone:

Q. Now, then, Mr. Careathers, did you testify in other cases?

A. In which?

Q. Have you testified in other cases in this Court?

The Court: Concerning whom and what?

Mr. Cercone: May I have a side bar on that?

The Court: Yes, come forward.

Mr. Cercone: We have a conviction record of perjury, your Honor, three records of perjury and on conspiracy and one obtaining signatures under false pretense.

Mr. Nelson: Your Honor, that was a case during 1940, when there was pressure against Communists here and a lot of people here and they were told to say unless they testified they falsely signed the application they would lose their jobs and as a result a lot of innocent were framed [fol. 2361] and sent to jail. He didn't do any criminal thing. It was in a way a type of hysteria whipped up against him, and I think it would be unfair to bring it up on this trial.

The Court: He may be confronted with conviction and may tell how the circumstances arose, and it affects his credibility, and I think it is perfectly proper for the District Attorney to confront him with it.

Mr. Nelson: This man didn't commit a crime. The other fellow did. He, Cvetic, actually attacked and beat up his sister, and you didn't let me do it, that is, Cvetic.

The Court: It had to be a felony and a misdemeanor. Perjury is different. Objection overruled. Exception noted. You may confront the witness with any records.

Mr. Cercone: Your Honor, may we have a slight recess?

The Court: All right, give them 10 minutes recess.

(Recess from 2:42 to 3:00 p.m.)

[fol. 2362] Mr. Cercone:

Q. Now, Mr. Cvetic testified that the policy of the Communist Party of Western Pennsylvania was controlled by the Kremlin. Do you say that is right?

Mr. Nelson: That is objected to.

The Court: The objection is overruled. I don't know whether he used the word "Kremlin" or "Moscow".

Mr. Cercone: "Moscow".

The Court: Answer the question.

A. That is absolutely wrong. The Communist Party is an American Party controlled by the people of the United States.

Q. All right, now you testified that you recall hearing Mr. Nelson reading from the History of the Communist Party at the meeting at the Culture Center?

A. No, I didn't testify to that.

Q. What did you testify to?

A. I testified he spoke at that meeting and led the discussion.

Q. Mr. Cvetic testified that Mr. Nelson read from the History of the Communist Party of the Soviet Union, that is Commonwealth Exhibit No. 21, which was found in the Communist Headquarters and that Mr. Nelson read from that book at that meeting, at the Jewish Cultural Center meeting. Do you recall him reading that?

[fol. 2363] A. I do not recall him reading that.

Q. And Mr. Cvetic testified and did read, that Mr. Nelson did read from The Soviet Party of the Communist Union. He explained they wanted to carry out the program of the Communist Party of Western Pennsylvania in helping to advocate and teach the overthrow of the American Imperialist Government?

Mr. Nelson: That is objected to, and it is a loaded question.

The Court: The objection is overruled. He has entered into a discussion of that meeting and is subject to cross examination.

Mr. Nelson: He didn't quote any book.

A. I don't remember him having read that book at all at that meeting.

Q. Mr. Cvetic testified that the Communist Party of Western Pennsylvania teaches and advocates the use by force and violence for the overthrow of the Government?

A. The answer to that is a lie.

Q. Now, Mr. Careathers, were you ever defended in this Court?

A. Was I ever defended?

Q. Were you ever a defendant in this Court?

A. Yes, a defendant in this Court.

Q. What were you charged with?

A. I don't remember the specific charges.

[fol. 2364] Mr. Nelson: That is objected to.

The Court: The objection is overruled.

A. I don't remember how the specific charges were worded but can explain the case.

Q. Do you know the charges?

A. No.

Q. You were charged with perjury and making false statements under oath and obtaining signatures to written instruments by false pretense?

A. Yes.

Q. And I show you 527 June Sessions, 1940, and on which you were tried and found guilty of that charge?

A. That is correct. I would like, however——

Q. Just wait until I get finished.

Mr. Nelson: Let him explain.

The Court: He may.

A. That was a period, another period of hysteria. The Communist Party secured legal papers, issued by the State of Pennsylvania, in keeping with the law. It requires a minority party to circulate petitions in order to put their candidate on the ballot. This petition was secured from the State. It was circulated and we got on them the required number of petitioners, stating they were willing for the Communist candidates to be placed on the [fol. 2365] ballot.

Because of the period of hysteria at that time, as I mentioned before, hundreds of people who signed that petition were merged into the Communist Party. The different industries told them evidently if they didn't find some reason they didn't know they were signing they would lose their jobs. They didn't want to do that and there were a lot of accusations they were gotten under false pretense.

Certainly I have been known as a Communist, active in the Communist Party for many years during that period of time, known by thousands of people, anyone whom I would have asked knew I was asking for the Communist Party, and that false statement that I secured the signatures under false pretense could not get away, but that was done. People were terrorized and we were brought into Court and found guilty.

We were unable from a financial point of view to appeal the case, and incidentally I served ten months of an eighteen month sentence on that. We were unable from a financial point to appeal the case, but in Eastern Pennsylvania a similar case was tried and it was carried to the Supreme Court and the Supreme Court of the State of Pennsylvania threw out the charge in a similar case.

Q. Yes, but you were found guilty by a jury?

A. Yes, but I was explaining the reason.

Q. And at 533, June Session, 1940 you were again charged [fol. 2366] with perjury and making forgeries and you were again found guilty. Is that true?

A. What is that?

Q. 533, it is a separate verdict.

A. I don't know anything about a separate verdict. There was only one case to my knowledge, I don't know.

Q. Well, this is one verdict and then you have another verdict here that I just showed you?

The Court: Let me see the cases, please? Apparently there are two cases, one at 532 June, 1940 and one 533 June Sessions, 1940. They were tried together, I presume, according to the papers here. You had the impression only of one case, did you, Mr. Careathers?

