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left Georgia because I wanted to devote my full time to the work of the Communist Party and the Labor movement.

The Court: All right.

A. (Continuing) And thereafter gave up the general practice of law.

The Court: Yes.

I am not sure that the jury heard the whole answer.

Will you read it, Mr. Reporter?

(Record read.)

The Court: It was that last part that I wasn't sure the jury heard.

By Mr. Sacher:

Q. What was the first position that you assumed when you came to New York, Mr. Davis? A. I became editor of the Negro Liberator, which was a Negro weekly.

Q. Would you briefly describe your duties as editor of the Liberator? A. They were the usual editorial duties on a newspaper. You write editorials and supervise (T-9397) the publication of a paper, and the big work and activity of the Negro Liberator during the time that I was editor was its conduct of a campaign against the threatened invasion of Ethiopia by Mussolini.

Q. How long after you became editor of the Liberator did the magazine continue publication? A. I think for around a year.

Q. And did the Liberator give up publication some time in late 1935 or some time in the year 1936? A. I think it was late 1935.

Q. What position did you assume after the Liberator ceased publication? A. I became a member of the staff of the Daily Worker as a reporter and feature writer.

Mr. McGohey (To Mr. Sacher): Pardon me. Was that 1936?

Q. What year was that, Mr. Davis? A. I think that was January 1936.

Q. Have you since that time been connected with the Daily Worker in various capacities? A. I have.

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Q. Will you be good enough to state briefly each capacity in which you have been connected with the Daily Worker and the period of time during which you filled each such capacity, if you will? A. Well, I was a member of the reportorial staff from about 1936 to about 1938, I think. Then I became a member (T-9398) of the editorial board.

Q. Does the "then" refer to 1938, Mr. Davis? A. Yes. Then I became a member of the editorial board and then I remained a member of the editorial board until I later left my work on the Daily Worker.

Mr. McGohey: When was that?

A. (Continuing) Then in addition—

Mr. McGohey: May we have that date, please?
The Witness: The latter part of 1942.

The Court: 1938 to 1942, you were on the editorial board?

The Witness: Editorial board.

* * *

A. (Continuing) Then about 1940 I became a member of the Board of Directors of the Freedom of the Press Publishing Company, which publishes the Daily Worker and The Worker, and as a member of the board of directors I was elected to the office of secretary-treasurer. I think this was also in 1940.

Then in 1944 I believe I became vice-president of the Freedom of the Press Publishing Company—the latter part of 1944.

Then I think early in 1946 I became president of the Freedom of the Press Publishing Company, which is my present title.

(T-9399) In addition to this I have during the whole period from 1936 until now in one way or another written for the paper and consulted with the paper and worked in one way or another with the paper either as a columnist or a writer or in some other respect.

Q. Were you a member of any labor organization of newspaper men during any portion of the period during which you have been connected with the Daily Worker? A. I was a member of the New York chapter of the American Newspaper Guild from about—from the time I was on

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the Liberator up until 1940, when I became a member of the board of directors of the Daily Worker and then had to resign, or rather, gotten an honorable discharge from the union because then I became a part of the employing part of the paper.

(T-9400) Q. By the way, Mr. Davis, at page 1390 of the transcript Budenz testified that about a year and a half after he became president of Freedom of the Press Company, Inc., which was in the summer of 1940, he was appointed to the position of managing editor of the Daily Worker by William Z. Foster and Eugene Dennis. Do you recall that testimony? A. I do.

Q. I think you have testified that at that time you were a member of the editorial board of the Daily Worker, is that right? That is, at the time that Budenz became managing editor of the paper. A. Yes, I was.

Q. Do you know how Budenz became managing editor of the paper at that time? A. Yes.

Q. Will you please tell the jury? A. I think it took place around the latter part of '42. An editorial board meeting was called by myself—I was then acting managing editor of the Daily Worker—and this board meeting was called for the purpose of selecting a managing editor because I had already applied for release in order to—

Q. For what? A. —for release from my work on the Daily Worker in order that I could go to Harlem and become an officer of the Party in Harlem. So I called a meeting and at this meeting Budenz was nominated by someone in the meeting as managing editor, and then a (T-9401) little speech was made, especially by Budenz, saying—pledging his loyalty to the paper and to the Communist Party and to the working class, and that he felt very much that he wanted it and that he could do a very good job and that he would not—never betray the working class and never betray the people nor the Party, and on the basis of that, well, we voted for him, and that is how he became managing editor of the paper.

Q. Was Mr. Foster present at this meeting of the editorial board? A. I cannot recall.

Q. Was Mr. Dennis present at this meeting of the editorial board? A. I am not sure.

Q. In any event, he became managing editor in the manner which you have testified to? A. Yes, he was elected to the post.

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editorial board of the Daily Worker did he assume his duties as managing editor? A. Well, I think immediately.

Q. How soon after this election of Budenz by the I cannot recall any great lapse of time between his election and his assumption of duty.

Q. Now, Mr. Davis, if I may, I should like to take you back for a moment to the year 1935, after you came to New York, and ask you whether you were arrested in that year in the City of New York? A. I was.

* * *

(T-9402) Q. Will you briefly state the circumstances surrounding that arrest? A. Why, I think it—the circumstances took place in the first part of 1935, during the first six months, I think, but this much I am certain about: a strike had been called by the Newspaper Guild members who were—of the Amsterdam News, which was a Negro weekly at that time, because of failure to recognize the union. The Newspaper Guild of which I was a member at that time gave full support to the strike and we had mass picket lines in front of the Amsterdam News at the corner of 135th Street and Seventh Avenue, and this was considered by us, as members of the Guild, as very important because this was one of the first efforts to organize Negro newspaper workers.

The Court: You say this was a mass picket line?

The Witness: Yes, mass, yes. By "mass" I mean maybe 35 or 40 people.

The Court: But more or less crowded together?

The Witness: Yes.

The Court: Yes.

A. (Continuing) And the picket line was led by Heywood (T-9403) Broun, who was at that time president of the American Newspaper Guild, and along came the police and told me to stop picketing. We didn't stop picketing, so we were all put in the maria there and carried right on down to jail. I think Heywood Broun was one of them. We all got, I think, \$10 fines and suspended sentences. That is the incident.

Q. What was the charge, disorderly conduct? A. As far as I can recall, it was.

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Q. Now, you have described for us, Mr. Davis, your activities in connection with the Daily Worker for the period from early 1936, I think, down to the latter part of 1942, is that right? A. Yes.

Q. Did you during that same period of time engage in activities as a member of the Communist Party, that is to say, activities other than those which you engaged in on the Daily Worker? A. Yes. I was a member of the Communist Party in Harlem, the Harlem section of the Communist Party, and functioned there as a Communist Party member and participated in some of the earliest activities of our Party in the form of picket lines and demonstrations in Harlem to break down job discrimination against Negro workers in the Harlem community.

Q. Were there any other activities that you engaged in during that—I am speaking now of a span of six (T-9404) years, Mr. Davis, that is, from early 1936 down to the latter part of 1942? A. Well, there were the usual activities of our Party in Harlem at that time, which consisted of fights or struggles and activities and meetings and demonstrations around the questions of high rent, poor food, adequate hospital care for the people in Harlem—there at that time they only had Harlem Hospital, which was called “The Butcher Shop” at that time—and the activities designed to bring about unity among the people in Harlem, which is not alone the Negro people, although they are the essential people there, but among the Porto Rican people, the Jewish people, the Irish people, the Italian people. Constantly there were all types of activities to develop the unity, the equality and mutual respect among these peoples for the improvement of the Harlem community.

Q. I think you testified earlier, Mr. Davis, that you continued to work in behalf of both Angelo Herndon and the Scottsboro boys up to some time in 1937, is that right? A. Yes.

Q. And these—

The Court: You said “about three years.” I gather that was from some time in 1932. Maybe; I don’t know.

The Witness: About—

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(T-9405) Q. Give us, if you can, your best recollection.
A. About three years from 1933. I meant by the three years, your Honor, on the question of my legal work in the Herndon case.

The Court: Yes.

A. (Continuing) And then after that I was constantly active in the mass defense of the case, speaking and carrying on other activities to arouse the people of the country to the significance of these two cases.

Q. And until what year, if you recall, did you carry on these extra legal activities in connection with those two cases? A. Well, this continued until—well, for Herndon, it sort of stopped after the Supreme Court decision in 1937, but it continued for some time while I was on the Daily Worker, where I would constantly be released for trips and activities throughout the country in defense of the Scottsboro boys.

Q. Did there come a time when you were elected to the position of secretary of the Harlem division of the Communist Party? A. Yes.

Q. When was that, Mr. Davis? A. That was in the latter part of 1942.

Q. Will you please tell us briefly what your duties as secretary of the Harlem division were? A. Well, the main duties, of course, were to (T-9406) participate as a Communist in the life of the community, to be responsible for the functioning of our Party, its task of developing activities in the interests of the workers and the people of the community. It was during the time of the war so quite a bit of our activities as Communists in Harlem in 1942, and my duties as secretary of the Party of Harlem, were to develop the greatest type of activities with respect to the winning of the war and to fight against all manifestations of Jim Crow, reaction or oppression, which were seriously interfering with the prosecution of the war, and to build the Party in Harlem.

Q. And were the activities that you engaged in activities which fell within the area of your duties as you have described them here? A. They were.

Mr. Sacher: Will you be good enough, Mr. Borman, to mark this.

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(Marked Defendants' Exhibit 8 x T for identification.)

(T-9407) Q. Mr. Davis, I would like to ask you a question or two concerning the Harlem division of the Communist Party. Would you be good enough to tell the jury briefly what that division was, what it consisted of, and who the members of the division or of the clubs affiliated with the division were, if you will? A. Well, the Harlem division of the Party comprised many sections of the Party which came together under sort of regional apparatus called the division, and these sections consisted of a lower Harlem section, which consisted in turn of the Negro people there, the Porto Rican people, the Italian people who lived in lower Harlem; it consisted of the central upper Harlem area which was largely populated by the Negro people; and it consisted also of a lower section of the Washington Heights area where you have a large contingent of the Jewish people and the Irish people and other minority groups.

Q. Does the Harlem division or did the Harlem division in the period we are speaking of represent a geographical division or a racial and national division? A. Oh, it represented a geographical division.

Q. And was there any division of clubs or sections within the division on the basis of race or color or religion or any other division? A. No; most of the clubs consisted of members of many different races and nationalities (T-9408) and creeds.

Q. Does the Communist Party anywhere have any segregated clubs or divisions or sections?

Mr. McGohey: Objection.
The Court: I will allow it.

A. It does not have.

Q. Now, Mr. Davis, I show you Defendants' Exhibit 8 x T for identification, and with the Court's permission I would state the title if it is agreeable, and if not I won't—

Colloquy of Court and Counsel

The Court: Yes, you may do that.

Q. —which is a pamphlet entitled “The Negro People and the Communist Party” and ask you whether you wrote this pamphlet in your capacity as secretary of the Harlem division of the Communist Party (handing)? A. Yes, I did.

Q. About when did you write it, Mr. Davis? A. I think some time during the early part of 1943—February or early March.

Q. Does Exhibit 8 x T for identification contain any part of the teaching and advocacy of the Communist Party as of that time?

Mr. McGohey: Objection.

The Court: Sustained.

Mr. Sacher: Is it on the ground that that is (T-9409) irrelevant?

The Court: You see, that is the kind of thing we have been over dozens of times because it seems to be thought by counsel for the defense if they ask somebody if a part of a book or paper is part of the teaching of the Communist Party then they want to put that book in. To show what the teaching and advocacy is the way that has been established is to fix the time, fix the place and show who was there and show what the teaching actually was. Otherwise you get mere conclusions and general statements which I allowed for a time, but I have found that they merely added confusion to the record and so I stopped it and we have had quite a bit of discussion about it. So you can accommodate yourself to my ruling and get in this testimony without the generalities.

Mr. Sacher: Thank you.

The Court: And I think I may say too—although doubtless you have read the record for the times you were not here—that I have tried very hard in this case to give the defendants more than ample opportunity to show the various social reforms that they said they advocated and we have heard a great deal here about many of them. Now I have felt and I have expressed myself as feeling that if we have an interminable amount of repetition of (T-9410)

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that same sort of thing it is not going to do anybody any good, it will merely confuse the issue here, and with a case that is already almost six months time in trying it is absolutely essential that we eliminate that.

I notice with this pamphlet there is a good deal that is in there that has been said in this trial I don't know how many times, and also again in substance by Mr. Davis here now. I don't want to prevent anybody from getting their position on such a matter before the jury, but I do want to have the repetition cut down to a minimum.

Now I think if you just try in a serious way to accommodate yourself to that suggestion that it will be a real service to your client and in every way helpful.

Mr. Sacher: I think it would be appropriate at this time to assure your Honor that I have very few exhibits to offer through Mr. Davis and we have tried to accommodate ourselves to that situation.

The Court: Very well.

To be specific, you have got a little reference in that pamphlet which I saw in one of the paragraphs that you had marked there which had to do with just what Mr. Davis was testifying here with reference to the position that he took during the war and why it was important, particularly then, to try to have discrimination (T-9411) eliminated; and I would suppose that that particular part you might put in evidence here but not all that repetitious business about Jim Crow and so on which I really am sure that we all thoroughly understand here and which he has also testified to as well. It isn't that I desire not to have the position of the defendants made fully plain but there does come a point where repetition is of no value, no value to the defense it seems to me.

Mr. Sacher: To give your Honor an indication of what our approach to this has been I would like to say it has been my intention to offer the following —perhaps without going through the preliminaries and consuming time I could state the passages to

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your Honor and to Mr. McGohey as follows: we intended to offer the portion of 8 x T for identification commencing with the last paragraph on page 4 and going continuously to the middle of page 9. Then the third paragraph on page 10 and the last three paragraphs on page 15.

Mr. McGohey: That is a separate offer? *

Mr. Sacher: Yes.

Mr. McGohey: Just the third paragraph on page 10?

Mr. Sacher: And the last three paragraphs on page 15.

(T-9412) If your Honor wishes to save time we can by-pass the question of meetings, etc. and I will make my offer of these passages.

The Court: I think that is a good idea. You can show it to Mr. McGohey and if we can continue to make the progress that you have made with this witness here it will save a good deal of time.

* * *

(Short recess.)

(T-9413) The Court: Yes, Mr. McGohey.

Mr. McGohey: If the Court please, I object to the receipt in evidence at this time of the parts of Defendants' Exhibit 8 x T which had been offered (handing to the Court).

The Court: I don't think I understand what you mean by "at this time."

Mr. McGohey: Well, the point, then, if I may state my ground, I believe at this time there is no proper foundation for the admission of any part of Exhibit 8 x T.

The Court: Well, let me look at the parts referred to.

* * *

Mr. McGohey: If your Honor desires and permits me, I will elaborate on that.

The Court: Oh, yes, I see what you mean by some of this.

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Mr. McGohey: Well, it is not entirely on the subject matter, your Honor, that I base my objection.

Mr. Sacher: Well, if it is not on the subject matter may I be enlightened as to what it is on?

Mr. McGohey: I will be glad to do that. I have asked the Court for permission after he has looked at it.

The Court: Yes; let me familiarize myself with these three places.

(T-9414) Mr. McGohey: Yes.

The Court (After examining): Yes, Mr. McGohey.

Mr. McGohey: If the Court please, the only testimony with respect to it that I recall is that Mr. Davis wrote it. There isn't any testimony as to the circumstances of its publication or whether it was distributed or whether it was distributed as a Party document, or whether it was taught any place or how it was used in the teaching and advocacy, if any, of the Party or Mr. Davis personally.

The Court: I think the state of the record is now that Mr. Davis said as secretary of the Harlem division of the Communist Party he wrote the material that is in this pamphlet, and as to the use to which it was put I think you are quite right, and Mr. Sacher can perhaps pursue that subject and I will rule on the offer a little later.

By Mr. Sacher:

Q. Mr. Davis, did you, after the publication of Exhibit 8 x T for identification, personally distribute copies of this pamphlet among residents of Harlem at or about the time of its publication? A. Yes.

Q. And was this distributed as a document purporting to contain any part of the teaching or advocacy of the Communist Party at that time?

(T-9415) Mr. McGohey: Objection.

The Court: Sustained.

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Q. Do you know whether any other members of the Communist Party in Harlem distributed copies of 8 x T for identification?

Mr. McGohey: Objection.

Mr. Sacher: Well, I do not—frankly I do not know what he is objecting to.

The Court: Why don't you wait until I rule, Mr. Sacher?

Mr. Sacher: I am sorry.

The Court: Did you actually see them handing them around?

The Witness: Yes.

The Court: All right.

Mr. Sacher: I offer it in evidence. I offer those passages in evidence, your Honor.