A. That is correct.

Mr. Cercione: There were four different verdicts. There is No. 534 in which he was charged with perjury, making false statements and signatures under false pretense and found guilty, 534 June, 1940. And then again at 527 June, 1940 you were charged with perjury, making false statements in affidavits of the securing of signatures under false pretense and you were found guilty.

[fol. 2367] Mr. Nelson:

Q. Is it your recollection, Mr. Careathers, that was one case?

A. There may have been several cases, as he said, but I only know of one and know of one having been found guilty.

Mr. Cercione: Those are the records, four different verdicts.

The Court: The foreman of the Jury, Mary P. Wallace. They were all signed together.

(Side bar conference)

Mr. Nelson: Your Honor, I wasn't familiar with the details of these and I knew it to be one case. Now this business of putting this in here as if there were four cases, four different convictions is wrong, and I think it should be stopped as soon as your Honor was able to see that. And I don't believe Mr. Cercone ought to be allowed or permitted to repeat and repeat this proposition. It is calculated to stir up prejudice against this witness when he explained as to what he understood just what the case was all about. He doesn't deny he was convicted.

[fol. 2368] Mr. Cercone: I ask this man's testimony be stricken. He isn't allowed to testify, a man who is convicted of perjury.

Mr. Nelson: The man told you the circumstances he was convicted and especially when you had a hand in it.

The Court: The fact states four different cases possibly arising out of different petitions. They were tried together and there was a guilty verdict. The explanation as given by the witness, as far as striking out all his testimony is concerned, we will not strike it out at this time. You may, if you wish, finish the cross examination of this witness, and if the law is such he can't testify after ten years we will strike it out tomorrow and instruct the jury. It is a question of whether it is permanently disqualifies him from testifying. It would appear all four cases were tried at the same time though there were separate verdicts returned.

Mr. Cercone:

Q. You say you didn't appeal this case?

A. Yes, I understand it was not appealed. I know we tried to raise finances with which to do it.

[fol. 2369] Q. I show you a record here which shows you not only appealed and asked for a new trial and argued before Judges Morrow, Thompson and Graff, and was refused a new trial and appealed to the Superior Court. And in fact, in your motion for a new trial you set forth

sixteen reasons and it was argued before three judges and the decision of the Court handed down by Judge Graff refused that again. And that was true with all four of these verdicts, that was the Supreme Court, and it was appealed to the Supreme Court and the Court studied and examined it and reviews it and handed the remittor and upheld the verdict; so you did take it all the way up?

The Court: You have been rather reading from the records and I suppose you are asking for confirmation of that by the witness. Is that what you want to do there and is it the basis of your question. Is that your understanding, Mr. Careathers?

A. That is right, my understanding.

Q. That was passed on by the Appellate Court?

A. I did not know that.

Mr. Cercone: That nobody told you that?

A. Incidentally I was slightly inaccessible.

The Court:

Q. Do you mean you had been sentenced and the appeal was while you were serving time?
[fol. 2370] A. That is right.

The Court: The records found in this Court would indicate an appeal was taken.

Mr. Cercone:

Q. And the same thing happened where you were charged with conspiracy. You were charged at 519 June Sessions, 1940, charged with felonious crime of conspiracy and you were found guilty and this case went to the Appellate Court and sustained. Do you remember that?

A. I remember I was found guilty and one trial and one hearing. All of the business you bring up there I don't know.

The Court: Was that conspiracy trial the same time?

Mr. Cercone: That is four different numbers.

Mr. Nelson: It is brought for the purpose to appear there are 50 trials and charges.

Mr. Cercone: There were four conspiracies.

The Court: It isn't being prolonged for the Commonwealth or the defendant. If it was brought out we want to demonstrate that fact whether it makes any difference or not.

[fol. 2371] Mr. Cercone:

Q. That is in the same trial, October 31st. The Jury was sworn September 30th and on October 31st was the verdict.

The Court: All of the charges were tried at the same time apparently.

Mr. Cercone: Yes.

The Court: One charge of conspiracy?

Mr. Cercone: One charge of conspiracy and four charges of perjury and each one of them also carried the charge of obtaining signatures, false signatures in affidavits.

The Court: I suppose they all arose out of that same set of facts, the circulating of these petitions, did they?

A. That is right.

Mr. Cercone:

Q. A lot of petitions were circulated?

A. You would have to circulate a lot to get on the ballot.

Mr. Cercone: All right. That is all, your Honor.

The Court: Any further questioning of the witness?

[fol. 2372] Mr. Nelson:

Q. Mr. Careathers, what about this statement that the prosecutor made that you got three pays from the C.I.O. when you went to work for the C.I.O.

A. That is completely false. I worked approximately two years on the staff in the C.I.O. as an organizer and got paid every two weeks during that period of time.

And there are certain other things I can prove. At one period of time, in order to enable me to head the organizing of the conference of Negro organizations, a national conference to support the steel drives, my boss opened a bank account in my name with a thousand dollars. I can

bring that data, if necessary, to give me complete leeway to organize this national conference for the Negro Organization, for the support of the drive.

Q. Mr. Careathers, did you have any particular success in getting workers into the C.I.O. staff area in which you worked in, let us say, Aliquippa?

A. I did have.

Q. Let us say how many workers did you get into the union, let us say, on an average by weeks yourself?

A. That is a pretty difficult question to answer.

Q. Let us put it this way: any business meetings, or any gatherings of any sort where you signed up any members, where staff members were?

[fol. 2373] A. Yes, there were public meetings. I organized both in Aliquippa and Pittsburgh. I worked at the shop gates of the J. & L. and other places with other members of the staff, recruiting into the union by the dozens and hundreds. I signed up hundreds of workers throughout the Valley as a field worker organizer.

Q. Would you say you signed up a big bunch in one particular meeting—did you ever sign up as many as 50 or more in one day or one week?

A. I would. When I was first put on the staff full time I was put on for a trial period and worked in Aliquippa, it was I think, for two weeks and I had an armful of applicants when I brought them back to my boss. I don't know how many, a hundred or more, and he said we have had difficulty in penetrating workers in Aliquippa and would you like to have a regular job on the staff of the C.I.O. as an organizer and I said I would, and he said the trial period is discontinued and you are on the staff as a regular organizer.

Mr. Cercione: That is objected to as immaterial.

The Court: The objection is overruled.

Mr. Nelson:

Q. How many did you sign up, both in the C.I.O. and Aliquippa that were Communists?

A. Not a single one was a Communist.

Q. In other words, you were signing up any worker [fol. 2374] working in the plant if he were willing?

A. That is right. I signed them up.

Q. You didn't sign them up as subversives to overthrow the Government when you were ready, according to Cvetic's papers?

A. That wasn't even discussed. It was a question of being in the Union and they signed on that basis.

Q. About the election signatures you obtained in 1940, and you were charged and convicted for obtaining the signatures. What did you say the reason was that was; was it that many of these people signed these people, these people turned against you?

The Court: I don't think that is necessary. He has gone through that. I don't think it requires repetition.

Mr. Nelson:

Q. Do you know any case or such incident as that reversed by the higher Court where it was successfully appealed?

Mr. Cerccone: That is objected to as immaterial.

The Court: He testified his case wasn't. The appeal was taken and the Supreme Court sustained the verdict.

Mr. Nelson:

Q. Your intention wasn't to appeal to a higher court, the United States Supreme Court?

[fol. 2375] A. Yes. I understand according to the papers an appeal was made which I did know about.

Q. But not to the United States Supreme Court?

A. Yes.

Q. The Pennsylvania Supreme Court?

A. Yes.

Q. That is your understanding?

A. That is all.

Mr. Nelson: That is all.

The Court: Any further cross examination?

Mr. Cerccone: No.

(Side bar conference.)

Mr. Nelson: Well, your Honor, I can't at this time put on the next witness. If I were to put him on I don't think I

could get him here until tomorrow at noon, and actually depending on what the State is going to do from now on, as far as I am concerned—I know I can't get that person here that fast and might use him as a rebuttal or sur-rebuttal if that becomes necessary, and I will rest the case at this [fol. 2376] time and will now request to be given at least a day and a half time to prepare my argument, because I have been under heavy strain and I haven't had the record and have a lot of legal problems. I would like two days if possible.

The Court: I won't promise two days. Are you resting?

DEFENDANT RESTS

Mr. Nelson: Yes.

The Court: I will rule on the testimony of Mr. Careathers tomorrow morning, whether the jury should consider that. I am not certain about the perjury charges, whether or not it disqualifies him from ever testifying.

Mr. Nelson: My belief, within a ten-year period, that is my understanding but I don't know the law.

Mr. Cercone: We have one rebuttal witness but I thought the case would continue until around Thursday.

[fol. 2377] The Court: We are not going to delay the testimony until Thursday.

Mr. Nelson: I rest then at this stage and might use that witness for rebuttal.

Mr. Cercone: We can have one here tomorrow by one o'clock, I imagine.

The Court: What are you going to rebut? Rebut Dr. Aptheker or Mr. Careathers?

Mr. Cercone: No, Aptheker.

The Court: You have given your analysis and are not going to be permitted.

Mr. Cercone: There are some things not mentioned in peace.

The Court: For instance, what?

Mr. Cercone: I hate to submit the problem now.

The Court: I don't think there is very much rebuttal here, but I will not preclude you this afternoon but will ask you to be ready to rebut it tomorrow morning.

[fol. 2378] Mr. Cercone: This is a short notice.

The Court: We can't prolong. I see nothing to rebut. Certainly you can have somebody here in the morning. The defense is resting.

Mr. Nelson: If it is repetition I will continuously object.

The Court: We sustain the objection. I am not going over the argument. I am not going over it again, the philosophies discussed by both sides reflecting on the Party and the intention of the defendant, and I don't think there is much to it. So we will recess until tomorrow morning at which time the District Attorney is advised to be ready. I would prefer that you determine your rebuttal now. I could let the jury go now.

Mr. Nelson: There are some motions I had in mind.

The Court: If he is going to rest without rebuttal now we can rest now and dispose of the motions.

[fol. 2379] Mr. Cercone: I would like to confer with Mr. Smith and the District Attorney on this, and see what they say about the rebuttal witnesses.

The Court: Take a ten minute recess now and talk it over and see whether you want the jury brought in for any rebuttal.

Note on the record the defense rests. Is that right?

Mr. Nelson: That is right.

The Court: Since the defendant is resting his case, Mr. Cercone, we will recess the jury for a little while for you to determine if there is anything you want in the way of rebuttal.

(Short recess.)

MOTION TO STRIKE TESTIMONY AND DENIAL THEREOF

The Court: The motion of the District Attorney to strike out all testimony of the witness Ben Careathers because of his prior conviction for perjury in this Court is refused. Exception noted.

[fol. 2380] Now I will grant your request of postponement for two days so you will both be ready to argue this case on Friday.

So for the record, the record is closed. No rebuttal and no further testimony.

Members of the Jury, now the testimony is all completed in this case, no further testimony to be taken. The next step

will be the arguments of counsel to you, and since they have been requesting a day or two to prepare the arguments, which is not unreasonable in view of the extent of the testimony, we shall recess this matter now until Friday morning and you will be free to go about your affairs tomorrow morning and Thursday.