The Court (After examining): I will sustain the objection to the first part of the offer, and overrule the objection as to the last two. In other words, I will receive in evidence the paragraph indicated on page 10, which I think, Mr. Sacher, you erroneously described as the third paragraph. It is the second full paragraph.

Mr. Sacher: I think your Honor is right about that.

The Court: And I will also receive the last (T-9416) three paragraphs on page 15.

(Marked Defendants' Exhibits 8 x T-1 and 8 x T-2.)

The Court: You may either read those yourself, Mr. Sacher, or have Mr. Davis read them, whichever you prefer.

Q. What is your preference, Mr. Davis? A. It doesn't make any difference.

Q. What is that? A. It doesn't make any difference.

The Court: I think, perhaps, it is usual to have counsel read them, and, perhaps, it is better, if it doesn't make any difference, but my disposition is to permit you to do whichever way you prefer?

Mr. Sacher: May I then ask Mr. Davis to be good enough to read these?

*Excerpts From Defendants' Exhibits 8 x T-1 and 8 x T-2,
Read into Record*

(T-9417) The Witness: "There are some people who say that for the sake of national unity in the war we must give up the fight for Negro rights and keep quiet about the terrible wrongs that are being done to the Negro people. The Communist Party does not agree with this false idea. Some other people say that because of these frightful wrongs the Negroes should oppose our country's victory in this war, or place demands against the war—saying in effect that we will support the war only 'if this' or 'if that.' Neither does the Communist Party agree with these people. Such people are doing the greatest injury to the liberation of colored Americans and to the cause of the nation. If either one of these wrong alternatives were followed only Hitler and the fascist-minded men of our own country would gain."

"It is not enough for you to support the Communist Party's program, as vital and important as that support is. You should become a member of the only party which today represents the fighting traditions of the Negro people. You are not content to sit on the sidelines, even though you are in the cheering section, while others, skilled in the science of world affairs, play on (T-9418) the team. You yourself want to become a conscious, creative individual in fashioning victory and a better world. Only by joining the Communist Party can you acquire that political understanding and scientific personal guidance which will enable you to perform your duty to your people and your nation. Neither can you fight for the full liberation of your people unless you understand the relation of that fight to the building of the labor movement and are equipped to take your place in the vanguard of the world forces which will destroy Hitlerism and shape a free, equal and peaceful world.

"Membership in the Communist Party does not require that you give up your civic, church, religious, social or labor organization or affiliation. It adds clarity and political understanding to your efforts in every sphere of activity.

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"If you are a Negro worker, farmer, intellectual or professional who wants to play his part in achieving the victory of the United Nations and the liberation of all peoples, then you should join the Communist Party today."

(T-9419) Mr. Sacher: Thank you, Mr. Davis.

Q. Now, Mr. Davis, while you were secretary of the Harlem Division of the Communist Party did you some time in or about the fall of 1942 become a candidate of the Communist Party for public office? A. I did.

Q. For what office were you nominated? A. Congressman at large.

Q. Is it correct that there are two Congressmen at large to be elected from the City of New York periodically? A. There were at that time.

Q. And you were one of the two nominated by the Communist Party in 1942? A. I was.

Q. Did you conduct a campaign in connection with and in support of your candidacy in the fall of 1942? A. I did.

Q. And did you in the course of that campaign make any speeches? That is the end of my question. A. Yes, many.

Q. Were those speeches made in the City of New York? A. They were.

Q. And during what period of time were they made? A. Largely it occurred just preceding election, September and October, at the heat of the campaign.

Q. Did you in the course of those speeches discuss the question of force and violence? A. I did.

(T-9420) Q. Were there any other questions that you discussed in the course of your campaign in those speeches?

Mr. McGohey: Objection.

The Court: Sustained. I suppose it is obvious that he did discuss a number of subjects.

Q. Was the substance of what you said on the subject of force and violence in the speeches that you made substantially the same? A. Yes.

Q. Will you please tell the Court and jury what you said on that subject? A. Well, I pointed out that one of the biggest issues in that election campaign was the necessity to stop force and violence which was being practiced

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against the Negro people, particularly through the medium of police brutality against the people in Harlem and elsewhere; and that it was also a part of that campaign to particularly stop the whole system of force and violence which is imposed upon the Negro people in the deep South and against the labor movement.

I pointed out that it was necessary for us to do everything possible as Americans, democratic Americans to win the war, and I pointed out that it was a part of that struggle to smash this Jim Crow system here in America, to outlaw anti-Semitism and all kinds of racial and religious discrimination.

(T-9421) I also pointed out that this has a direct relation to the necessity to establish socialism in America and that wherein our Party and I as a candidate of my Party fought for every immediate interest of the workers, for the elimination of the poll tax, and to get an anti-lynch law, to strengthen the labor movement, to get more representation for the Negro people in this country who were—who are one-tenth of the population and got just exactly two Congressmen, who are one-tenth of the population here in New York City and got one Councilman; and the whole disfranchisement system, wherein we can improve this and must improve this system immediately in every way we know how, but that the only way that this thing is just going to be wiped out is to establish socialism in this country. And this was the nature of my speeches and activities during the campaign.

(T-9422) Mr. Sacher: Will your Honor excuse me just one moment?

The Court: Yes, I will.

Mr. Sacher: Will you be kind enough, Mr. Borman, to mark this—that article (indicating)?

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

By Mr. Sacher:

Q. Mr. Davis, I show you Defendants' Exhibit 8 x U for identification, and ask you whether what purports to be an article written by you in the October 20, 1942, issue

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of the magazine New Masses, was in fact an article written by you in support of your candidacy for Congressman at large in the fall of 1942? A. It was.

Q. Was the magazine in which this article appears a magazine of national circulation at the time? A. So far as I know, yes.

Q. It was sold at the newsstands in New York? You have seen it sold, have you? A. Yes.

Q. And did you write that article that appears in the magazine? A. I did.

Q. And was it in connection with your candidacy that you wrote that article? A. It was.

Mr. Sacher: I offer it in evidence, your Honor.
(T-9423) Mr. McGohey: This is objected to, your Honor.

The Court: I am going to allow it because I want sufficient in the record to give a little body and substance to the political activity that he had and I suggest that there not be any multiplication of this sort of proof, as I am allowing it for that purpose.

Mr. McGohey: If the Court please, may I make a statement to the Court?

The Court: Yes, Mr. McGohey, I will hear you.

Mr. McGohey: I assume that this exhibit is going to be read and I think the jury at the time it is read ought to be instructed that the allegations alleged to be facts are merely something the witness said in a speech, that that is not necessarily proof.

The Court: I think the jury understands that just because there is something in some of those articles that that necessarily means that the article states what is the fact. All of these speeches and statements of one kind or another are received with that understanding; so I don't think I need any special instruction on that. It is just on the same basis as the rest of these things, but I am allowing this particular one because of the contention that the defendants in their activities as members of the Communist Party were engaged in legitimate (T-9424) political activities and not the sort of conspiratorial activities as were charged in the indictment; and

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

while that might be sufficiently shown by the defense by the proof that Mr. Davis ran for office as Congressman at large I think it better to permit enough other material to give a little body and substance to that, which is what I tried to do with these other matters. So I am going to receive it. It is a little remote from what we have been trying, but I shall receive it.

(Defendants' Exhibit 8 x U for identification received in evidence.)

Q. Would you be good enough, Mr. Davis, to read it to the jury? (T-9425) A. The heading is "Ben Davis, Jr."—

Q. May I ask you, please, to raise your voice a bit? A. The heading is "Ben Davis, Jr. Communist Candidate for Congressman-at-Large, New York."

And then what follows is what I wrote:

"Among the win-the-war necessities on the home front are the breaking down of age-old injustices against the Negro people and the speedy integration of Negroes into industry, into the armed forces, and into the governing councils of the nation, on the basis of full, untrammeled equality.

"Both Farley's John Bennett and Hoover's Thomas Dewey are stooges of the appeasement and defeatist forces primarily responsible for the Jim Crowism and anti-Semitism that seriously endanger victory. As attorney general of New York State, Mr. Bennett has never prosecuted a single unpatriotic employer who refused to give jobs to Negroes, Jews, Catholics, foreign-born, or other loyal minorities. Mr. Dewey never prosecuted, when he was district attorney of New York County, a single discriminating employer denying equal job rights to Negro citizens.

"A vote by a Negro citizen for either Bennett or Dewey is worse than wasted. It is a vote for the poll tax and Talmadgeism in the South and for

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(T-9426) Christian Frontism and racial discrimination in the North. The only way for the Negro people to register their win-the-war, anti-Jim Crow sentiment is by voting outside the columns of the two major parties, by electing victory candidates irrespective of their party label. It is an honor to me and to my people to be designated as a candidate on the Communist Party ticket and to have as my running mates such tried and tested fighters as Israel Amter, candidate for Governor, and Elizabeth Gurley Flynn, for representative-at-large. A vote for our slate is a vote by the most conscientious anti-fascist citizens in New York State who see clearly that the second front now, the equality of the Negro people, and a centralized war economy are urgent for the speedy victory of our nation over the common enemy."

Q. Were you elected at that time, Mr. Davis? A. No, I was not elected.

Q. How many votes did you receive, if you recall? A. I think a little bit over 50,000.

Q. Were you again a candidate for public office in the following year, that is, in 1943? A. I was.

Q. For what office were you a candidate? A. For the (T-9427) City Council of New York.

Q. By what political party were you nominated for that office? A. The Communist Party.

Q. Will you briefly state the circumstances under which you were nominated to run as Communist candidate for Councilman for the Borough of Manhattan? A. Well, there was—

Mr. McGohey: Objection.

The Court: Sustained.

Q. Had there been a Negro Councilman in the Council of the City of New York during the period 1941 to 1943?

Mr. McGohey: Objection.

The Court: Sustained.

Q. Was it some time in the month of September 1943 that you were nominated for the office of Councilman? A. I think it was.

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Q. And did you, in the course of that campaign in 1943 make a number of speeches throughout the Borough of Manhattan? A. I did.

Q. During what month did you make those speeches? A. During—primarily during September and October.

Q. And will you state generally where these speeches were made in the Borough of Manhattan? A. They were made from the street corners in Harlem, from the street corners in other parts of Manhattan, in the indoor rallies, (T-9428) at forums; I think there were one or two speeches over the radio.

Q. Did you, in the course of these speeches, discuss what you regarded as teaching and advocacy of the Communist Party?

Mr. McGohey: Objection.

The Court: Sustained.

Q. Can you fix the exact time and place of any of the speeches that you made in the course of that campaign?

A. Well, I made so many it's very difficult.

Q. Was the substance of the speeches that you made during that period substantially the same? A. Yes.

Q. Did you, in the course of that campaign discuss the questions of force and violence and socialism? A. I did.

Q. Will you please tell the Court and jury what you said concerning those subjects? A. Well, I said those things which were substantially the policy of our Party at that time and—

Mr. McGohey: I object to that, your Honor, and I move to strike it out.

The Court: Strike it out as a characterization.

Mr. Sacher: Your Honor, if I may, I can't conceive how Mr. Davis, who has occupied all these positions and is the candidate of his party, is not (T-9429) permitted to state what he regarded as the teaching and advocacy of the Communist Party, and that is one of the issues in the case.

The Court: You asked him what he said.

Mr. Sacher: All right.

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Q. Will you be kind enough, Mr. Davis, to state the substance of what you said on those subjects? A. I pointed out again that we had a big responsibility here in New York City in continuing in the City Council a tradition that had been established by the election of the first Negro to the City Council; that that first Negro was the Reverend Adam Clayton Powell and that he had endorsed me as his logical successor and that it was very important that we have at least one Negro in the City Council of New York.

(T-9430) Mr. McGohey: I object to any more of this.

The Court: I will make a little suggestion here. You were asked what you said in these speeches on the subject of force and violence. You may remember that a few minutes ago Mr. Sacher asked a question which would have elicited an answer as to whether there had ever been a Negro Councilman before and I sustained an objection to it; and yesterday afternoon, when you brought in the question about the death penalty being involved in the Herndon case, after I had just sustained an objection to a question about that, I told you, in substance, I said, "Please don't do what Mr. Green has been doing here and bring in the very things that I have ruled out." Now, you see, in answering this last question about what you said on the subject of force and violence, the first thing you went to do was to explain that somebody was the first Negro councilman and so on.

Now, I think you are an intelligent man. You can easily avoid doing that. Go ahead and tell us what you said in these speeches, which you said were substantially the same in each one on this subject of force and violence.

A. (Continuing) Well, I pointed out that the Negro people in this country are the victims of a system (T-9431) of force and violence which hasn't yet been eliminated.

I pointed out further the great number of years that had been fleeting by while Negro people, plus their working class and democratic allies, had been trying to get an anti-lynch bill passed; and that this force and violence—

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system of force and violence against the Negro people was perpetrated by legal and by extra-legal means, and that it was a curious thing that this force and violence was practiced against the Negro people but the perpetrators of this force and violence were never brought to justice.

I pointed out that as a member of the City Council I was going to make it my—one of my No. 1 responsibilities to see that the force and violence, which had been so often imposed upon the Negro people in this city in the form of police brutality, was wiped out. And I gave them—I spoke and gave them many examples of this force and violence, like in March 1935, when there were—when there was just a field day of force and violence against the Negro people in Harlem.

I then said that anything that I possibly could do in the City Council on this question, that I was going to do, and because I considered this not alone the question of force and violence against the Negro (T-9432) people, I considered that the long existence of the system of force and violence against the Negro people in this country has been the very springboard for force and violence against other minority groups in America, not the least of whom are the Mexican people, and the Porto Rican people, and the Jewish people, and Catholic people in certain parts of this country, and so this was one of the big items in my campaign, and I pledged that I was going to introduce legislation in the Council and vote for measures in the Council that were designed to carry out this business of stopping force and violence against the Negro people.

The Court: Mr. Davis, in these speeches that you made did you at any time undertake to answer the charge that the Communist Party advocated the overthrow of the Government by force and violence?

The Witness: Yes, many times.

A. (Continuing) I said about that, that that is just a pure slanderous and Hitlerian distortion of the position of our Party in this country, and this I discussed very many times and pointed out that this business of charging the Communist Party with force and violence was one of the very strangest things in the world, coming to me, because as a Negro, to tell me about practicing (T-9433) force and vio-

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lence as a Communist when all my life I had been hounded by this both as a Communist and as a Negro, well that just didn't make sense; and that this is a charge—of force and violence—that usually comes from Fascist sources and that it is usually uttered against the Communist Party in order to hide the real forces of force and violence, who are the Ku Kluxers, the terrorists, and the lynchers, and the police brutes who attack the Negro people and who attack other sections of the working class in this country.

That is the way I answered that question.

Q. Mr. Davis, I ask you solemnly to tell this jury whether you ever in your life taught or advocated the use of force and violence for the overthrow of the Government of the United States or for any other purpose? A. No, I never did.

(T-9434) (Marked Defendants' Exhibit 8 x V
for identification.

By Mr. Sacher:

Q. Mr Davis, did you in the course of your 1943 campaign for City Councilman make a number of radio speeches? A. I did.

Q. I show you Defendants' Exhibit 8 x V for identification and ask you what it is? A. It is a radio speech that I made over Radio Station WMCA on October 20, 1943.

Q. Did you read the speech as it appears in Exhibit 8 x V for identification? A. Yes.

Q. Did you file the speech with the radio station before you delivered it over the air? A. I think I did.

Mr. Sacher: I offer it in evidence, your Honor.

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

The Court: Sustained.

Q. Did you in the course of your 1943 campaign in speeches which you made either on street corners or over the air discuss the relationship between racial discrimination and the prosecution of the war?

Mr. McGohey: Objection.

The Court: Sustained.

(T-9435) He has already covered that.

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Q. Were you elected to the New York City Council in the fall of 1943? A. I was.

Q. And how many votes did you receive at that time, Mr. Davis? A. I was elected by about forty-three or forty-four thousand votes counting all choices.

Q. For how long a term were you elected in November 1943? A. For a two-year term.

Q. Commencing as of January 1, 1944? A. Yes.

Q. After your election were you sworn in as a Councilman? A. I was.

Q. When? A. I think in the latter part of December of 1943.

Q. By whom?

Mr. McGohey: I object, your Honor.

The Court: Sustained.

Q. Will you please state the substance of the oath which you took at the time that you were inducted into office?

Mr. McGohey: Objection.

The Court: Sustained.

Mr. Sacher: You mean, your Honor, you won't permit me to show that he swore to uphold the Constitution of the United States?

Mr. McGohey: I object to that.

(T-9436) The Court: Do you desire to make an argument, Mr. Sacher?

Mr. Sacher: I do.

The Court: I don't desire to hear you now. I don't think I need any argument on that.

Q. Mr. Davis, does the Constitution of the State of New York contain provision for an oath to be taken by elected officials within the State?

Mr. McGohey: Objection.

Mr. Sacher: I will ask your Honor if I am not permitted—

The Court: If you merely want to bring out that he swore to support the Constitution of the United States, I will permit that.

Colloquy of Court and Counsel

Mr. Sacher: I don't want to "merely," your Honor; I want to bring out that Mr. Davis swore not only to support the Constitution of the United States but also the Constitution of the State of New York.

The Court: I say I will permit him to say that he swore to uphold the Constitution of the United States.

Q. Did you take such an oath, Mr. Davis? A. Yes, I took an oath to uphold the Constitution of the United States, to uphold the Constitution of the State of New York, and to perform faithfully my duties as a member of the City Council of the City of New York.

(T-9437) The Court: Now you know, Mr. Davis, I don't like to be unpleasant about these things but I have been having considerable experience here in these months and I have warned you now two or three times not to bring in matter that I have just excluded, and you look at me and smile and then the next opportunity that arises you do it again.

Mr. Sacher: Your Honor, I don't think that is correct.

The Court: Mr. Sacher, I don't want you to argue about this. I am telling you what he did and telling him, and he is the man that I am particularly addressing myself to. I hope that he will not do it again. You asked a question as to the oath that he swore to, I sustained an objection to it, upon discussion I stated I would permit him to testify that he had sworn to uphold the Constitution of the United States and I had ruled out the balance of the oath. The minute you asked him a question which solely related to his oath to uphold the Constitution of the United States he took occasion to bring in the rest of the oath that I had excluded. This is the third time he has done it. I cannot regard it as an inadvertence.

Mr. Sacher: Does your Honor really think that the addition of the fact that he swore to uphold the (T-9438) Constitution of the State of New York and faithfully perform his duties as Councilman requires this admonition?

Colloquy of Court and Counsel

The Court: It isn't a question of materiality or lack of materiality; it is a question of obeying my commands.

Mr. Sacher: If that is the issue I assure your Honor that the witness wishes to obey—

The Court: There have been various occasions where my commands after due warning have been deliberately disobeyed. I have now warned him for the third time. I should think someone connected with the defense would have sense enough to advise their clients not to continue that sort of thing.

(T-9439) Mr. Sacher: Well, I must confess, your Honor, in due deference to the Court, that I cannot imagine that this last incident can possibly be regarded as rising to the dignity of an occasion which requires a warning.

The Court: Well, what you imagine, Mr. Sacher, has very little to do with the case. I am giving the directions here and I am going to see that they are obeyed. Now you know we have had several of these things; each time you all pay no attention; I warn again and again and then when I do something you seem utterly surprised. Now I hope there can be no surprise this time.

Mr. Sacher: What does your Honor refer to?

The Court: I don't desire to answer that question and then have your colleagues jump up and accuse me of judicial impropriety in making comments about things that shouldn't be discussed, and so on, but I know what I have in mind, and I suspect that you do, too.

One of such warnings was addressed earlier in the trial to this very witness. He took occasion to charge me with something that he remembers, and I think you do.

Mr. Sacher: May I now return to the trial of the case, your Honor?

The Court: Yes. I think it would be well to do so.

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(T-9440) *By Mr. Sacher:*

Q. Mr. Davis, did you, prior to the date on which you were sworn in as Councilman, attend a meeting of State and National leaders of the Communist Party at which there was a discussion in respect to the position of the Communist Party toward your election? A. I did—

Q. —to the City Council of New York? A. I did.

Q. When and where did that meeting take place? A. 35 East 12th Street.

Q. Do you recall who was present? A. Some of them I do.

Q. Will you please state those that you recall? A: Mr. Green, Mr. Stachel, the late Councilman Peter V. Cacchione.

* * *

A. (Continuing) I think Mr. Dennis was present; I am not sure.

Q. Will you please state the substance of the discussion at that time, stating as nearly as you can (T-9441) recall, what each of the persons present said.

Mr. McGohey: Could we have the time fixed?

The Court: Let me get straight first—

Mr. Sacher: Oh, I am sorry.

The Court: When was this, Mr. Sacher?

Mr. Sacher: Where?

The Court: When.

Mr. Sacher: Oh, I am sorry. I thought I had asked that question.

Q. And when was it, Mr. Davis, if you recall? A. I think it was in the latter part of December of 1943.

The Court: Now I didn't quite get clear what sort of a meeting this was, Mr. Davis. It was up there at the building in which the National Headquarters were, I think you stated?

The Witness: Yes.

The Court: And I am wondering what kind of a meeting was it? It wasn't a National Committee or a National Board meeting, was it?

The Witness: No. It was a meeting consisting of some of the National leaders of the Party and a couple or so of the state leaders of the Party.

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The Court: A sort of an informal conference of Party leaders?

(T-9442) The Witness: Yes, but having a meeting where the policy and the subject upon which the meeting took place would be—would reflect and in every way demonstrate the policy of our Party. In other words, it was a meeting to decide upon certain things connected with my election to the City Council.

The Court: Well, could anyone fix the policy of the Party besides the National Convention in certain instances, or the National Committee or the National Board?

The Witness: Well, it could—they could, if the policy that was decided upon was within the framework of a policy already decided or carried through by our—either one of the committees of the Party, the National Committee or the State Committee or whatever other committee that acted.

The Court: Then the question of policy was one already fixed by the National Committee?

The Witness: It was the application of a policy decided upon or followed by our Party in the particular situation. You see, we did not have National Committee meetings every time you wanted to make a decision on something.

The Court: No, no. I do not want to appear to argue about it, but it does seem to me that if there were just a group of men who happened to meet and discuss (T-9443) something, it would have little significance, unless it was a Board meeting or a National Committee meeting or something provided for, according to what we have heard in the testimony here; but that's all right.

You go on, Mr. Sacher.

Q. Will you please—

Mr. Sacher: You see, your Honor, I must take exception to these interpolations—

The Court: Well you see, Mr. Sacher, you never have understood my position in this case. I happen

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to be running this trial and I don't intend to be silent when there is something that I think should be brought out for the purpose of clarifying the matter or for my own information.

Mr. Sacher: I have no objection to that.

The Court: Well—

Mr. Sacher: That is certainly proper, but what I do object to, your Honor, is the observation at the conclusion of your questions in which you say something might not have much significance, and I respectfully submit that the significance of things is for this jury of men and women.

The Court: Well you know, you and I will never come to a meeting of the minds as to the respective functions of the Judge and the lawyer, so that I think you had (T-9444) better proceed with your questions.

Q. Will you, Mr. Davis, be good enough to state to the best of your recollection the substance of what each of the persons present, whom you recall to be present, said at the meeting which you have referred to? A. Well, Mr. Stachel said, as best I can recall, that my election to the City Council was of very great significance; that it was a victory for the Negro people; it was a victory for the labor movement; it was a victory for democracy here in our city, and that it was a repudiation of Red-baiting which because of the fact, as he said, that many of the attacks against my candidacy were merely on the basis that I was a member of the Communist Party.

Then, as I recall, Mr. Green, who was at that time the chairman or an officer of the State Committee of the Communist Party of New York spoke and said that this was a very good example of the unity of the Negro people and the white workers and white progressives in New York City, and he pointed out that my election was made possible by the united vote of the Negro people in Harlem, plus the labor movement of workers of every race and creed and color and birth, and that here was a real demonstration of the unity of Negro and white and how it had risen to defend this very important (T-9445) post that the Negro people had and that this was a tremendous victory for the white

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workers in New York and for the progressive and democratic forces in New York.

And then I spoke and said a few things, and I said that I conceived of my responsibility as an elected city official as, first, to try to make New York City a better place to live in for all the people and, secondly, to represent all the people in New York irrespective of their political affiliation or their race or their color or their creed.

And I pointed out that I had been elected not alone by the votes of my own Party members; that there were some five or six thousand Communist members of our Party in Manhattan and yet I had won by some 44,000 votes, which meant clearly that a lot of people who weren't Communists, who were Republicans or Democrats or independents or what-have-you, had voted for me, and that I owed a duty to them; that, thirdly, I considered that from then on I proposed that consideration be given to the fact that my first responsibility must be to the City Council of New York.

I then said that I did not conceive of that as contrary to the principles of Marxism-Leninism and that certainly Marxism-Leninism, as I understood it, (T-9446) meant doing everything possible to squeeze every little gain that could be squeezed out of reaction and of other forces of darkness for the benefit of the workers and for the benefit of the masses of the people, and that I proposed to live up to the highest traditions of my people, the fighting traditions of my people, of my Party and of the principles upon which this country was founded, and that I could not—I conceived of my membership in the Party, my understanding and devotion to the principles of Marxism-Leninism as something which I could only carry out and live up to to the degree that I fought hard for every single measure that came up in the Council or introduce every single measure that I thought would be of benefit to the workers and to the people of New York, to the winning of the war, and to following a policy in New York whereby we could make this a City without discrimination and without injustice and in every way beneficial to the people of New York.

I think these are the main things that were said there.

(T-9447) Q. After you completed your statement did anyone present at this meeting express assent with or dissent from anything you had said? A. Yes, there was general agreement with what I had said and with what others had said in the meeting.

Colloquy of Court and Counsel

Q. Do you recall the date of the first meeting of the New York City Council in the month of January 1944? A. I don't recall the exact date.

Q. By the way, the New York City Council has regular meetings once a week, does it not?

Mr. McGohey: I object.

Mr. Sacher: All right. If you object, may I ask the Court please to take judicial notice of the fact that the Charter of the City of New York contains, or the Administrative Code contains provision for such meetings?

Mr. McGohey: I object to it as irrelevant.

The Court: I cannot see what it has to do with the case, but I was just inclined—

Mr. Sacher: It is preliminary. It is not a basic question.

The Court: I was just inclined to let it go anyway, but discussion ensued.

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

(T-9448) The Court: Are you going to start now introducing all the various bills that Mr. Davis introduced in the Council?

Mr. Sacher: I didn't have that intention, your Honor. Perhaps it would help along if I could get your Honor's attitude towards this subject. My intention, if I may state it to the Court, in regard to this matter was—

The Court: Yes.

Mr. Sacher: —to ask if Mr. Davis would be good enough to summarize his activities during his term of office by way of general summary, to state the subjects on which he had introduced bills and resolutions, and then perhaps to offer what might be called one example of a bill or resolution which he had offered on each of the six or eight subjects, I think, into which his legislative activity would conveniently fall.

The Court: Well, I see this exhibit that has just been marked 8 x W for identification, and if anybody here can have the slightest doubt that Mr.

Colloquy of Court and Counsel

Davis is against race discrimination, I just don't see how it can be.

Mr. Sacher: That is not the point. I think there is another thing that is overlooked. May I suggest this?

(T-9449) The Court: Well, I haven't overlooked this, that you have been working on the same thing again and again throughout this case. I don't know how many hundreds and hundreds of pages have been spent on that. Now, I thought it perfectly reasonable to make it clear to the jury that your particular client has taken that view and he has given a number of illustrations about it, he has gone into it over and over, and now you want to show all the bills he put in on it—

Mr. Sacher: Yes.

The Court: —or even some of them. I cannot see that that does anything more than repeat the same thing.

Mr. Sacher: May I briefly reply to that, your Honor?

The Court: No, no, I don't desire argument on it, Mr. Sacher.

Mr. Sacher: It is not a question of argument, but I say that in this case—

The Court: There is this question, that whenever something comes up with you, it is utterly impossible to get you to stop without doing something that I don't desire to do. I don't desire to shout. I don't desire to bang. And all those things are perfectly (T-9450) distasteful to me.

Mr. Sacher: What relevancy has that here?

The Court: There is no way I can get you to stop.

Mr. Sacher: All you have to ask me is to stop and I will stop. If you want me to stop, of course, I will.

The Court: I hereby ask you to stop.

Mr. Sacher: I had anticipated your Honor's wish in that regard.

The Court: But you didn't stop.

Mr. Sacher: Touche!

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By Mr. Sacher:

Q. Mr. Davis, will you be kind enough to look at Defendants' Exhibit 8 x W for identification and tell me whether that refreshes your recollection as to the first day on which the New York City Council met in the City of New York in 1944? A. In part, it does.

Q. Will you now, that your recollection is refreshed, state on what date that was? A. I think it was the first Wednesday after New Year's.

(T-9451) Q. Mr. Davis, I show you Defendants' Exhibit 8 x W for identification, and ask you whether this is the first bill that you introduced into the Council at the first session of the Council that you attended after your election to office? A. I think it was.

Q. And was there another member of the Council who jointly with you introduced that bill?

Mr. McGahey: Objection.

The Court: Sustained.

Mr. Sacher: I offer the bill in evidence.

Mr. McGahey: I object to it.

The Court: Sustained.

Mr. Sacher: You haven't even seen it.

Mr. McGahey: I don't have to. I still object.

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

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

(Adjourned to Monday, July 11, 1949, at 10.30 a. m.)

Benjamin J. Davis—Defendant—Direct

(T-9453)

New York, July 11, 1949;
10.30 a. m.

TRIAL RESUMED

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

BENJAMIN J. DAVIS, resumed the stand.

The Court: Yes, Mr. Sacher, you may proceed.

Direct examination continued by Mr. Sacher:

Q. Mr. Davis, will you please tell the Court and jury about how many bills and resolutions you introduced into the New York City Council during your term of office in the years 1944 and 1945?

Mr. McGohey: Objection.

The Court: Sustained.

Q. Will you tell us briefly and in a general way what subjects those bills and resolutions dealt with?

Mr. McGohey: Objection.

The Court: Sustained.

(T-9454) I take it, Mr. Davis, that a large number of these bills had to do with what you have described here the other day as your fight against discrimination against the Negroes?

The Witness: No, these bills had to do with every type of welfare of the people of New York, trade union questions, consumers' questions, the question of taxation, the question of discrimination,

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anti-Semitism, the question of saving the five-cent fare. It encompassed the whole range of activities which the people of New York found themselves faced with.

Q. I show you papers here and ask you whether contained in each of the two groups of papers I have shown you are copies of some of the bills and resolutions you introduced in the New York City Council in each of the years 1944 and 1945? A. Yes.

Q. Were some of these bills or resolutions adopted by the New York City Council? A. They were.

Mr. Sacher: I offer them in evidence.

Mr. McGohey: I object to them, your Honor.

The Court: Sustained.

Mr. Sacher: May I have them marked then for the purpose of saving time? I will just state how many there are in each group.

The Court: Yes.

(T-9455) Mr. Sacher: There are 17—seven, I beg your pardon, samples for the years 1944 and 17 samples for the years 1945.

May I respectfully request that in that order they be as groups marked for identification with separate identification numbers?

The Court: The first group will be marked 8 x X-1 for identification, and the other 8 x X-2 for identification.

(Marked Defendants' Exhibits 8 x X-1 for identification and 8 x X-2 for identification.)

* * *

Q. Mr. Davis, do you recall how many of these bills and resolutions were passed by the Council during those two years 1944 and 1945?

Mr. McGohey: Objection.

The Court: Sustained.

Benjamin J. Davis—Defendant—Direct

Q. Were there occasions on which other members of the Council joined you in the introduction of any of these bills or resolutions?

Mr. McGohey: Objection.
The Court: Sustained.

Q. Did you introduce bills or resolutions at the instance or request of fraternal, civic and community (T-9455-A) organizations other than the Communist Party or its affiliates?

Mr. McGohey: Objection.
The Court: Sustained.

(T-9456) Q. Did you introduce a resolution in each of the years 1944 and 1945, which resolution was adopted by the City Council urging the Mayor of the City of New York to proclaim a designated week in each of those years as Negro History Week?

Mr. McGohey: Objection.
The Court: Sustained.

Q. Do you know whether the Mayor of the City of New York in each of the years 1944 and 1945 issued a proclamation establishing Negro History Week in each of those years?

Mr. McGohey: Objection.
The Court: Sustained.

Mr. Sacher, these matters are quite remote and irrelevant to the charge under consideration here. I hope you will not continue to propound questions which may deem to serve the same purpose as though you had received answers to the question.

Mr. Sacher: Lest the jury get the notion that I am consciously or otherwise engaging in any impropriety, I would appreciate it if your Honor would allow me a brief moment to state why I have done it.

The Court: I do not take any interest in why you have done it; I am telling you not to do it.

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Mr. Sacher: Well, it is related to the issues (T-9457) in the case.

The Court: It is not related to the issues in the case.

Mr. Sacher: Well, maybe if you would listen to me a moment you will see that it is.

The Court: Well, I will not and I direct you to desist and go to something else.

Mr. Sacher: I shall obey your Honor's direction.

The Court: I hope so.

Mr. Sacher: I have one more question. I do not know whether your Honor will regard this as violative, so I will ask your permission to state it.

The Court: Well, if you put in your question what is substantially a description of the matter you want to bring out, I will direct that you do not do it any more, as I have already done once.

Q. Mr. Davis, I ask you whether the bills and resolutions which you introduced in the Council were based on your understanding of the principles of Marxism-Leninism?