We plan not to hold you over the week-end for your deliberation. We will try to complete the arguments to you by the defendant and counsel by Friday and if it can't be accomplished it will be followed Monday by the Charge of the Court and it will resume Monday morning. You are excused now until Friday morning at 9:30 a. m.

[fol. 2381] Monday, January 28th, 1952.

Morning Session.

MOTION FOR MISTRIAL AND DENIAL THEREOF

Mr. Nelson: Your Honor, the first motion I wish to make is reference to a story in the Tuesday January 22nd paper of the Pittsburgh Press in which a report, a lengthy report, almost a full column in the paper, reporting the testimony or purporting to report the testimony of Ben Careathers, said the following at the end: "Following Mr. Seibel on the stand today was Benjamin Careathers who has been in charge here for years of the Communist drive amongst negroes. He also was convicted of sedition last year." Now, Your Honor, that is very obviously put in there to make the thing accumulative and to have an accumulative affect on the whole case here, and it is an obvious untruth, and I make a motion for a mistrial on the basis of that. It [fol. 2382] is bound to affect the jurors; they read the papers, and it gives them in addition to the untruths that they hear from the witnesses of the prosecution they get a daily dosage of that stuff in the newspapers and radio, and on the basis of that I move for a mistrial.

The Court: We will permit this article to be filed as part of your motion, and motion is refused and exception noted.

MOTION TO STRIKE INDICTMENT AND DENIAL THEREOF

Mr. Nelson: Now, Your Honor, I believe it is proper to make motions at this time on the points of the indictment.

Consequently, I will make brief motions on that. I move that the first count in the indictment be stricken because the Commonwealth has not proved the case against me.

The Court: Make your next motion. We will rule on them all.

[fol. 2383] Mr. Nelson: I make a similar motion on count 2 in the indictment on the ground the Commonwealth has not proven a case against me. I make the same motion on count 3 on the same ground. Make the same motion on count 4, the Commonwealth has not proven its case, move it be stricken. Count 5, make the same motion. The Commonwealth has not proven its case on this point any more than it did on the others. Number 6, the same motion, the Commonwealth has not proven its case. Number 7, the same motion, the Commonwealth has not proven its case. And I only state them briefly because I think, Your Honor, I read every line before. So I will just make it this time—the Court is acquainted with the points.

The Court: Yes, I will be referring to them by number in the charge.

Mr. Nelson: Move the same on count number 8, and the same on count 9. Same on count 10, count 11 and [fol. 2384] count 12.

The Court: What you are asking for is binding instructions to the jury on all counts of the indictment.

Mr. Nelson: What I am asking for, Your Honor, is I believe that even to a most prejudiced court it would be evident to me at least that at least some of the counts there don't even approach anything near what the Commonwealth claims they were going to prove.

The Court: It is not what they claim in their opening they were going to prove, it is what the indictment states and what the evidence was.

Mr. Nelson: That is what I am talking about, the evidence of the Commonwealth, and when I say they haven't proved anything, I mean their testimony is based on paid [fol. 2385] agents whose profession is to lie. Consequently they can't tell the truth because if they did they would be out of a job; somebody else would take their jobs. They got to do what the prosecution wants from them. No one can believe that testimony. It is contra-

dictory as I have proven already. And consequently, I think at least the court should give me an idea at this time—I believe it is right—what the ruling would be on the specific points that I made my motion.

The Court: I have reviewed the evidence very carefully and compared it with the counts in the indictment and what you are really asking me to do is pass on the credibility of the witnesses and that is not my prerogative; that is for the jury. If the jury believes what some of the witnesses said there is evidence to support the counts of the indictment. So that is a matter of argument to the jury [fol. 2386] rather than for me to pass on. So for that reason I will refuse all your motions concerning all of your counts and grant you an exception. Just as you say, if the jury doesn't believe it in some of these instances—there is not too much testimony—but there is some in each instance so I must act as I am doing.

MOTION FOR MISTRIAL AND DENIAL THEREOF

Mr. Nelson: Then Your Honor, I have an affidavit here dealing with what I believe to be the prejudice of the court based on an affidavit of a man who gave me that statement, Nathan Albert, in which it was indicated that the court and the A.B.C. have undertaken a campaign to arrest people of my political party and continues to sit on this case. In my opinion, it only continues to prolong the harm that was initially done, and I move for the withdrawal of a juror on the ground the court is not unbiased [fol. 2387] on this question and a fair trial is impossible under these circumstances.

The Court: This is just additional support.

Mr. Nelson: Supporting my contention . . .

The Court: Evidence or affidavit concerning the original motion which of course was refused. So we will permit this to be filed and in support of your original motion on that basis, Mr. Nelson. But the action on the motion has already been taken so there is no need to act further on it.

COLLOQUY BETWEEN COURT AND COUNSEL

Mr. Nelson: Your Honor, I have just one more request this morning. I failed to introduce two copies of the legis-

lative journal last Tuesday when we were here. I would like the first thing to permit me to introduce them here, identify them only, because I am going to be compelled [fol. 2388] to refer to it in my argument, and I believe that the proper thing to do is to introduce it, identify it here at least so that I may make reference to it. It will take a second; the man is here and I would appreciate and I believe it is right that I should.

The Court: It seems we ruled on that in connection with Mr. Emerick. We have ruled on it and rest on our ruling and refuse you the permission at this time to reopen an offer, Mr. Nelson, because it is a matter that has been passed on.

Mr. Nelson: I believe the way I asked for it the last time was and you answered I would have to have Judge Musmanno on the stand in order to do it. If that is the only way to do it I ask the court's permission that Judge Musmanno [fol. 2389] be recalled on the stand on this question. It is very vital. He is the key witness in the case and he has the respectability and so forth that goes with the position he holds ordinarily, and I can prove by these books that he lied on the stand.