Mr. McGohey: Objection.

The Court: Sustained.

Q. Mr. Davis, did you in the years 1944-1945, as Councilman, engage in any activities other than those which you have described in connection with the bills and resolutions which you introduced in to the Council?

(T-9458) Mr. McGohey: Objection.

The Court: Sustained.

Mr. Sacher: Well, your Honor, he was a Communist Councilman and—

The Court: It is not a question of whether he was a good legislator or a good man or advocated a lot of good things or in his spare time did things that were good or deemed to be good by him or by you. You have a specific charge here which he has to meet.

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Mr. Sacher: But Budenz testified that legislative efforts of the Communist Party were window dressing for revolutionary activities, and I want to show through this testimony that what Mr. Davis was doing was in the best of faith carrying out the program and policies of the Communist Party in peaceful legislative activity to serve the best interests of the people of New York.

(T-9459) The Court: If you have any matter that Mr. Budenz testified was window dressing you may elicit a denial from this witness.

Mr. McGohey: May I inquire as to the page where Mr. Budenz is alleged to have said that legislative activity was window dressing?

The Court: Yes. I don't seem to recall it myself, Mr. Sacher. You can call our attention to it and if there is any specific instance brought out on the prosecution's behalf I shall permit you to negate it.

Q. Mr. Davis, you attended, did you not, an enlarged meeting of the Political Committee of the Communist Party in February 1944? A. I did.

Q. Now at pages 1576 and 1577 of the transcript Budenz testified that in February 1944 in the managing editor's office of the Daily Worker you told him about a meeting with the National Committee of the Communist Party in which a letter written by Mr. Foster was discussed, that you had told him that Mr. Foster had been given a good shellacking and that the only thing left to him was to appeal to a higher court, and that Frederick Myers tried to bring about some sort of a reconciliation between Mr. Browder and Mr. Foster.

Do you recall such a conversation?

Mr. McGohey: That is "higher authority," not (T-9460) "higher court."

Mr. Sacher: Did I say "court"? I have "authority."

Mr. McGohey: You did.

Q. With the amendment that it is a higher authority I ask you do you recall that testimony? A. I do.

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Q. Did you ever tell Budenz any of the things which he attributed to you in the testimony I have just referred to? A. I did not.

Q. Did you ever have any conversation with Budenz concerning the February 1944 meeting of the National Committee? A. I did not.

Q. Did you in the spring of 1944 take a trip out of the country? A. I did.

Q. Where did you go? A. Mexico.

* * *

Q. Where did you go, Mr. Davis? A. Mexico.

Q. What did you do in Mexico?

Mr. McGohey: Could we have the date, if the Court please, more nearly than spring?

The Court: Can you identify the time any more accurately than the spring? Do you remember the months of the year, Mr. Davis?

The Witness: I think it was either the latter part of April or the first part of May.

(T-9461) Q. What did you do in Mexico, Mr. Davis? A. I attended the convention of the Communist Party of Mexico,—

Q. In what capacity? A. —and—

Q. I beg your pardon. A. (Witness nods.)

Q. In what capacity did you attend? A. I was fraternal visitor from the American Communist Party.

Q. And had you been designated by the National Committee or the National Board to act as such? A. I had.

Q. Did you attend a constitutional convention of the Communist Political Association which was held on May 20 to May 22, 1944? A. I did.

Q. In what capacity did you attend that convention? A. I was a delegate to the convention.

Q. By whom, if you recall, had you been elected as a delegate to the convention? A. I think I had been elected by the State Convention of the Communist Party.

Q. Were you elected by that convention to preside as chairman of any of its sessions? A. I presided as chairman at one session, I think. There might have been others.

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Q. Will you recall it if I suggest the evening session of May 21, 1944, as the session at which you presided as chairman at that convention?

* * *

(T-9462) Q. (Continuing) Mr. Davis, I read you from page 136 of Government's Exhibit 9, which reads as follows:

"Evening Session, Sunday, May 21: The convention reconvened at 8 PM with Benjamin J. Davis, Jr. as chairman,"

and I ask you whether that refreshes your recollection that you served as chairman at that session? A. Did you say Sunday?

Q. It says "Evening Session, May 21." A. Yes, I did.

Q. Were you elected by that convention to any national office in the Communist Party—that is, in the Communist Political Association? A. I was elected to the National Committee and I think to the National Board and as a vice-president of the Communist Political Association.

Q. How long had you been in the Communist Party at the time that you were elected to these offices by (T-9463) the 1944 Convention? A. I think 10 years.

Q. Had you ever prior to that been elected to any national office in the Communist Party? A. I don't think so.

Q. Now coming down to the year 1945, Mr. Davis, I ask you whether you recall that in or about the month of March 1945 you attended a meeting of the National Board of the Communist Political Association at which you participated in a discussion of the policies of the Association? A. I did.

Q. Do you have any present recollection as to who was present at that meeting? A. I think Mr. Dennis, Mr. Green, I think Mr. Williamson, Mr. Stachel—those I seem to remember distinctly—and myself.

Q. Did you make any statement at that meeting of the Board? A. I did.

Q. Will you please tell the Court and jury the substance of what you said at that meeting? A. Well, I said at the meeting that our Party—rather the Communist Political

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Association, the CPA, was showing a tremendous instability with respect to its Negro members and that this seemed to me to indicate that a not sufficient struggle was being conducted around the whole question of the fight for Negro rights and that I thought that these figures of instability were (T-9464) reflected in the fact that there was something of a high fluctuation of our members among the Negro people, the Negro workers, and that certainly if our Party was doing the job on this question that it had traditionally done that this instability would not be so sharp as it appeared to me then. And I proposed that we should have an examination of our Party's work in this field.

I said, further, that the appointment of Vandenberg—I think that this meeting took place around the time that the appointment of Vandenberg was announced—

Q. Appointment to what, Mr. Davis? A. Appointment to the American delegation to represent the United States at the United Nations meeting.

(Continuing)—that this seemed very questionable to me, and that it looked as though the way in which we had immediately reacted, which was to support it, looked as though that we had begun in some measure to rationalize a number of things that President Roosevelt was doing rather than thinking them through thoroughly.

And I also said that wherein I considered that a lot of progress had been made with respect to the mobilization of the Negroes in the war effort, and certain barriers against Jim Crow were dented, if not broken, I was a little bit disturbed because the general framework of the Jim Crow system seemed to be (T-9465) remaining intact.

And this was the substance of what I said.

Q. Did you in any way elaborate on the significance of Vandenberg's appointment to the American delegation beyond what you have told us? A. No. I think Stachel spoke at that time and said that this same question of Vandenberg's appointment had also caused him some thought.

I remember Foster's remark—

Mr. McGohey: Was he there?

The Court: Yes, he was there too, was he?

The Witness: Yes, I think—

The Court: All right.

The Witness: —he was there.

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A. (Continuing)—and Foster said that the Party had in this country—the Communist organization in this country—had made mistakes before and that some of the things that I had said he thought were correct but that the reason for this was that our Party was making—the Communist Political Association was making—a basic mistake, and that this mistake was that we had begun to feel that American imperialism, or, rather, monopoly capitalism had changed its spots and that it could be relied upon in the sense that it would lead the American people to freedom and liberation and would (T-9465-A) follow a fully progressive policy; and that he considered that statements made by myself and by others in the Board meetings were statements which were undoubtedly true but that the real reason for these statements and questions, as we had expressed them, was that the Party was making—the Communist Political Association was making—a basic mistake.

(T-9466) Q. Did you thereafter attend a meeting of the National Board of the Communist Political Association on June 2, 1945? A. I did.

Mr. Sacher: May I trouble you, Mr. McGohey, for Exhibit 13-A?

Mr. McGohey: Surely; here it is (handing).

Mr. Sacher: Thank you.

The Court: That is the issue of the Daily Worker of June 4, 1945, containing the resolution of the National Board of the Communist Political Association under date of June 2, 1945.

Q. Mr. Davis, I show you Government's Exhibit 13-A and ask you whether this is the resolution which was adopted on June 2, 1945, by the National Board of the Communist Political Association (handing to witness)? A. It is.

Q. Was the adoption of the resolution preceded by a discussion of the resolution by the members of the Board who were present? A. It was.

Q. Do you recall who was present at that Board meeting? A. Mr. Foster, Dennis, Green, Stachel, Williamson, Browder, myself—that's all I recall there.

Q. Well, if you have any difficulty I think there is a box on the exhibit itself which may help you refresh your recollection.

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(T-9467) The Court: Is there some dispute about who was present there, Mr. Sacher?

Mr. Sacher: No, there is no dispute—

The Court: Because the exhibit shows—

Mr. Sacher: The exhibit shows the names of those who were there, I think.

Q. Would you be good enough, Mr. Davis, just to round out your testimony, to consult the upper lefthand corner of Exhibit 13-A so as to complete your statement of those who were present at the meeting, please? A. (After examining) This doesn't refresh my recollection as to who was present—

The Court: (To Mr. Sacher) If you desire to read the other names now to the jury, you may do so.

Mr. Sacher: All right, if I may.

(Witness hands exhibit to Mr. Sacher.)

Mr. Sacher: The names which I think Mr. Davis did not recall were the following: Morris Childs, Elizabeth Gurley Flynn, James Ford, Robert Minor, Robert Thompson and Roy Hudson.

Q. Now Mr. Davis, would you be good enough to state to the Court and jury what you recall of the statements made at this meeting of the National Board of the Communist Political Association on June 2, 1945, by those who were present and whose statements you recall, as well (T-9468) as what you said at that meeting of the Board, of the National Board? A. Well, Mr. Foster spoke and he said that the main reason why he considered a change in the policy of our Party or political association was necessary was because of the developments which were taking place in the world, the objective situation. He said that this had been manifested in part by the action of the representatives of our country in supporting the admission into the United Nations of Argentina at the meeting in San Francisco. He also said that this—that a part of these objective developments was the way in which the employers were preparing to carry on a first-class offensive against the labor movement in this country. He also pointed out the fact that there were beginning to be a number of layoffs and cutbacks, resulting in disemployment of workers, Negro and white, and he considered that irrespective of the Duclos

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article, which had appeared at that time, that our Party, Political Association, would have eventually found its way to correct itself, and he said that the Communist movement had made mistakes before and had corrected itself, and it would have corrected itself, he had confidence, in this instance.

He said further that the Duclos article, which had been written, was based essentially upon the points that he had raised in his letter to the National Committee men—

(T-9469) Q. May I interrupt just a moment, Mr. Davis? A. Yes.

Q. To ask whether the letter to the National Committee that you referred to is the one that was sent in January 1944 by Mr. Foster— A. That is the one.

Q. —to the National Committee?

The Court: January 20, 1944.

Mr. Sacher: Thank you.

A. (Continued) He said that the Duclos article had been based upon essentially the points that he had raised in his letter and that he had been fighting in the National Board of the CPA for some 18 months to try to correct this policy. He said that he felt that the Party—the Political Association would have corrected itself, but he said that the Duclos article was of tremendous assistance, and that if it had corrected itself just by our eventually leaving it to the long struggle which would have taken place in the Party, it might have resulted in a very serious factional situation, and also he had not pressed to have his letter made public because he didn't want to—want to precipitate a factional situation in our party which could result in some possible damage to the war effort.

He said further that the Duclos article undoubtedly was written to help clear up the French Communist Party, and that the revisionist position taken by Browder had already begun to affect the thinking of Communists in (T-9470) other countries, and that Duclos' article at the very outset pointed out that a number of questions had been asked of the position taken by Browder, by French Communists themselves.

Then Foster said that he considered that this basic error which Browder had manifested in the Party was one which manifested itself primarily through the fact that

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Browder had predicted a long period in the postwar period, that is, after the war was over, World War II was over, to the effect that the workers wouldn't have to struggle any more at all for higher wages and better conditions; that the Negro people would not have to struggle against Jim Crow and discrimination; that consumers would not have to struggle for price control, and so forth, but that Browder had said—Browder's position led to the point of view that all of this was going to become automatic and that the big capitalists themselves, the big employers, the big business forces, they were just going to lead—everything was going to be very beautiful, like milk and honey, and that this position of Browder was one which was against the position of Marxism-Leninism. (T-9471) And in that way if we had followed Browder's position that this would mean that we would follow a policy which would have eventually led to the surrender and betrayal of the working class, and that he felt that it was very necessary for us to get rid of this revisionism, to adopt this resolution and get our party back again on the steel rails of Marxism-Leninism because only in that way would we be able to make a contribution to the struggle of the American working class and the American people generally against fascism and reaction, which was surely going to become a very serious thing after the war was over.

Well, these are about the main things that I recall of Foster's remarks.

Dennis spoke and Dennis pointed out that he thought that it was very significant—that he agreed with Foster's remarks and that he thought it was very significant that the Duclos article and the reasoning of Duclos had been based upon the Foster letter of January 20, 1944, and that therefore this, in his opinion, made very clear that had it not been for the long fight which Foster had been conducting in the National Board of the CPA for 18 months that undoubtedly the Duclos article which appeared would not have had the good and salutary effect upon us that it did; and that the change which was (T-9472) very necessary by the objective conditions and situation which we were facing in the country and which, surely, we were going to face after the war, could not have taken place at all without the fight of Foster for 18 months, and that his fight had created in our minds many questions, even though we did not see very clearly the answer as did Foster.

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The Court: Did Foster explain how Duclos obtained a copy of his letter?

The Witness: No, that was not the main question at all. The main question was the policy of the CPA and what we were going to do relative to the American working class. That was the thing we were concerned about.

A. (Continuing) Then I spoke and I said that here was certainly an example for the exercise of Marxist-Leninist self-criticism, and that we had to see this self-criticism in a basic Marxist-Leninist sense, and, that is, that the Communist Party or Communist organization criticizes itself in public; that this was not a question of flagellating ourselves or beating our breasts, but it was a question of making open acknowledgments of our errors because, if we did not, that a thing quite so basic as this, there was a possibility that workers may have been misled by them, and secondly, it is important (T-9473) to point out these errors publicly because of the fact that the whole party and the labor movement generally has to learn constructively from errors that are made. We try to avoid them, but when we make them, they must learn from errors that are made in order that they may avoid other errors in the future. And I pointed out that this was one of the distinctive characteristics of the Communist organization as compared to other parties, which never thought of acknowledging any errors in the sense that the Communists acknowledged these errors.

Then I pointed out further that I considered that with respect to the Negro people, this policy which we had been following should have been more clearly in error because the Negro people represent the real test of democracy in America; and that if we were not doing the job on that question that we should be doing, then, surely, we should have had cause to think more deeply about the policy we were following; and that I considered, although we had done many things during the war which contributed to Negro rights, and of other minorities and the mobilization of the Negro people in the war effort, that on the whole we had not taken up real militant struggles against the main enemy of the Negro people, which is monopoly capitalism; and that (T-9474) certainly I thought that what

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we had to do was to get back to Marxism-Leninism, and that this was nothing new for us because our policy—our party had followed a policy of Marxism-Leninism since its inception, and that only by reinstituting the policy of Marxism-Leninism could we fulfill our duty to the American working class, to the Negro people, to other sections of the population, to the fight for democracy.

I said, as I recall, that, therefor, the change which was symbolized in this resolution was not just a question of an inner change within our party; that it just concerns whether we are CPA and we follow Browder's revisionism or we are CP and we follow Marxism-Leninism.

I said that this change—that history would prove that we had to make that change in order for us to make a real contribution to the American working class, to the American people against war and fascism in the postwar period, and that we had to make that change to give flesh and blood to our perspective of socialism in America, and that could never come about unless we were at all times carrying on a militant struggle against monopoly capitalism and the fascist war danger which it represented.

(T-9475) *By the Court:*

Q. Up to that point had anyone said anything about changing the name of the Party from Communist Political Association back to Communist Party? A. Yes, that had been a question of discussion for some time.

Q. Previous to this meeting? A. Yes. It was generally interlarded in the discussion that we were having.

By Mr. Sacher:

Q. Do you recall the statements made by any others present at the meeting whom you have mentioned? A. Mr. Williamson spoke and said that now he understood more clearly what was wrong with our organization and why we had not been able to maintain in a very stable way the basic industrial workers and the other sections of the population—the Negro people who were one of the lowest paid categories of the American working class—and he recalled some remarks he made at an earlier meeting of the National Board in March in which he had said that he was disturbed by the organizational status of the Party and

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that he now understood why that disturbance was in his mind.

Q. Does that complete your recollection of what was said at the meeting, Mr. Davis? A. It does.

By the Court:

Q. Do you remember whether everybody spoke there at (T-9476) that meeting? A. I can't remember. I would say that most of them spoke.

Q. Is it generally the fact in these meetings that everybody had something to say? A. Well, that varies. Sometimes someone in a National Board meeting may make a point which is sharp and obvious and clear and everybody doesn't speak to support that point. He either agrees or doesn't agree.

Q. Well, I think you have answered me in the negative that it is not customary for everybody to speak at those meetings? A. Not at all meetings.

By Mr. Sacher:

Q. After the discussion was concluded was a vote taken on the resolution? A. It was.

Q. Did you vote for the resolution? A. I did.

Q. Was the resolution adopted by a majority vote of those present? A. It was.

Q. Do you know whether the fact that you voted for the resolution was made public? A. It was.

Q. Now, Mr. Davis, did you on June 18 to June 20, 1945, attend a meeting of the National Committee of the Communist Political Association? A. I did.

Q. Do you know where that meeting took place? A. As I recall, 35 East 12th Street.

Q. Did the resolution which was adopted by the National (T-9477) Board on June 2nd come before the National Committee for its discussion and action? A. It did.

Q. Do you recall who participated in that discussion? A. Some of them, although I don't recall what all of those said that I remember speaking.

Q. Will you tell us whom you recall to have spoken at that meeting? A. Well, I think—I know Foster spoke at the meeting and made a couple of points, or rather he said that V-E Day had come and that we had begun to see the

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possibility of victory at an early time but that he considered that it was very necessary that the no-strike pledge of labor be carried out until this war was over because this was essential to victory over fascism on a world scale and therefore to the defense of the independence and sovereignty of our country against fascist enslavement.

I remember Mr. Thompson, I think, spoke and I think he said that the discussion of the change that was recommended by the National Board had revealed that there had been many, many questions in our Party by many Party members on all levels of the Party who just didn't quite follow the Browder line and that this was a tribute to the health of the Party, to the fact that our Party was—in some measure was beginning to doubt something which didn't represent our traditional Marxist-Leninist policy, (T-9478) and that he was very glad because had this current of doubt not existed to some extent in our Party he didn't think that it would have been possible for us to have gotten any help at all from Duclos or from anybody else.

Q. Do you recall any statements made by any other of the defendants at the National Committee meeting? A. I don't at this time, Mr. Sacher.

Q. Did you make a speech at the National Committee meeting? A. I did.

Q. And what did you say at that meeting, Mr. Davis? A. Substantially the same things that I had said at the June 2nd meeting of the National Board.

Q. Now was the resolution as adopted by the National Board on June 2nd amended by the National Committee at its meeting of June 18 to June 20, 1945? A. I think it was.

Q. Was the resolution as amended voted upon and adopted by majority vote of the National Committee members present? A. It was.

Q. Did you vote for the resolution as amended by the National Committee? A. I did.

Q. Was the fact that you voted for the amended resolution made public? A. It was.

Q. Now, Mr. Davis, did there come a time after the meeting of the National Committee when you were designated (T-9479) for re-election to the New York City Council? A. I was.

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Q. When was that? A. Latter part of July.

Q. By what Party were you so designated? A. By the Democratic Party.

Q. Did the New York Democratic County Committee thereafter withdraw that designation? A. It did.

Q. Do you recall when that was? A. About in July 25th or 26th.

Q. Of what year, Mr. Davis? A. 1945.

Q. And did the Democratic County Committee issue a public statement setting forth its reasons for the withdrawal of your designation as Democratic councilmanic candidate?

Mr. McGohey: Objection.

The Court: Sustained.

Q. Did the Democratic County Committee state in connection with its withdrawal of your designation that the withdrawal was based on the ground that you—

Mr. McGohey: I object. I object to the reading of this question for the same reason and on the same grounds that your Honor instructed Mr. Sacher —

Mr. Sacher: I am not calling for the contents of the statement and I am not including in my statement any contents of the statement.

(T-9480) The Court: Maybe you are doing it some other way.

Mr. Sacher: I am not including the contents of the statement.

The Court: Well, let's have the question. You have it written down there.

Q. Did the Democratic County Committee state that it was withdrawing your designation on the ground that you or the Communist Party taught or advocated the overthrow of the Government of the United States by force and violence?

Mr. McGohey: Object.

The Court: Sustained.

You see, you did do it, Mr. Sacher.

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Q. Did you thereafter, Mr. Davis, attend the special convention of the Communist Political Association which was held on July 26 to July 28, 1945? A. I did.

Q. Were you a member of any committee which functioned at the convention? A. I was.

The Court: Which convention is this?

Q. What committee—

The Court: Which convention was this?

Mr. Sacher: July 26 to 28, 1945.

The Court: Oh yes.

Q. What committee were you a member of? A. I was a (T-9481) member of the Constitutional Committee.

Q. Now did the convention adopt a resolution calling for the establishment of panels to study and report back to the convention on certain subjects? A. It did.

Q. Were you elected by the convention to serve on one of these panels? A. Yes, I was.

Q. Will you please tell us to what panel you were elected and in what capacity you were elected to serve on that panel? A. On the panel dealing with the question of the rights of the Negro people and the question of the South.

Q. Was that panel convened during the period that the convention was in session? A. It was.

Q. Did you make the main report to this panel? A. I did.

Mr. Sacher: If the Court please, the answer to the next question as to the substance of the report may take a little time and if it is agreeable to your Honor may we have our recess now?

The Court: Are you going to offer a written report?

Mr. Sacher: No.

The Court: Are you going to have him state it orally?

Mr. Sacher: Yes, your Honor.

(T-9482) The Court: Well, I take it that in doing that you are going to follow my admonition not to overdo this phase of the matter that we have heard so much about.

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Mr. Sacher: Precisely.

* * *

(Short recess.)

Mr. Sacher: May it please the Court, by the question which I put shortly prior to the recess concerning the withdrawal of Mr. Davis's designation by the New York County Committee of the Democratic Party, the impression may have been created that that Party withdrawal designation was because of the charge of advocacy of force and violence by Mr. Davis or his Party, and I state that that was not so, your Honor.

The Court: No such impression would be warranted, I take it; very well.

By Mr. Sacher:

Q. At recess, Mr. Davis, you testified that you made the main report to the panel of the convention which dealt with the problem of the Negro people and the fight for equality, and I now ask you to please state the substance of that report, if you will. A. I—I pointed out to the panel that I was in full support of the resolution which had been submitted to the (T-9483) convention, and I said that the main thing with respect to the policy that had been followed under revisionism of Marxism-Leninism was the abandonment—of the beginning of the abandonment of any struggle whatsoever against monopoly capitalism, that is, big business, which forces control the South through their poll taxes, through their Rankins and Bilbos, through the plantation owners and landlords, and that we had to quickly get back to the Marxist-Leninist policy which had been traditional in our Party up to the 1944 convention establishing the CPA, in order that we could make a major contribution along the lines that we had made in the struggle for American democracy through the fight for the equality of the Negro people.

I said that—that Browder's concept of Marxism-Leninism was entirely wrong, and I said that it had manifested itself on the Negro question by the liquidation of our Party in the Deep South, which was a major mistake.

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Q. Will you be good enough to please explain what you mean by the liquidation of your Party in the South?
A. The dissolution—

Mr. McGahey: I beg pardon, your Honor; I object to this question.

The Court: He is supposed to be telling us just (T-9484) what he reported.

Mr. McGahey: Well, the question I think did not ask for that, your Honor. The last question was: "What do you mean by the liquidation of the Party?"

The Court: I say the last question doesn't seem to be, unless he explained it.

(To witness) Do you say that you explained what that meant to the panel, Mr. Davis?

The Witness: Well, the panel understood what I meant by "liquidation."

Q. Will you then state what the understanding of yourself and those present was of the term "liquidation of the Party in the South"? A. Dissolution of the Party in the South.

And I said that Browder's position had abandoned the classic Marxist-Leninist position, namely, that the oppression of the Negro people was a special oppression, that we have two struggles going on in the country: that we have the struggle of the superiority of the capitalist class over the workers, supposedly inferior workers, and that we also have the struggle of the superiority theory of white supremacy over the supposedly inferior Negro people.

And I said that those struggles go along against the same common enemy, which is big business, Wall Street, (T-9485) the financial rulers of our country, and that the Negro people were subject—that we put up a special fight for the rights of the Negro people, and that the Negro people was subjected—the Negro workers were subjected to double oppression, first, they were subjected to exploitation as workers in common with white workers, but then they were subjected to discrimination and oppression as Negroes, and that Negro women were subjected to triple

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oppression because they were oppressed as workers, that they received—they were exploited by capitalism as workers, and that, secondly, they were oppressed as Negroes and that, thirdly, they were oppressed as women for the simple reason that women do not have equality, economically and politically, and that Negro women feel, therefore, the treble or triple oppression; and that we fought against these—this triple oppression and that, therefore, the whole basis of the Negro people as a specially oppressed people, as we had placed it, as Communists had placed it, was due not to something which flowed out of the minds of Communists but due to the conditions imposed upon them in America under capitalist society.

Then I also pointed out that the Negro workers were already beginning to get cut-backs and that a disproportionate amount of unemployment was falling on (T-9486) Negro workers, as we could see from the signs at that particular time, which was around July 1945.

Then I pointed out that it was important, not only that we struggle for the immediate demands of the Negro people for Negro rights against big business and the financial rulers of the country, but that it was also important that we fought for the ultimate freedom of the Negro people and that the solution of this was Socialism.

Then I placed the question that the question of the fight for Negro rights, as placed by Marxism-Leninism, is not just a liberal question or a progressive question that you find among a lot of people who are against lynching and so forth, which is all very good, but the way in which Marxism-Leninism placed this question was that there was no possible way for the white working class to free itself of exploitation unless it fought for the freedom of the Negro people. Therefore, the struggle for Negro rights on the part of the white workers was essentially a struggle for the self-interest of the whites who conducted that struggle. So it wasn't just an humanitarian question.

Then I recommended that I felt—I said, in the light of the discussion which was taking place in the convention that the resolution which had been submitted to the convention should be accordingly strengthened.

And that about concludes my remarks on that.

(T-9487) Q. Was there a discussion of your report by the Panel? A. There was.

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Q. And did the Panel at the conclusion of this discussion adopt recommendations to the Convention? A. It did.

Mr. McGohey: Now, if the Court please—

The Court: What is that, Mr. McGohey? I didn't hear you.

Mr. McGohey: If we are going to have any testimony about the discussion in the Panel we ought to know who was there and who said what?

The Court: I don't think Mr. Sacher is going into that.

Mr. Sacher: That is right. Mr. McGohey is just a little previous.

Q. Did you make any report—

By the Court:

Q. I am a little puzzled, Mr. Davis. Hadn't you been fighting for these rights of the Negro people all along? A. Of course.

Q. And I thought what you were going to explain to the Panel was why in order to do that you had to have this new set-up, and yet, as you told us about it you didn't seem to say anything about that. A. I did say something about that. I pointed out very (T-9488) clearly that the previous policy of our Party during the CPA days was one in which we were beginning not to struggle against monopoly capitalism but to follow it and accept its leadership, and I pointed out with respect to the new policy, the new policy was the question of struggle against monopoly capitalism and big business and not allowing it to lead you.

Now those are two different things altogether. There are a lot of people who conduct struggles for Negro rights, whether they are Communists or not Communists, but the struggle of the Communist Party is one based on Marxism-Leninism and the science of Marxism-Leninism and that is the big difference between the two.

Q. That must be then that the solution, the only solution from your point of view for the Negro people is socialism? A. That is the final irreparable solution for all people—the Negro people, for the working class, for the

*Excerpts From Government's Exhibit 25-A,
Read into Record*

American people—to resist fascism, to eliminate the danger of fascism and war, and also to make it possible to have a free and democratic America like we should have had years ago.

Q. But the end is socialism? A. Of course, the end is socialism.

Q. That is what I say. You didn't seem to mention that. A. Well, I mentioned that before.

Mr. Sacher: May I trouble you, Mr. McGohey, (T-9489) for Exhibit 25?

* * *

The Court: That is that copy of Political Affairs of September 1945?

Mr. Sacher: It is, your Honor.

By Mr. Sacher:

Q. Mr. Davis, I show you Exhibit 25-A, which includes the resolution adopted by the Convention of the Communist Party on July 28, 1945, and ask you whether subdivision 7 in that resolution was added to the resolution which came out of the National Committee in June on the basis of the report which you made to the convention after the panel discussion had been completed? A. Yes.

Mr. McGohey: (To Mr. Sacher) What part?

Mr. Sacher: Subdivision 7, Mr. McGohey, of the resolution, page 830.

* * *

Q. Will you be good enough, Mr. Davis, to read that slowly and sufficiently loud for the jury to hear you:

A. (Reading):

"The opportunist errors of our former general policy limited the effectiveness of Communist work on the Negro question. This was especially expressed (T-9490) in our glossing over the national character of the Negro question, and in our unwarranted illusion that the big bourgeois themselves would carry forward after V-E Day the wartime gains of the Negro people.

*Excerpts From Government's Exhibit 25-A,
Read into Record*

"It is true that we continued to proclaim our uncompromising demand for full Negro democratic rights, and in many instances fought hard and effectively against Jimcrow practices, especially in the interests of the war effort. However, the struggle for the national liberation of the Negro people as fundamentally related to the whole struggle of the working class against capitalist exploitation and oppression was often lost sight of.

"Moreover, our revisionist policies narrowed the scope and weakened the vigor of such struggles, even causing us at times to soft-pedal the struggle to eliminate Negro discrimination in the armed forces.

"The results of this opportunist policy are all too apparent. We have not adequately prepared the labor movement and the Negro masses to combat current efforts of reaction to create sharp Negro-white conflicts within the ranks of labor and to wipe out the wartime democratic gains of the Negro people. Despite limited gains we have had serious weaknesses (T-9491) and inconsistencies in our work in the Negro communities and have been unable to consolidate our thousands of new Negro recruits into a stable membership. We completely liquidated the Communist organization in the South. We failed to develop a substantial corps of Marxist-trained Negro workers for leadership in the labor movement.

"It is now incumbent upon us to give militant leadership to the struggle for Negro democratic rights on all fronts, especially intensifying our educational work among white trade unionists. We must rebuild the Communist organization in the South. We must develop and bring forward a strong corps of working class Negro Communist cadres in the great industrial centers of the nation.

"Above all, we must deepen the theoretical understanding of all Communists, both Negro and white, on the fundamental nature and far-reaching implications of the Negro question and conduct a

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vigorous struggle to root out every manifestation of open or concealed white chauvinism in our own ranks. As one step toward this end, we should create a special commission to undertake a basic study of the conditions and trends of the Negro people in relation to the broad social, economic and political movements in America (T-9492) and the world today, and, in the light of Marxist-Leninist theory, to formulate a comprehensive definition of Communist policy and program on the Negro question."

Q. Thank you, Mr. Davis.

Now was the special commission that is referred to in the subdivision that you have just read established after the convention was adjourned? A. It was.

Q. Do you know what this subdivision was called? A. It was called the Commission on Negro rights.

Q. And do you recall when and by whom it was established? A. I think in the latter part of 1945.

Q. Were you appointed a member of that commission? A. I was.

Q. And what did the commission do after it was appointed? A. Well, it began to study, survey, investigate and prepare material for a report to be given at a later date to the National Committee of the Communist Party.

(T-9493) Q. Now inasmuch as we are proceeding in chronological order, Mr. Davis, I shall defer further inquiry concerning that report to the National Committee, and ask you at this time whether, following the convention, you were renominated by the Communist Party as a councilmanic candidate in the elections held in the fall of 1945? A. I was.

Q. Did you, in the course of your 1945 campaign, publish the platform or program on which you were basing your candidacy as councilman? A. Yes.

Mr. Sacher: Will you be good enough, Mr. Borman, to mark these two inner pages (handing to clerk).

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

* * *

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The Court: (After examining) Do you call this a platform, Mr. Sacher?

Mr. Sacher: Yes, your Honor. I am referring just to the two inner pages which have the title across the top of the page, your Honor. I am excluding everything else there.

The Court: All right, Mr. Borman (handing to clerk).

Q. Mr. Davis, I show you these two pages which are Defendants' Exhibit 8 x Y for identification, and ask (T-9494) you whether that was the program or platform on which you based your candidacy in 1945 (handing to witness)? A. Yes, yes.

Q. Now did you yourself distribute copies of those to voters in the City of New York during the period of your election campaign? A. Occasionally.

Q. And were copies of those distributed at meetings at which you spoke during the 1945 campaign? A. Yes.

Q. And that campaign was held, was it, in the late summer or early fall of 1945? A. Yes.

Mr. Sacher: I offer it in evidence, your Honor (handing to Mr. McGohey).

Mr. McGohey: (After examining) This is objected to, your Honor.

The Court: Sustained.

Q. Now did you, in the course of that campaign, make a number of speeches throughout the Borough of Manhattan? A. I did.

Q. Was the substance of the various speeches that you made substantially the same? A. Yes.

Q. Did you, in the course of that campaign, have occasion to discuss questions of force and violence and socialism? A. Yes.