The Court: Motion refused. This record is closed and it is going to stay closed.

Mr. Nelson: I take exception to the ruling. That is all the motions I have at this time.

(At side bar.)

Mr. Cercone: I want to point out to the court, Mr. Nelson may make statements that were not substantiated or *illicit* from the witness stand, and rather than get up every time that happens I wonder if the court could call that to his attention.

[fol. 2390] The Court: I will ask Mr. Nelson to limit his argument to the evidence.

Mr. Cercone: He will say many times this isn't true and that isn't true.

The Court: That is his privilege. If he refers to evidence here he can indicate his opinion it isn't true and argue the witnesses are perjurers, but I will instruct the jury any evidence stricken from the record or any statements

by the defendant in opening or closing is not evidence. The only thing is what they heard from the witness stand. Give due consideration to your arguments but as far as them stating new facts they are not privileged to do so.

Mr. Nelson: I will do the best I can to stick to what I consider our conclusions on the evidence. I have a right to it. I know the disadvantages I am up against not being a [fol. 2391] lawyer and not knowing these things. I can only do as a layman will do and try to do the best I can with what I understand the law to be.

The Court: That is all I can ask of you.

Mr. Nelson: Since I left court last Tuesday I got acquainted with this 1940 case that Mr. Careathers was involved. Now, the fact is there was some thirty odd people involved in the case and one trial, and Mr. Cercone could have known that.

The Court: The papers are here.

Mr. Nelson: I mean to say it was brought out as though he was some sort of a perjurer and liar and dishonest person, and four different items were cited . . .

Mr. Cercone: He was convicted.

[fol. 2392] Mr. Nelson: A lot of innocent people are convicted too. This was brought in although he was my only local witness because they would be jeopardized in their jobs. I can't put on a man from a steel plant because he would be afraid of losing his job. So I have been handicapped by that. The man that appeared here is a well known man in the community, and he appeared, with my full knowledge. There was that case in 1940. I found out there was a similar case Brown vs the Commonwealth, six months after their cases were appealed and the court threw them out, that is they shouldn't have been brought to trial; they were exonerated.

The Court: You can't bring that out because it is not involved here.

Mr. Nelson: Unless the court instructs the jurors—
[fol. 2393] The only thing I can instruct the evidence is before them on the conviction of perjury. I will tell them to scrutinize it very carefully. You can't argue from a case down East where the facts were altogether different.

Mr. Nelson: One thing, I believe I failed to make a motion on each of the Commonwealth's witnesses. First of all, I want to make a motion to strike Judge Musmanno's testimony now both sides have rested.

The Court: I think we have ruled on it.

Mr. Nelson: And move Crouch's testimony be stricken. He hasn't seen me since 1941 and whatever he tells is remote and out of this state. I don't see how it can possibly stand as evidence in this court.

[fol. 2394] The Court: It is only for the purpose of motive and intent and what you did here during the period of the indictment.

Mr. Nelson: Then I move the testimony of White and Patterson be stricken because even according to their own testimony they haven't seen me since 1931 or 1932, somewhere around there, I believe they said. How is that going to bear on me in any way, and how can I possibly find people who were with me twenty years ago and bring them into the court at this time. And urge the court to strike their testimony as being completely out of date and false. I can show you a record I received since then. I told you I was going to show you that Patterson's testimony was characterized as untrue by the trial examiner. I got the record here and he could not believe his testimony and has stricken it out although he was only one of two witnesses that lasted for weeks.

[fol. 2395] The Court: The trial examiner, he would have that right of disregarding it if he thought it was incredible. I can't pass on credibility of witnesses and you can't state to the jury what somebody else thought about it.

Mr. Nelson: I move Cvetic's testimony be stricken as a paid spy, a paid agent. That is his profession. He makes his living at that. That is a racket with him.

The Court: You can argue that to the jury, and I will mention it in my charge.

All the motions are refused and exceptions noted.

(End side bar.)

[fol. 2396] STATEMENT OF MR. NELSON TO JURY

Mr. Nelson:

Ladies and Gentlemen of the Jury:

I want to sum up what I consider pertinent that was brought out in this trial and I want to give you what I believe to be the theory of the prosecution in this case and what is involved in this case this morning. To start with, I have here in my hands the opening statement of the prosecutor in which he stated he was going to prove certain things to you, Ladies and Gentlemen of the Jury, and I am going to tell you that he couldn't prove those things that he stated he would prove, and that he relied on what he knows fully well exists in the country now, on prejudice, bias, and hysteria. That's his main evidence, Ladies and Gentlemen of the Jury. That's his main case. He stated for example that he was going to show that there was danger to safety, human life, and property, on page 448 of his statement.

What danger did he indicate here. What property was to be damaged. What human beings were to be attacked? None! None of his evidence brought that out; nothing whatever.

Then, he said he is going to show that the prosecution has no personal interest in the case. Well, that is enough as they say, if this wasn't in a courtroom, if it was in a [fol. 2397] union meeting, I'd say it's enough to make the horse laugh. He has no interest in the case. Everybody knows that Judge Musmanno, the main prosecution star in this case, used this case for his political advancement and he cooked it up in this courthouse with his other associates around, and he saw to it that when Lewis became Judge, who also became a judge as a result of the prosecution of this case, that his nephew took it over. And they have no personal interest in the case. So that's statement number 2 of the prosecution that was never proven and never attempted. Indeed, that they have no personal interest in the case.