Q. Will you please state the substance of what you said (T-9495) on those subjects? A. Well, in substance I pointed out—

The Court: Before you start on this, were you discussing it from the standpoint of the charge some-

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times made against the Communist Party that it advocated and taught the overthrow of the Government by force and violence?

The Witness: Yes.

The Court: Is that what you were talking about?

The Witness: Yes.

The Court: All right.

A. I pointed out during these—during this campaign period mentioned, that there were many questions being raised concerning my position as a Communist City Councilman, and concerning our Party, in view of the reconstitution of our Party at the July emergency convention, and that I wanted to say something in answer to some of these attacks.

I pointed out that these attacks were coming from pro-fascist forces, from pro-fascist newspapers like the World-Telogram and others—the Hearst press—and that it was necessary for me to say some of the following things: One is that our party did not practice or advocate force and violence or the forcible destruction of the government by force and violence, and that this was—and that our party did not advocate force and violence was evident among most (T-9496) people because it wasn't the Communists who beat up strikers, it wasn't the Communists who lynched, it wasn't the Communists that put people out of their homes, it wasn't the Communists who practice anti-Semitism, discrimination and other methods of force and violence; that it was the Ku-Klux, directly financed by the forces of big business and Wall Street, and that we should be charged with force and violence or advocating force and violence was an old trick that the reactionary forces used, the economic royalists in every capitalist country, including our own, to try to find scapegoats for their plunder and robbery of the American people, and that this was a part of the whole campaign of Red-baiting directly sponsored by the forces of reaction, and that this campaign of Red-baiting was designed to divide the American workers and people, to make them, instead of fighting their oppressors, begin to hunt around among themselves as to who is a Communist and who is not a Communist. And I said, as for our advocacy of force and violence, as a means of achieving socialism, that this

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also was not true because certainly in years prior to '45, since the emergence of fascism in the world, that our Party had followed a policy of seeking to organize, stimulate and help bring into being a broad coalition of the working class, the Negro people, small (T-9497) business forces, consumers and other minority groups of the democratic American people as well, for the purpose of electing a people's government, an anti-monopoly government, an anti-fascist government, an anti-war government, which government would be a major guarantee—the major guarantee of defending America against reaction and war and fascism; and that in order for such a government, if it were elected, to do that, it would have to take sharper and sharper measures against the big monopolies are, at heart, essentially fascists, and that that is where the fascist danger comes from, and that more and more a people's front government which got elected by the majority of the American people would have to take measures to curb the monopolies, to undermine their power, finally to break their power through nationalization and other means, and that such a government would necessarily have to move in the direction of socialism; and that this was a possibility and, in any case, that's what we advocated as a means to socialism; and also that this was possible because all of the democratic channels of the American people towards electing and finding peaceful means for the establishment of socialism were still open, even though the forces of fascism and reaction were trying to close them.

(T-9498) And I said that we had changed or corrected our party's position but the position that we took was nothing new since we had always been a Marxist-Leninist Party, and that even the Supreme Court in 1943 had handed down the Schneiderman decision, showing that our party did not advocate force and violence.

And then I answered some of the particular slanders against me by saying—that appeared in the World-Telegram about my advocacy of a separate republic in the South for the Negro people. I said that these were slanders and distortions of my position by virtue of my being a Communist.

And this, I said, substantially was the position of my party, both on the question of force and violence and on

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the question of how it is—how we were fighting for a peaceful and democratic way to socialism, and that—

The Court: What was that slander and distortion? Was that in the World-Telegram?

The Witness: I think it was. I am not sure.

The Court: I did not quite get what it was about.

The Witness: Oh, they charged in the World-Telegram that I was advocating some sort of a separate state for the Negro people in the South.

The Court: And you denied that?

The Witness: I denied that.

(T-9499) A. (Continued) And then I said, so far as force and violence is concerned, that this was what we advocated as the transition to socialism, and were there force and violence in connection with the establishment of socialism that it would not come from the Communists or from the workers, that it would come from the forces of reaction, from the big monopolies who, if they cannot stand for the Negroes to even exercise the right to vote under the Constitution of the United States under the 13th and 14th and 15th Amendments, they certainly weren't going to stand by while the American people curbed their power and really take such measures as would guarantee a real democracy, economically and politically and socially, in this country; and that the government, once it was elected, would have to take such measures to prevent a counter-revolutionary force of big monopolies and plantation owners and Ku Kluxers, and all the other underworld that are financed by these plantation owners, to prevent them from overthrowing such a people's front government elected by the American people.

The Court: Mr. Reporter, will you read me the part where he says who was going to raise the counter-revolution?

(Record read as follows:)

“and that the government, once it was elected, would
(T-9500) have to take measures to prevent a

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counter-revolutionary force of big monopolies and'’—

The Court: Take it easy; let me have those slowly.

(Record continued to be read:) “big monopolies and plantation owners and Ku Kluxers, and all the other underworld that are financed by these plantation owners,”—

The Court: All right.

Q. Now, Mr. Davis, did the ballots which were used in the Councilmanic election in 1945 bear a designation showing that you were a candidate of the Communist Party?

Mr. McGohey: Objection.

The Court: He has already said that he was a candidate of the Party. I will allow it.

A. Yes.

Q. And did the ballots in the 1943 election, at which you were first elected councilman, likewise show you were a candidate of the Communist Party? A. Yes.

Q. Were you re-elected to the New York City Council in the fall of 1945? A. I was.

Q. How many votes did you receive in that election?

Mr. McGohey: Objection.

The Court: Just a moment until I glance at my notes. I think he has already—

(T-9501) Mr. Sacher: Testified to 1943, your Honor.

The Court: I will allow it.

A. Second highest vote in the county, 63,000.

The Court: Well, I didn't—you were going to give us the number of votes, not that little descriptive matter.

Now, just strike out the descriptive matter.

Tell us how many votes you got.

The Witness: 63,000—more than 63,000 but less than 64,000.

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The Court: That was better than you did last time.

The Witness: I don't know.

The Court: As I remember it, you said—

The Witness: Oh, you are referring to my vote?

The Court: Yes. That was a better vote than you got the time you ran before, wasn't it?

The Witness: Much better.

The Court: That is what I thought. And you got elected the time before too, didn't you?

The Witness: I did.

Q. For how long a term were you elected the second time? A. Four years.

Q. When did your second term as councilman begin, Mr. Davis? A. January 1, 1946.

(T-9502) Q. When does it expire? A. December 31, 1949.

Q. All told, you have now served the people of the City of New York as Councilman for approximately five and a half years; is it?

Mr. McGahey: Objection. Perfectly obvious.

The Court: Well, we can all count.

Mr. McGahey: That is it. We are taking time.

Mr. Sacher: Why take time to object?

The Court: Now, you see, Mr. Sacher.

Mr. Sacher: All right, all right.

The Court: Let us just try, if it is physically possible, to eliminate that kind of business. It always starts trouble.

Q. You were sworn in for a second time as Councilman, were you? A. Yes.

Q. Who administered the oath?

Mr. McGahey: Objection.

The Court: Sustained.

Q. Did you in that oath which you then took swear that you would uphold the Constitution of the United States?

A. I did.

Q. When did you take that oath, Mr. Davis? A. Latter part of December.

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Q. Mr. Davis, did you, after your re-election, attend a meeting of the National Board of the Communist Party (T-9503) during the month of January 1946 at which there was a discussion in respect to the position of the Communist Party towards your re-election to the City Council? A. I did.

Q. Can you fix the date of that meeting any more closely than as being during the month of January 1946? A. No, I cannot. I think it was the first part of January—between the 1st and 15th, I think.

Q. Do you recall who was present? A. Well, I think Mr. Dennis, Mr. Thompson, I think Mr. Potash, Mr. Stachel and myself.

Q. Would you be good enough to state the substance of that discussion?

The Court: Would you mind pausing just a moment, Mr. Davis? I want to check something here.

All right. You may answer.

The Witness: Will you repeat the question?

The Court: Discussion at the meeting.

A. I made a brief report on the—on my re-election, and I pointed out that as a member of the City Council that my understanding—that my role in the City Council, in introducing legislation or bills or resolutions and voting upon measures introduced by others in the City Council, was one which flowed from my understanding of Marxism-Leninism, and that what I did of benefit, as I (T-9504) was trying to do in my first term and what I proposed to do in my second term, was to—was due to my understanding of the basic principles of Marxism-Leninism, which are the principles of my party. Then I proposed that we should have an estimate of what the legislative front meant in the fight for the immediate needs of the people and also in the fight for socialism.

And I said that the Marxist-Leninist view of the legislature and of the legislative front was that that too was a part of the class struggle, the struggle of the working class against the capitalist class and the capitalist class against the working class, for survival, and it was not separate and apart from this struggle, and that the role

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of the big monopolies and trusts with respect to legislatures was that they tried to keep progressive legislators from being elected and tried to elect reactionary legislators and that they tried to control the legislative bodies of the people; and that one of the big reasons why it had been impossible to get progressive legislation through for the labor movement and for peace and democracy, in Congress as well as in the City Council, as it should have been done, was due to the powerful influence of Wall Street and its big financial rulers because they sought to convert that legislature to the end of their profit; that I had been elected, not by the monopolies or by Wall Street, (T-9505) because they had fought me as they had fought other progressive councilmen, but I had been elected by the people, by black and white, and by Jew and gentile, and Catholic and Protestant, and foreign-born and native-born and, therefore, my first duty was to work—act in the Council in such way that I represented their interest.

The Court: Just a second. What was that last?

The Witness: Their interest.

The Court: You were there to represent everybody?

The Witness: No, I was there to represent the people, the working people of New York City, and I could do that by doing everything I could to stop the plunder of the big financiers and to stop their use of the City Council for their own class interest. So that is pretty nearly everybody because the monopolies are very few.

The Court: Well, I thought you were working up to the point that you had been elected by people from every class and creed and you felt when you went in there that you were representing them, all of them, but you had not.

Mr. Sacher: Well, he pointed that out.

The Witness: I was not elected by people of every class. I was elected by people of the working class, by professionals, by progressive people, by working people; that is who elected me and I could not do anything but be devoted to their interests in accordance with my understanding of Marxism-Leninism.

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(T-9506) Then I pointed out that the legislative front had become extremely important in recent years because fascism today works in such a way that it seeks to abolish even the limited legislative rights that the people have—it seeks to abolish their right to vote, it seeks to convert and pervert legislatures—and therefore the legislative front is of much greater significance at this stage of world history because of the fact that it represents a barricade against fascist destruction of democratic electoral and political liberties of the American people.

Therefore I said that I felt an especially keen sense of responsibility and I pointed to the fact that this was—I took the occasion and pointed to the fact that this was—our Party's record was not confined to me but that a glorious record had been established in the City Council by Peter V. Cacchione and that Communists had received very high votes in other parts of the country, like in Ohio and San Francisco and other places, and that this was an example of the fact that our Party was a Party of a new type, and that is, a Party which not only was devoted in the first place to the working class and to the American people but a Party also which sought to support and elect candidates of other parties wherever those candidates stood in (T-9507) part on platforms or programs that we considered advanced the interests of the American people; and I said that that was a position that had never been established so clearly as had been established by the Communist Party.

And I said that this was something—this re-election was something of very great importance because it had showed that even the fact that the fascists had Red-baiting so much against myself and against other councilmen that the people were mature and essentially sound, both black and white, and had dealt them a real repudiation by giving them this 63,000 vote.

Then Mr. Potash spoke and said that he especially felt that a point of big significance to be drawn from the fact that I was re-elected was the

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tremendous support received from the organized labor movement here in New York, and Mr. Potash said that this was a first responsibility of the labor movement and that it was going to continue to be a first responsibility of the labor movement to support legislation which I would introduce in the City Council, and Mr. Potash gave the example of his union, the Fur and Leather Workers Union, which had been conducting a long battle against discrimination against Negroes in the labor movement, and he said that certainly my election—my re-election was going to help to inspire (T-9508) that union and to make it possible to further break down bars of Jim Crow against Negro men and women in the labor movement.

These are about the essential things that I said, and there was other discussion.

Then later the position that I had taken in my report was adopted by the Board meeting.

Q. Will you please tell the jury about how many bills and resolutions you introduced into the New York City Council during that portion of that second term in his office which began with January 1, 1946 and ended July 20, 1948, which is the date of the indictment in this case?

Mr. McGohey: Objection.

The Court: Sustained.

Mr. Sacher: May it, without my going through the same questions, to which your Honor has sustained objections, be deemed that I have asked those questions and your Honor has sustained objections thereto?

The Court: If you ask about this bill and that bill I will sustain objections to such questions. I don't think his legislative record is in issue here.

Mr. Sacher: I would just like it understood for the purposes of the record that it has been deemed that I had asked similar questions and objections were (T-9509) sustained.

The Court: That is, questions similar to those which you put previously this morning concerning his other term as City Councilman?

Mr. Sacher: That is right, your Honor.

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Q. Now did you, Mr. Davis, in the years 1946 and 1947 and in that portion of the year 1948 preceding July 20th, engage in any activities as councilman other than those which you have described in connection with the bills and resolutions which you introduced in the Council?

Mr. McGohey: Objection.

Mr. Sacher: I should just, if I may—

The Court: I will sustain the objection. I don't see what these other activities of one kind or another have to do with it. He has made his position clear with considerable elaboration and you claim on his behalf that those are all the practical manifestations of Marxism-Leninism as he understood them.

Q. Did you engage in any activities during the years that I have mentioned as a member of the Communist Party? A. Yes.

Q. Would you please state briefly and in a general way what those activities were? A. This is in 1946, Mr. Sacher?

Q. Yes, Mr. Davis—or may I in view of the fact that (T-9510) the indictment—I withdraw that.

The Court: You want to go back to 1945?

Mr. Sacher: Yes, your Honor.

The Court: You may do so.

Q. Would you regard that question as amended, Mr. Davis, to include the year 1945? A. Well, in the year 1945 I maintained in my own office and also in 1946 a public service to the people of New York where every manifestation of service that could be given to my constituents, more immediately the people who lived in Manhattan County, could possibly be given, such as housing questions and rent questions and all such questions—jobs questions—and these too flowed from my understanding of Marxism-Leninism.

Then in 1945 I was part of a big delegation which went to Albany—in the early part of 1945—to appear at a public hearing to guarantee the passage of the present State Commission against discrimination in employment. We took a solid trainload of people to Albany that year to get that bill passed.

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(T-9511) And then in 1946, I think in January 1946, Congressman Powell and I organized a tremendous delegation to Washington on the whole question of the FEPC and the Anti-Poll Tax Bill and anti-lynch legislation, and against Jim Crow in the armed forces, and in support of strong labor and social welfare legislation.

That delegation had about seven or eight hundred people in Washington from various parts of the country. There were many other types of activities, Mr. Sacher, that it is just almost impossible to detail.

Q. Now, Mr. Davis, the witness Younglove testified at pages 4982 and 3 of the transcript that you made a speech at a Lincoln-Douglass rally in St. Louis—

* * *

Q. (Continuing) —Do you recall that testimony? A. Yes.

* * *

(T-9512) Q. Did you attend that St. Louis meeting in February 1946? A. I did.

Q. What day in February did that meeting take place? A. I think it was February 12th.

Q. Do you recall at what auditorium that meeting was held? Was it the Municipal Auditorium? A. I think it was.

* * *

Q. Do you recall about how many people attended that meeting? A. About 5000.

Q. Do you recall under whose auspices the meeting was held? A. Generally.

Q. General auspices, you say? A. No, generally I recall it. I can't recall the specific name. I think it was a United Front Organization or Unity Organization for the Passage of City FEPC.

The Court: What does that mean "United Front"?

The Witness: Well, that means where a lot of large organizations that may disagree on a lot of things come together on a thing that they do agree on, that is to say, you may have Communists

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or Republicans or Democrats or Catholics or Protestants or whatever you have, (T-9513) who may disagree on many of their theories and philosophies but who come together on the basis of the things they do agree upon, even though they may disagree on other things.

The Court: And this was just a phrase used to apply to this particular situation?

The Witness: No; this is a very common thing that takes place, that is, united front; agreement of many organizations that disagree on other things but who agree on one thing and form an organization on the basis of that one thing.

The Court: That is, there is a good deal of reference to that in Communist literature and in their meetings?

The Witness: Well, there is a good deal of reference to that not only in Communist literature but in working class literature and progressive people—

The Court: All right.

The Witness: —and democratic people—with a small “d”.

The Court: All right, let us go ahead.

Q. Will you be good enough, Mr. Davis, to state the substance of the speech which you made at that meeting at that time?

Mr. McGohey: Objection.

The Court: Did Younglove testify to what Mr. (T-9514) Davis said in his speech?