Then on page 449 of his statement, opening statement, he said he is going to prove I helped to plan the overthrow

of the government of the State of Pennsylvania by force and violence. What evidence was brought to bear that up? Nothing but the prosecution's stool pidgeon witnesses that they concocted, no concrete cases of what and where and by whom things were going to be done. No, that is not necessary for him. All he had to do was to make a statement and he thinks the people are going to believe him.

Then on the same page he said he is going to prove the defendant is a member of Fifth Column. Now, Ladies and Gentlemen of the Jury, what evidence is brought to that to prove that I was a member of Fifth Column. In fact, [fol. 2398] even the star performers on the stand, Ladies and Gentlemen, did not mention that or show any evidence of that in their testimony.

Then in his opening he said he was going to prove that the Communist Party of the United States was a foreign controlled organization. Did he prove that? Even Cvetic the key witness who testified to that when he was confronted with the proposition do you know whether or not, do you have evidence to prove, in two different instances before a congressional committee, he said, "No, I cannot answer that question." And that's the testimony that Mr. Cercione relies on.

Then he said he was going to prove that we're a part of the Communist International. We have shown in the course of the argument that the Communist International was dissolved in 1943 and that we were not affiliated to the organization since then. When I say "We" I mean the Communist Party of the United States. So he is talking about background, nothing that is pertinent to this case, now, within two years of the indictment.

Ladies and Gentlemen of the Jury I'll show you the things that he did not prove that he was going to prove.

Then the only person that he had to back up the so-called statement about affiliations to the Communist International was Crouch, a paid witness, a paid performer who had been disassociated by his own statements from the Communist [fol. 2399] Party since 1942. And we are supposed to have a trial here for things that happened in two years during the indictment which covered the years 1949 and 50. That's the proof he had to rely on.

Then he was going to prove some malicious things that I was going to do which had to do with the infiltration of the plants in this area. What did he prove? Well, he proved nothing on this score, Ladies and Gentlemen. About so-called secrecy—we stated why we had to at times deny membership when we go to work in a plant because no employer wants to have a worker who is a progressive worker working in a plant if he can help it, if he knows about it. Can you put a badge on to yourself or could you ten years ago, a union badge, and go to work in a plant? Could you in 1932 campaign, put on a Roosevelt button and go into a plant, or in 1936? No, you couldn't, and he expects me to put on a communist badge or somebody else when we go to work in a plant. What is the meaning of these words "Infiltration"? To give it a viscous connotation, that's what it is, that our purpose is ulterior, that's what he wants to show.

Then he said he was going to show sabotage done by myself in this area. What evidence was brought out on that? After his opening statement that's all that was said on that. Another lie by the prosecution coming out of the mouth of Mr. Cercone.

[fol. 2400] Then they were going to prove that I was working to infiltrate the army, and ROTC, and the National Guard, and Navy, and so forth. And what did they bring in. This statement of the paid stool pidgeon Crouch who talked about things that happened in 1928—if they happened at all. That's the testimony about the work on the armed forces. That's the proof Mr. Cercone brought out that they issued some kind of a paper called "Red Cadet". When was that—in 1928, if it was put out at all.

Well, Mr. Cercone went so far afield on his questions he had to be stopped by the court "That's a matter of proof, Mr. Nelson," he said, "And you can argue that question to the jury that it is not covered by the period of the indictment". Ladies and Gentlemen of the Jury, that's why I am raising it. Cercone's a lawyer, I am not a lawyer. Why did he bring it in? He knew it was no evidence and he knew he couldn't prove it. Why did he bring it in? He counts on the hysteria. He thinks all he has to do is to stamp his feet and the people are going to jump through

a loop just like these witnesses, that's what he expects you jurors to do, Ladies and Gentlemen. That's why it's brought in. He said he was going to prove what I did at one time in 1931 and thereon until 1938 when I lived in the Wilkes-Barre and Scranton area. Did you hear a single word about that? That's eight years. You might say if I am a criminal character one interested in convict-[fol. 2401] ing me would have brought that record into this courtroom and tell you Ladies and Gentlemen. But that wasn't necessary. All he had to do was to state that I was in the State of Pennsylvania and lived in Wilkes-Barre and Scranton. You ladies and gentlemen did not live there and you are supposed to believe that I did some terrible things. But I will tell you since he didn't bring it out I'll tell you proudly what I have done, things he tried to suppress, things he tried to cover up, I'll bring it out.

Then he said, Ladies and Gentlemen, that he is going to prove I am a spy, and if it did happen as he claims it happened twenty years ago it was known to these stool pigeons, they no doubt reported it, how come nothing happened in connection with that? I will tell you why it didn't happen. Because they couldn't prove any such things. We are a political organization. A working class political party cannot gain it's objectives by conniving and spying and sabotaging and infiltrating—those are the words of the prosecution. We can only win our point of you by force of logic, arguing with people, showing what our position is in open debate and discussion and through struggles that the people go through. And he knows that, yet he said that he was going to prove that I am a spy. The only witness who testified to that was a person whom they brought on the stand who admitted hadn't seen me for twenty years. [fol. 2402] He says he was going to show by volumes of evidence that we sell seditious books and read these books. Well, Ladies and Gentlemen, you have seen already how they interpret these books and I will show in conclusion of this argument today how we interpret these books. We will come back to that question. You saw that these books were read and are being read and freely circulated in all democratic countries. And even according to Musmanno the only place where they couldn't be read was in fascist

Italy and nazi Germany. Even he had to admit that. In other places the people read them and they put what emphasis they see fit on these books, they take out of them what they understand to be right for their country, for their situation, and not what the prosecution wants to prove.

After Mr. Cercone ranted along those lines and shouted and waved a flag he stopped and the court was concerned. The court stated "I didn't mean to preclude you outlining your complete matter before the jury", the court says on page 472. "That's all right," says Mr. Cercone. He says, "I have done that." That was what he outlined. The court urged him to go on, didn't want to stop him but he said he was finished—"I think I have done that", on page 473. And that was the bare outline of the prosecution's case in Mr. Cercone's opening, Ladies and Gentlemen.