Mr. McGohey: On the contrary, your Honor, he stated clearly that he couldn't hear a word that was said. He said he knew that Mr. Davis spoke but that the condition of the amplifiers was such and the acoustics of the hall was such—and I am quoting: “I was hardly able to hear anything.”

Mr. Sacher: And I want to show that it was because of what Mr. Davis said that he was afflicted with deafness and the amplifiers were afflicted with bad operation. That is the purpose of the question.

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The Court: Well, if that is the reason I will sustain the objection to it.

Q. Did you, in the course of your speech in St. Louis, Mr. Davis, make any reference to the position of the Communist Party in regard to the subject of the rights of the Negro people?

Mr. McGohey: Objection.

The Court: Sustained. I sustain that only because we have heard that matter again and again from this witness. I have no desire to curtail you unreasonably but, after all, the issue here is not a question of the rights of the Negro people—

The Witness: It is very much so, your Honor.

The Court: Now Mr. Davis, you be a good boy—

(T-9515) The Witness: No, I will not be a good boy. I have got to talk about my people because this is very important to me.

The Court: You know, you are talking yourself right into jail in a minute or two. I wish you wouldn't do that. I have told everybody here they must wait until they have been asked questions, and I will have order in this courtroom.

Now you have just got to conform yourself with the way in which justice is administered here and stop these outbursts. I am going to overlook it this time, but I have already warned you and I just will not have that sort of thing.

Now as I was saying, Mr. Sacher, the question here is not about lynching and the Ku Klux Klan and Jim Crow and those other things. There are a great many people besides the Communists that are desirous of having those matters changed, and I think that the position of this witness as to the Negro rights and the Negro question has been very fully explored and gone into.

I will sustain the objection.

Mr. Sacher: If your Honor will permit me a brief moment, I would like to say that I am not seek-

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ing to elicit a re-statement of Mr. Davis's position in regard to the immediate rights of the Negro people, but, (T-9516) on the contrary, this very interrogation is designed to elicit the relationship between the advocacy of these rights and the policy or line of the Communist Party in regard to both the immediate needs of the Negro people and the realization of the elimination of whatever attacks are made on their rights and whatever oppression they suffer there, through the medium of the political line and policy of the Communist Party both now and in the direction of Socialism.

The Court: It it is just exactly that, then it confirms my statement that he has been over it and he has been over it several times.

Q. Now, Mr. Davis, did you during the same year, that is to say, in July 1946, assume the position of chairman of the Legislative Committee in the Communist Party? A. I did.

Q. Was that designation of you as chairman of that committee made by the National Committee at its meeting of July 17, 1946? A. I think it was.

Q. Will you be good enough to state briefly what the duties and the function of the Legislative Committee were? A. Well, the Legislative Committee was interested in, first, carrying out the Marxist-Leninist principles of our Party on the whole question of the role of the legislature and in trying to develop, as far as possible, (T-9517) a broad movement of the working class and the American people in the enactment of City, State and Federal legislatures—legislation, which would be of benefit to the American working class and the American people, and this took the form of supporting anti-lynch, anti-poll tax, FEPC legislation. This took the form of supporting, I think it was, the Wagner-Murray-Dingle Health Bill. This took the form of supporting measures which were going to stop or check in some measure the drive of Wall Street toward war and fascism, toward a third world war, and this Legislative Committee tried to coordinate all the work of the Party. It worked with members of other parties, Republicans and Democrats, and many others who agreed, even though they

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might not be—might not be in agreement with Socialism, and although we certainly were not in agreement with capitalism, which they were based upon, we did not find a way of cooperating on measures of general benefit to the American people. And this was in furtherance of our Marxist-Leninist goal of achieving Socialism through democracy, and through peaceful means; that is to say, of—of enlarging and expanding upon democracy so that the American people and working class could be convinced of Socialism, because if they were, we were confident that they would take the most peaceful and democratic means to arrive at Socialism. (T-9518) These were generally the scope of the work of the Legislative Committee.

Q. About how long did you remain chairman of the Legislative Committee, do you recall? A. A few—a few months; I don't recall.

The Court: When did you start in being chairman of that Legislative Committee?

The Witness: I think it was after the National Committee meeting in 1946.

Mr. Sacher: That was July 17th, your Honor.

The Court: Yes, 1946, for a few months.

Q. Were you relieved of that position—would you like some more water? A. Please.

(Bailiff gives water to witness.)

Q. Were you relieved of that position at your own request? A. Yes.

Q. Was it in connection with your councilmanic duties that you asked to be relieved?

Mr. McGohey: Objection.

The Court: Sustained.

Q. Now Mr. Davis, you testified earlier that after the convention there was—that is, of July 1945—there was established a special commission which was referred to in the section of the resolutions which you read earlier this morning to the jury; do you recall that?

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(T-9519) The Court: A special commission on Negro rights.

Mr. Sacher: Yes.

Q. Do you recall that? A. Yes.

Q. Now did there come a time when you, as a member of that commission—

The Court: I guess we had better take our recess now, Mr. Sacher; I see it is a little over one o'clock.

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

We will take a recess until 2.30.

(Recess to 2.30 p.m.)

(T-9520)

AFTERNOON SESSION

BENJAMIN J. DAVIS, resumed the stand.

Direct examination continued by Mr. Sacher:

The Court: Let the record show that the jury is present, and the defendants, and the attorneys for the defendants, with the exception of Mr. Gladstein, Mr. Isserman and Mr. Crockett, with respect to whom I am informed the stipulation has been signed and filed in the usual form, and the attorneys for the Government are present.

Very well, Mr. Sacher, you may proceed.

Mr. Sacher: May Mr. Davis have some water, please?

The Witness: The bailiff has gone out to get some.

Q. Now, Mr. Davis, at recess you testified that there came a time when you made a report to the Commission

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which had been provided for in subdivision 7 of the resolution adopted by the convention in July 1945; you recall that? A. (No answer.)

Q. Now, was your report discussed by the members of the Commission on Negro work? A. Yes.

Q. Now, did this Commission consist exclusively of Negro people or did it have among its membership both Negro and white members of the Communist Party? A. It had both Negro and white members of the Party.

(T-9521) Q. After your report was discussed in the Commission on Negro work was a vote taken on it by the members of that Commission? A. Yes.

Q. Was your—I beg your pardon? A. I am just coughing.

Q. Was the report that you made to that Commission duly adopted by a vote of the majority of those present and voting thereon?

Mr. McGohey: We object, now, your Honor, and I would like to state the grounds. First of all, there is no—

The Court: I will hear you.

Mr. McGohey: —time and place fixed. We haven't had who was here. And I think the question ought to—the answers ought to be elicited without leading in this manner.

The Court: Very well. I think you can accommodate yourself to that suggestion, Mr. Sacher.

Q. After you made the report to the Commission did you make the same report to a meeting of the National Committee of the Communist Party? A. I did.

The Court: Well, perhaps you misunderstood me, Mr. Sacher. I indicated that the question as to the voting I thought would be entirely proper if you fixed the time and the place and the recollection of the witness as (T-9522) to who was there. Perhaps he answered it without my realizing it. I had thought that there was no answer to the previous question.

Mr. Sacher: Inasmuch as I did not want the report repeated, stated twice, I was just leading up to his presentation of that report to the National Committee. It was only preliminary.

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The Court: Then I take it I may regard the question of their adopting it by a majority vote is withdrawn?

Mr. Sacher: Yes, your Honor.

The Court: Very well.

Q. Will you be good enough to state when this meeting of the National Committee took place, at which you made the report, Mr. Davis? A. It was December 4th or 5th, 1946.

Q. And do you know where it took place? A. I think it took place at the Hotel Diplomat. I am not sure.

Q. Do you recall who of the National Committee were present at this meeting? A. Mr. Foster and Mr. Dennis, Mr. Potash, Mr. Stachel, and I think Mr. Williamson, Mr. Green. That is all I can recall now.

Q. Do you recall which of them participated in the discussion that was had at that meeting? A. I think all of those that I have mentioned spoke, I don't recollect what all of them said. Mr. Foster and Mr. Dennis, I (T-9523) recall something of what they said.

Q. Now would you be good enough to state to the Court and jury the substance of the report which you made at that meeting of the National Committee? A. Well, I said that the report which I was making was one which had been discussed previously in the Negro Commission or Commission on Negro Rights. I said that the report that I was making was based upon several months of discussion—in fact that the matter had been under consideration by the National Committee ever since the emergency convention in 1945.

The Court: I think you meant to say "Commission." You said it had been discussed in the "Committee"; I think you meant to say in the "Commission."

The Witness: In the Commission, and it had been discussed also in the National Committee during the same period.

A. (Continuing) And that even previous to the 17 or 18 months discussion which had taken place in the Commission that the whole question of the report which I was present-

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ing had been discussed for many years in the Party and that this report consisted primarily of two parts, one part dealing with the recommendations to the National Committee on questions affecting the current policies of our Party on the whole Negro field and that (T-9524) it also dealt with the question of self-determination.

The Court: Is that item 2?

The Witness: Item 2.

The Court: Self-determination.

A. (Continuing) I said that the report which I was making should be considered in the light of the many months of discussion which had been taking place, that we wanted a democratic discussion of it there at the National Committee meeting and wanted each of the comrades who were present to try to contribute in one way or another.

I said further that certainly on the question of self-determination that what was being said in my report was not the final word on all aspects of the question, but that it was necessary for us at that meeting to adopt a position which would give an orientation or direction to all of our work in this field.

I then proposed that following my report which I was about to deliver that there should be an extended discussion on it and that from the discussion and from my report that I thought that what we should do is to adopt a resolution or a statement which would summarize in the light of all the discussion just what our whole position was with respect to the Negro people, including the question of self-determination in the South, that is, in the Black Belt area in the South, were the Negro (T-9525) people constitute the majority of the population.

To say it as briefly as I can, I dealt with first the question of the position of the Negro people and I said that the Negro people are the bottom of the political and economic and social ladder on a world scale, that this existed not alone in our country in America but this existed also in Africa, that this existed also in the West Indies, that this existed also in other countries where there were large Negro populations, as for example in Latin America.

And I pointed out that this was a direct consequence of what could be called Anglo-Saxon imperialism and that

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the imperialists of our own country—meaning by “imperialists” the dominant financial forces and class of our country—that their oppression of the Negro people in this country was a part of the reactionary foreign policy which they were pursuing with respect to colonial peoples of all races, colors and creeds abroad, and I said that this oppression is simply not based upon the fact that the Negro people in a great majority happen to look different from white people in terms of their skin, their features, but that this oppression had as its basis the extraction of super-profits out of the Negro people and that this was especially true in the Black Belt area which constitutes (T-9525-A) the main cotton economy area of the Deep South, and that the treatment of the Negro people in this country, that is, the treatment of national oppression existed because of the sack of poison which flowed from the original oppression of the Negro people in the Black Belt.

(T-9526) I said that a second reason why this oppression existed was because it was a very convenient way for the big business and the big employers to divide the working class and people of our country, that is to say, to play Negroes against white, and in that way weaken the power of the working class and of the democratic forces of our country to put up an effective and successful struggle for their liberation, for the end of exploitation, for the end of the oppression of the Negro people.

Then the third reason I gave was that this system of the oppression of the Negro people is buttressed by a whole ideological idea of white supremacy and that this idea expresses itself in all aspects of American life, and that this is used to create the impression that the whites are superior to the Negroes and that the Negroes are inferior to the whites; and I said that this idea was completely unscientific, that it was a form of Nazi ideology because it was more akin to barbarism inasmuch as the idea of the inferiority of races had already been destroyed.

I then said that a fourth reason why this oppression takes place is because in the deep South there is a constant effort on the part of the Negro people out of the deep South to come out of the deep South and looking for jobs and employment in other parts of the country, and also to (T-9527) escape the rigors of the lynch terror in the deep

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South, and that having such low living standards it was possible for the employers to play them against the white workers in other parts of the country, and that therefore the oppression of the Negroes in the Black Belt constituted a threat to the living standards of the white workers all over the country, and consequently these were the four reasons which I gave in the report for the oppression of the Negro people.

Now I pointed out also that this system of the oppression of the Negro people in the Black Belt was the most rigorous type of oppression, that we had in America what is called bourgeois democracy or capitalist democracy, and that there are certain limited but very precious rights which the American people hold and which we want to defend today against all manifestations of fascism to destroy the limited rights which the American people have; but I pointed out down in the deep South, particularly in the Black Belt area, that these bourgeois democratic rights had never really been fully recognized by the Negro people and that the nearest thing that they had had toward this recognition was during the reconstruction period when the Negroes were able to elect Congressmen and State legislators and even two State Senators from the State of Mississippi; and I pointed out also that this Black Belt area was (T-9528) characterized by the following disabilities imposed upon the Negro people: 1, that it was common knowledge that they could not vote except under extreme terror; that they could not elect public officials except—well, there are practically no exceptions to that—I don't recall mentioning them; that they could not elect judges, that they could not elect governors and state Senators and could not hold public office. I also pointed out that they were pretty much confined to the lowest type of share-cropping, which is a system whereby the Negro poor farmers and sharecroppers are practically attached to the land and live under a system of peonage on the land which they have tilled for more than 300 years since they have been in this country, brought here as slaves.

(T-9529) Then I said also that because of the very deep and great oppression of the Negro people that the white population in this area is oppressed also because the white workers and poor farmers in this area are also vic-

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tims of the system of landlords, of mill owners and of others, and that one of the main reasons why this—the oppression of the Negroes had existed in this way and one of the main reasons why the oppression of the whites had existed in this way is because of the system of lynch terror, particularly in the Black Belt where one is played against the other, and it had not been possible as yet to get them together, and that it was the purpose of big business and the plantation owners to keep them forever divided.

Then I pointed out what I meant when I spoke of the lynch system. Now, I said that most people just consider lynching as the physical act of hanging a person up by a rope and, of course, that is the most extreme and savage and cannibalistic form of the lynch treatment of the Negroes, but the lynch system was more than that: The lynch system meant that the Negro people in this area lived in constant threat of their lives any time they sought to exercise their rights, and that the lynching is not alone the murder of a citizen but that it is a badge of the inferior status of the Negro people.

I pointed out that in the Black Belt that this (T-9530) was characterized against the Negro people—or, rather, enforced against the Negro people, although in the Black Belt areas, according to our information, what we had been able to learn, it is precisely in the Black Belt areas where the Negro people are in a majority over the white people.

Now I pointed out also that the Negro people were in this way a victim of a system of force and violence.

I pointed out also that the Negro people were victims of a conspiracy that had been carried on against them ever since Andrew Johnson betrayed the cause of the Civil War by coming to an agreement with the defeated slave owners to keep the Negroes in one or another form of feudal slavery.

And I said that this conspiracy consisted of the fact that the 13th, 14th and 15th Amendments were constantly violated in the Black Belt area more especially than they were in the North, although it is only a question of degree.

I pointed out too that, for example, the 14th Amendment of the Constitution requires that the representation from States should be reduced in accordance with the qualified

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voters but that this provision of the Constitution had never been enforced.

(T-9531) And I said further, this conspiracy existed in the fact that there were so many officials of the South, Senators and representatives, who had not only been a part of the system of oppression of the Negro people and of the poor white population but that they themselves had constantly incited lynch terror and Ku Klux terror against the Negro people, and that this had been done with the connivance of the Attorney General of the United States, of the President of the United States, and of the whole administration of justice. And I pointed out that one of the worst examples of the inferior status of the Negro people was that in all of the 5,000 lynchings that have taken place in America since 1886 that there has never been one prosecution which resulted in a conviction of a lyncher either by a federal court, a federal attorney general, a federal judge or by a State court, or by a State attorney general, or what have you.

And then—

The Court: This is all what you reported?

The Witness: Yes, yes.

A. (Continuing) Then I pointed out that notwithstanding this system of oppression under which the Negro people lived, that certain progress had been made by the Negro people over the course of years. And I said (T-9532) that that progress was due in the first place to the great militancy of the Negro people themselves, their unwillingness to accept this inferior status without a fight, and that that was true even before the Communist Party was ever organized in our country, and that the Negro people showed that because, during the Civil War and during the slave period, there were many revolts of Negro slaves against the system of force and violence of slavery, and that since that period the Negro people had fought in the Civil War and had allied themselves with the emerging industrial class which could only exist by the defeat of these feudal owners—the feudal slave owners—and the slave class in the South, and that the Negro people were, therefore, the first reason why there had been some progress.

And then, the second reason was—that I gave—was that in modern day America that the principal progress that

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had been made in the struggle for Negro rights had been made by virtue of the alliance between the Negro people and the labor movement, and plus the democratic forces of the nation.

Then I said that the Negro people had in recent years made many gains but that the basic framework of the Jim Crow system still exists in our country.

I then went ahead and discussed the question (T-9533) of whether or not the Communists were using the Negroes, and I said—the question had been raised among them—and I said then that the biggest—

The Court: Whether they had been doing what?