I just wanted to call your attention to what the prosecution was going to prove but didn't. I wanted to show you, Ladies and Gentlemen these were statements and assertions based on political bias and prejudice hoping that you would believe this thing that he told you at the very opening of the case when I had no chance to tell you what my defense was going to be. He wanted to make an impression so that the things you have been reading in the newspapers and radio and movies that have always been lined against me will fit in with what he said and clinch and close your minds so that you can't listen to the evidence and arguments and my defense here. That's what he hopes to do. It was a malicious thing, not done by himself. That speech was written by Musmanno for him. He can't even write one like that. And I can prove the words—the language is Musmanno's language.

Ladies and Gentlemen, what is my view of this trial? My position is and nothing the world can change me from believing and understanding that and I want you to hear my story. This is a trial of political ideas, something that rarely happened in America. And it can only happen in a country where there is no freedom of speech, where there is no freedom of thought, where there is no freedom of discussion. Therefore, Ladies and Gentlemen what is on trial here before you is the right to think and the right to

express your opinions. Not only I—but supposing you develop an idea or accept an idea that is not in line with [fol. 2404] the times that say and are accepted by everybody, and you want to express that idea, talk to other people about it. You too would be liable then, especially if your ideas contained something that is against the few who want to rule and want to be in power forever. Books are on trial. Some of these books that they have brought into evidence here are a hundred years old and they have been printed in this country since the civil war—like the Manifesto. They have been printed in this country and circulated freely. And Abe Lincoln, the president of our country, one of the greatest, was in communication with Karl Marx who wrote that document. Karl Marx organized support for the civil war in those days in Europe when the British wanted to help the south. British workers were organized by those who believed in the views of Marx, and the trade unionists who didn't necessarily agree with everything to stop sending ammunition to the southerners at that time. And on the occasion Lincoln wrote a letter to Marx extending his thanks on behalf of the American people for the support given him. And he was familiar then with the Manifesto—they want to burn that book. Just like the Nazis and Mussolinis burned them. That's what these people want to do, Ladies and Gentlemen. And when they burn these books what is going to stop them from burning other books. Who is going to be the judge what books are right or wrong? Who is going to be the judge? In the past in America the tradition was the [fol. 2405] people read the books. They either read them or threw them away. They have that right. It is the acts the people commit that are triable. But not reading the books. How does anyone know what you understand by reading a certain book or what I understand by reading a certain book. They presume to speak and interpret my views. That's on trial, the right to read and the right to think. And Ladies and Gentlemen let me tell you that this type of trial of ideas and books is an ominous sign in our country, is a danger signal, is a straw in the wind—it is a straw in the wind that indicates that our traditional democracy is being destroyed by these type of people and

fascist ideas are being smuggled in under the pretense that they want to defend their country, and they want to defend the constitution and our way of life, and so forth. Nonsense! Mockery and lies, Ladies and Gentlemen! This is an ominous sign. Fascism is being smuggled in by the back door in this courtroom. This is a front door, if you please. This is the way they want to bring it in. Well, Ladies and Gentlemen, I am on trial because I warned the people of this danger. That's why I am on trial. I don't like to see our country go through a horror of fascism and Nazism which you know what that means already from your experience. All of you are old enough to know our recent history. You know that under Fascism freedom of speech is done away with, elections are done away with, the right to criticize—what I am doing here—public officials and policies is done away with completely. They [fol. 2406] want to limit me now, even before we have Fascism. I don't say we have Fascism, far from it. We want to stop it. That's what I am doing here, Ladies and Gentlemen. And one of the things you will have to decide is whether we should open the door to that danger, that menace. Under Fascism police activity and courts are combined. Well, you have seen already what liberties Musmanno takes as a judge, to act as a policeman, arrest you, testify as a witness, stand down here as prosecutor, going to Supreme Court where he is going to pass on you finally if you have to appeal any cases of this type. Police activity and court activity is combined under Fascism. And when Musmanno and Gunther and other judges do this here, bear that in mind, Ladies and Gentlemen. Under Fascism rights of labor are destroyed, no right to organize, and no collective bargaining is left. It is all out of the window. Things that we fought for for a hundred years would be swept out, and the monopolists would have the final word on everything. Under Fascism extreme bigots get to power. Let me tell you what that would mean in our case, Ladies and Gentlemen, as I see it. It would mean that the flag of the K. K. K. will be raised on our Federal Government by the Bilbos, and the Rankins, and Woods, who dominate key committees of our congress. In front of some I had to appear, like Woods who gets elected by

eight thousand votes from Georgia to congress, and Cvetie and Sherman run down there and testify before him and [fol. 2407] they use that evidence against me, that so-called evidence. Those type of people would run the country under Fascism; these bigots. And you know what Hitler did to minorities in Germany. He exterminated six million people and had to brand them to identify them, put numbers on them. And this country it is bad enough even now for certain people and you know who I am talking about. They don't have to be branded. You know what happens to them now. I am speaking of the negro people, the foreign born, and so forth. What happens to them even now? But under a Fascist system which these people are trying to bring in it will be a thousand times worse. That is an issue, Ladies and Gentlemen, before you. The Bill of Rights is on trial which guarantees everyone freedom of speech and assembly. But these people want to pass on the speeches that I make or you make or anyone else makes. They want to be the judges what should be said. That is already a form of censorship, Ladies and Gentlemen. And that exists under Fascism that they are trying to bring in now. And Fascism would lead to constant wars and colonial conquest. Our sons would have to do the battling for the few like the sons in Germany. The boys in Germany had to march off for Hitler. What did they get out of it? Six foot graves—that's what they got out of it, and twenty five million other people throughout the world. Fascism is a menace that we cannot allow, Ladies and Gentlemen, to come into our country and to [fol. 2408] destroy our Constitution and the Bill of Rights. I think this calamity can be stopped, and in a small way, Ladies and Gentlemen, let me tell you that's an issue you have to pass upon. Do you want to open the door to censorship? Do you want to open the door where someone else is going to pass on ideas before they are discussed with the public or outside? In the past, the public either listened to you or didn't. I made many a speech, sometimes to five people because more didn't come. If they didn't, that was their privilege. Those who stayed had a right to listen. But now they tell me I can't even talk to anyone. That's the issue here.

In my fight against this menace and my party's fight against Fascism in this country, we consider the first step is to stop the war program that our government is following at the present time. And you recall a telegram was read from the National Committee of the Communist Party to myself, and Judge Musmanno introduced it into evidence. I am not going to tire you with it. The essence of it was that we called to the end of that war in Korea when it started. We did it both because it was a danger for our country to embark on those type of wars and because the people of our country would gain nothing from it. Therefore, we wanted to stop it. What did we do? We wanted to stop it in a democratic way as best we knew how. We circulated petitions which they took away from us before we had a chance to circulate them. A thousand [fol. 2409] petitions were in evidence which called for peace. Is that a crime to call for peace? We did it because we thought that the stopping of that war and advancing peace Fascism too could be kept from growing into our country. Civil liberties could be defended better in times of peace than in times of war. We wanted to fight and fought for restoration of the freedom of speech, and we wanted to stop these kind of heresy trials which were fomented by the war hysteria at the time. And we thought these things could be accomplished now within our constitution, within our democratic practice. And that's what we did on that issue of war. We contended wars are not necessarily inevitable and necessarily follow because somebody wants them. We think the people could stop this war. Now, there isn't a paper in town that hasn't in one way or other already condemned that war, yet when I went down to see the editor of the Pittsburgh Press when I received that telegram from the National office of of the Communist Party, I went down to the editor and said, "I want you to run this telegram in the paper." He said, "That's not news." He said that's not news but every day tons of ink and paper are wasted to smear my ideas, and I asked him to print them. No, they wouldn't do that, Ladies and Gentlemen. People are liable to find out that other people don't agree with this war. So that one of the issues on trial is the right to advocate peace, the right to call to an

end of this needless war. That's why they want to try [fol. 2410] me. And they said so by inference because they read it. The very first document they introduced here was the telegram from the National Committee of the Communist Party which called for peace. Did they think I was going to be ashamed of this telegram? No, that telegram is going to go down in history as an important document when the little pigmies that are trying to try me here are completely forgotten, swept off the face of history. I stand by it. I don't retract a word in it. Yes, if it is trying to advocate peace, I have done it. And if it is trying to advocate it in a peaceful way within our democratic constitution by letters and telegrams and delegations, resolutions, I have done it. They haven't brought one thing to the contrary that would show that I did anything other than that and my party has done anything other than that on the matter of advocating peace.

This is a trial of a minority political party. This is a trial of a party with which you don't agree or obviously don't know much about. They want to prevent my party from functioning although it has been in existence for thirty-three years, functioned in the United States and known to people who want to know about it. Thirty-three years it has been in existence. And it had carried on some noble work in behalf of organizing labor, in behalf of organizing the unemployed, and in behalf of fighting for the negro people and their rights and other minorities that no [fol. 2411] party of a size can boast of that kind of a record. They want to shut that party off, they want to try me here for what I have done and urged over a score of twenty years, and my work was an open book. I ran as a candidate, I spoke at hundreds and hundreds of meetings, union meetings, unemployed meetings, election meetings, all sorts of stuff like that. The people who wanted to know could have known about my activities. There was nothing hidden. But twenty years later they want to bring me on trial because they need a victim now. They think I am a good victim for them. Because I refuse to cringe and bow before them. I will never do that, if that's the last act I have to perform in life. I already told you Mr. Cer-

cone was reluctant to dig up my record and bring it in here.

Ladies and Gentlemen, we are in a dangerous path if these kind of trials continue. I told you in my opening and I want to remind you my witness, Dr. Aptheker, already dealt with that question. Being an historian he was well qualified to go into the question. This is not the first sedition trial in the history of our country. The very founders of our country, the writer of the Declaration of Independence, Thomas Jefferson and James Madison, his friend and co-worker—that is their friends were tried in 1798 in this country. They were tried all over this country. There weren't so many people here so there weren't so many courts. There was one judge who travelled from [fol. 2412] Boston all the way down South from town to town and they tried seditionists. And who were they? They were Jeffersonian democrats. Why were they being tried? Almost for identical reason I am being tried—in one respect—that they didn't want to have this country go to war against France. France had just overthrown the king to the monarchy and set up a democratic republic. And they wanted to have a democratic republic at the time and the American people who themselves kicked out the British and the King sympathized with France. What did they do. They took Judge Cox from Boston throughout this country and tried congressmen, they tried two newspaper editors, one an Irishman in Philadelphia, and a German American in Philadelphia, and they tried them all over this country and they found them guilty of sedition. And they are hollering about sedition. Do you know, Ladies and Gentlemen, after Jefferson came to power two years later, those viscious bills were repealed and the people who lost property because they were in jail, unjustly put in jail, the congress repaid their losses. That is about the only time I know about that congress has done such a thing. The first seditionists so-called in this country, the Jeffersonian democrats, they were reimbursed by congress for their loss. And now what remains of the sedition act of 1798 is a shameful blot on the history of this nation that could not be revived until 1919 in this country when the