The Witness: Whether the Communists used the Negro people for—

The Court: You mean the use of them for their own purposes?

The Witness: Yes, used them as tools or something of the sort.

The Court: Yes, yes.

A. (Continuing) I then said, on this question, that the biggest use that had been made of the Negro people had been made by confining them within a system of Jim Crow whereby they were never able to make free choices, they were limited by an iron curtain of Jim Crow either in the South or in the North, and that, for example, America had become a very great and wealthy country primarily because of the cotton economy in the South from the very beginning of American capitalism, the heyday of American capitalism, and the basis of this cotton economy was the Negroes who were never even permitted to vote—first slaves, and then not even permitted to vote, to be first class citizens of this country, and that the Communists, in the first place, were Negro and white, and that the (T-9534) Communists fought beside the Negro people and with them to achieve their full and democratic choice of a free and equal life in America, and they could only do that by fighting against the system which kept the Negro people enslaved in the deep South and, to a less extent, all over the country.

Then I went into the question of self-determination, and I said on this question that the principle of self-determi-

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nation is a principle which was not at all originally a Marxist-Leninist discovery; that the principle of self-determination for nations had existed for many, many years, and that President Wilson had used it as one of his 14 points in World War I, and that it is nothing more than the right of a nation to determine its own independence and destiny. And I said that in the deep South, in the Black Belt area, where the Negro people constituted a majority, that our Party raised the slogan of the right of the Negro people in the Black Belt area to determine their own destiny or the right of self-determination, and that our Party raised that slogan because the Negro people, having lived in that area for 300 years, first under feudalism and also now under capitalism, that they had all the attributes of nationhood, and that the question of regarding the Negro people as a nation was co-extensive with realizing the full dignity of the Negro people as a (T-9535) people, and that they had so regarded themselves and spoke of themselves in many historic documents which I mentioned to the National Committee meeting. And I said that the Negro people in this area, who wanted freedom, who wanted to own the land in that area, who wanted equality and democratic rights and their full citizenship under our Constitution, that the Negro people had for 300 years had an experience that no one would guarantee them having those rights, and that the highest guarantee of the Negro people in that area having those rights was that they should be able to determine their own destiny and enforce them themselves.

(T-9536) Now I also pointed out however that this could not be achieved unless the Negro people had allies. First, that they themselves should consciously believe in this position and also that the Negro people would have allies, and their first allies would be the labor movement in the country, their allies among the poor white farmers in the South who to a more or less degree suffer oppression also by the landlords.

So that this could not be achieved except upon the basis of the Negro people and their allies understanding this particular point and working together against a common class—upper class foe.

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Now this I said was what essentially I meant. I said that the position that we had, what I was advancing then was a position that was different from the position that had been established some time ago in our Party; that first we did not advance the slogan of self-determination as a slogan of immediate realization and that at other periods in the Party's discussion there got abroad ideas that we did and those ideas were incorrect.

Secondly, that we were not advancing the theory that there should be a separate black republic of the Negro people in the Deep South, that this also was alien to what we were advocating and to what I was (T-9537) recommending.

I said on the contrary that no one could exercise the right of self-determination except the Negro people themselves and that that is all we advocated and that it was up to the Negro people themselves in conjunction with their allies and supporters to decide just what their relation would be to the state government or to the federal government or in whatever way they wished to establish their destiny or fulfill their destiny.

The Court: Will you read that last sentence.

(Record read.)

The Court: "That it was up to them to decide just what their relation would be to the state government or to the federal government or in whatever way they wished to establish their destiny or fulfill their destiny." All right.

A. (Continuing) That the Negro people were Americans, that they are proud of their American citizenship, that they wish not only its responsibilities but they wish also its privileges, and that what they would do certainly to decide their destiny would be determined by their views at the time that the moment arrived when they would have the opportunity to exercise the right of self-determination. In other words, I pointed out that our Party only advocated the right of self-determination and—

(T-9538) The Court: I don't quite understand what that means yet. I wish you would explain that to me again, this right of self-determination. Of

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course you are explaining what your report was there.

The Witness: Yes.

The Court: But as you tell it I don't quite get yet what was the self-determination.

The Witness: Well, let me put it this way—now do you want me to say what I said in the report or make an explanation to you?

The Court: I suppose perhaps the best way to do is to leave it for your counsel to bring out or in cross-examination. After all you are telling just what you told these other people. They were associates and very largely knew your views already I take it, didn't they?

The Witness: Well, it wasn't a question of that; it was a question of submitting to the National Committee for it to act upon in behalf of the entire Party.

The Court: You have been discussing this, as you said, with these same men on the National Committee as well as with the National Commission on Negro Rights for some months, hadn't you?

The Witness: That is right, but there were many people there at the meeting who had not attended (T-9539) the discussions which we had had in the Commission and in the National Committee.

The Court: What you said about self-determination is just what you told us a moment ago?

The Witness: That is right.

A. (Continuing) Then I pointed out that the whole question of self-determination was one which was not an immediate slogan of our Party; that our immediate fight for the rights of the Negro people was for their free and equal citizenship, that is, free and equal in the sense that they would have equality without segregation, without discrimination, without Jim Crow to their free and equal exercise of their constitutional rights from the same plane and in the same way as other citizens, and that that was our immediate—immediate objective.

Then I said that we were therefore avoiding errors that had been previously made and that these errors I thought

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should be pointed out there; that our National Committee should adopt a resolution based upon the discussion and my report, and I said that I considered this report which I gave as the substance of a Marxist-Leninist view on the Negro question as a national question in this country.

I remarked to them that Marx had said, I believe, in Capital—I don't know what volume—that labor in a (T-9540) white skin can never be free while labor in a black skin is branded, and that therefore this question of fighting for the equality of the Negro people was a matter of very deep self-interest to the white workers and to our whole country.

Well, this about summarizes the report.

The Court: Did you have anything to do with teaching in these schools?

The Witness: In the sense that as a member of the National Board the teaching and advocacy in our schools, the main policy was set by our National Board.

The Court: But so far as actually teaching in them or supervising them you had actually nothing to do with them?

The Witness: Well, I have taught at various times—very rarely—in schools, but I have a responsibility because of the fact that I am a member of the National Committee, a member of the National Board, and what is taught in our schools is determined by the policies which we are following at the particular time.

The Court: Yes, but you might know something about it and you might not know anything about it, and I am wondering what it is.

Mr. Sacher: Knowing about what, your Honor?

The Court: Teaching in the schools—whether he (T-9541) by personal contact and personal experience had something to do with teaching in these schools.

Now which is it, Mr. Davis?

The Witness: Well, I have participated in discussions where the policies to be taught in schools were outlined and decided. I have assisted in the preparation of outlines based upon decisions made

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by our National Committee. I have been to some schools; I have given a lecture here and there at a school, and that constitutes my—and I have heard reports from Mr. Stachel who is our Educational Director, which reports were subject to the action and decision of the National Committee of the Communist Party.

Mr. Sacher: Will you, Mr. Borman, be good enough to mark pages 14 to 18 of this pamphlet which I hand you, please (handing).

(Marked Defendants' Exhibit 8 x Z-1 for identification.)

Mr. Sacher: Also I would like you, Mr. Borman, if you will, to mark pages 24 to 26 as a separate exhibit, and pages 9 to 13 inclusive as a separate exhibit.

* * *

(Marked Defendants' Exhibits 8 x Z-2 and 8 x Z-3 for identification.)

* * *

(T-9542) Q. Now Mr. Davis, you have testified that several other persons who were present at the meeting at which you made your report participated in the discussion, is that right? A. Yes.

Q. Now if you don't mind, I should like to defer a question as to what those other persons said, and ask you whether at the conclusion of the three-day meeting of the National Committee there was adopted a resolution based on your report and the discussion which ensued? A. There was.

Q. I show you Defendants' Exhibit 8 x Z for identification and ask you whether that is the resolution that you referred to (handing)?

* * *

Mr. Sacher: 8 x Z-3, I beg your pardon.

* * *

A. (After examining.) That's it.

Colloquy of Court and Counsel

Q. Was this resolution adopted by a vote of the majority of the National Committee?

Mr. McGohey: Objection.

(T-9543) Mr. Sacher: Well, I will reframe the question, your Honor, if the objection is as to form.

The Court: I am just wondering what difference it makes if they adopt it by majority vote or any vote.

Mr. Sacher: All right, I agree; I will withdraw the question.

The Court: The issue here is not whether some such resolution was adopted or not, or whether these various things that they advocated in connection with the rights of Negroes were sound or not. I suppose a great many people would think that they were sound and those reforms should come about. It isn't what we are trying this case about but I seem to be quite unable to get this flood of testimony on the same subject limited in some way.

Mr. Sacher: Well, I should like to point out to your Honor that I am about to offer this resolution in evidence for the purpose of showing what the development of the position of the Communist Party of this question was in light of testimony given by the witness Nowell. That is the relevancy of this, your Honor.

The Court: Well, you see, you started in here by bringing up these various things which were stated to be grievances of large numbers of the population, the veterans—

Mr. Sacher: No, the prosecution put this in. (T-9544) We did not put Nowell in.

The Court: —and about the Negroes and so on, and I took the position that it was only reasonable and right that the position of these defendants should be made clear to the jury, that when they said they did not do the things they were charged with in the indictment, that they could show in a reasonable way what they claimed they were doing, and each time I say "Well now, I will let you go ahead on this Negro question a little further here,"

Colloquy of Court and Counsel

thinking it is going to be the end of it, you are right back again with some more of it, and, really, the hundreds and hundreds of pages of this record that are taken up with that, which is not an issue in the case at all—

Mr. Sacher: But it was made an issue by the prosecution at page 3390. I ask your Honor to look at the testimony of Nowell.

The Court: Well, I suppose it may have been made an issue as some particular incident or matter.

Let me see the page you have reference to.

Mr. Sacher: Page 3390 to—

The Court: 32—

Mr. Sacher: 3390, your Honor, down to 3397.

The Court: I cannot imagine anything that would be on that page that would warrant the constant harping on that phase of the matter past all reason. There is (T-9545) such a thing as cumulative evidence.

Mr. Sacher: But this resolution—

The Court: Well, you say that as to everything that comes up, that it is something different. I have read the resolution—

Mr. Sacher: It deals—

The Court: —and while the words are not identical it seems to me that it is very largely the same old subject.

Mr. Sacher: I object—if your Honor please, I object to your Honor's characterization of it. That matter is for the jury, your Honor.

The Court: I say, you can object your head off but it seems to me it is the same old subject.

Mr. Sacher: And may I object to your Honor's language. I don't think it is seeming and proper to tell me to object my head off.

The Court: Well, maybe that is going a little far, and probably you are not going to do that.

Mr. Sacher: I should think so.

The Court: I don't mean it in a bad way at all, but, you know, you have done a considerable amount of objecting and you look at me and shake your head and in that earnest way of yours you seem to

Colloquy of Court and Counsel

think I am doing something very bad when I don't think I am doing anything (T-9546) very bad at all, and when I say this is the same old subject, it is the same old subject, so what is the use of making a fuss about it?

Now let me read this and see what is in here.

(After examining.) Well, I do not see anything there that would affect what I have stated at all.

Mr. Sacher: Well, may I then, your Honor, call your specific attention—

The Court: The witness seems to be saying the same thing that Mr. Nowell said so far as this question of Negro rights—

The Witness: I certainly am not, your Honor.

Mr. Sacher: That is just the point. He is not.

The Court: We never quite seem to find a meeting of the minds on the meaning of words, so that I suppose we had better not pursue that and I will merely rule that I see nothing here to warrant the constant repetition of this material on this subject here. Now let us get on. You have an offer to make, have you?

Mr. Sacher: I do, your Honor. I offer Defendants Exhibit 8 x Z-3 in evidence (handing to Mr. McGohey).

(T-9547) Mr. McGohey: This is objected to, your Honor.

The Court: Objection sustained.

Mr. Sacher: I would like to be heard, if I may, your Honor, on this question. I would like to point out that this resolution—

The Court: Now just a second. I don't desire to hear you, Mr. Sacher, on the subject. I say I don't desire to hear you on the subject.

(Mr. Dennis rises.)

The Court: The jury is excused.

(The jury left the courtroom at 3:30 p. m.)

The Court: Yes, Mr. Dennis?

Defendant Dennis: If the Court please, I would like to be heard.

The Court: You may.

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Defendant Dennis: (Continuing) Briefly, on this question.

The Court: Very well.

Defendant Dennis: I first would urge upon your Honor that you reconsider your ruling. The Court will recall that in the course of the testimony by two prosecution witnesses allegations were made to the effect that our Party in advancing the right of the Negro people in the Black Belt to self-determination were advocating, according to (T-9548) them, a proposition of carrying through armed insurrection in the South, and what was presented here was a Mr. Edgar Hoover caricature version—

The Court: Now Mr. Dennis, did you just hear Mr. Davis testify on that very subject?

Defendant Dennis: I heard Mr. Davis testifying and dealing with certain aspects in a skeleton form.

The Court: It seemed to me that he was testifying in effect to something that was quite different from what you mention. Am I not right?

Defendant Dennis: Mr. Davis was giving in capsule form the essence of our position.

The Court: If that is so, then it just becomes a question of how many times a person is to repeat the same thing, doesn't it?

Defendant Dennis: In respect to this, your Honor, I think what is important that the Court and the jury should have is the official, authoritative position adopted by the National Committee of our Party and subsequently approved by a National Convention. It is a very short document but it is scientific, it is authoritative, it is the official position of our party; and I would therefore urge that—

The Court: Well, you know, there is a funny thing that I don't see how I am ever going to get the (T-9549) thought over to you gentlemen of the defense. You are obsessed with the notion that if you or any of you say a thing is so that makes it so and nothing that anyone can say can seem to disabuse you of that.

Now, as far as this question that you raise, you have the testimony of Mr. Davis. If there is some

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particular portion of the resolution that bears particularly on that subject, it may be separately offered and I will give it the most serious consideration. I have no intention of keeping from the jury what is the position of the defendants on a subject with respect to which there has been any testimony by any witness of the prosecution.

Defendant Dennis: Counsel will consult on that.

The Court: Very well, you may take the time—

Defendant Dennis: While I have the floor, your Honor, I would just like to make an additional remark. The Court has observed a number of times that the witnesses for the defense have dealt at length, and on many occasions, with our struggle for Negro rights, for a struggle to put an end to the Jim Crow system and lynching, and, surely, that will continue to be the case because this has occupied a great part of the activities of our entire organization.

Now, if the prosecution is prepared to stipulate that our activities in defense of the rights of the Negro (T-9550) people as well as our struggle for peace, for jobs, for democracy, are typical of our activities and constitute the unfolding of our program, the application of the principles of Marxism-Leninism, why, then, it would not be necessary for us to bring additional data and corroborative testimony; but, in the absence of this, your Honor, we are entitled to, and we are duty-bound to establish beyond a shadow of a doubt what we actually advocate, teach, what activities we carry on, and to show the organic connection between our activities around these issues that are fundamental principles, our programmatic position.

The Court: Well, you see, the trouble with all that is that it has been done so many times here, and there must be a point in a trial such as this, which has now lasted almost six months, where an end to what is absolutely cumulative must be reached. Otherwise we will never be through and I cannot quite see the advantage that there is to the defendants unless it be merely having the matter go on and on, month after month.

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Now, let me ask you a question: Isn't it conceivable that the defendants may well have advocated all these reforms for the Negroes, that they may have been wholly opposed to lynching in any form, to the poll tax, to Jim Crow, and to all forms of discrimination, and at (T-9551) the same time have conspired to overthrow or to advocate the overthrow of the Government by force and violence?

Defendant Dennis: The answer to that, very simply, is, it isn't possible, your Honor.

The Court: You say it isn't possible but at least, as a matter of logic and reasoning, it is obviously possible, isn't it?

Defendant Dennis: It is not. It is only possible for a working class party, a Marxist party, to carry on what the Court has referred to as the good things here only if the principles and the program we are advancing are in the interest of our people, of the welfare of our country, and we can only carry on activities in behalf of the rights of the Negro people, of the defense of unions—

The Court: Yes, but you see—

Defendant Dennis: —and for peace—

The Court: —a person charged with such a conspiracy as this might always say, "Now, I categorically deny the conspiracy and I say, get your mind off on this other thing: I was in favor of the rights of Negroes," and go on talking about that, which, after all, may well be true and yet the charge may be true.

Defendant Dennis: No, but in relation to all these questions, and concretely the matters dealt with by Mr. Davis, he, as well as the other witnesses for the (T-9552) defense, are establishing the connection between the activities we develop in behalf of the immediate and most pressing needs of the people, Negroes and whites, the connection between this and the efforts of our party, the labor movement and other popular forces, to prevent the rise of fascism, to bring into being an anti-monopoly, an anti-fascist people's government.

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We demonstrate that in the struggle for this and by curbing the powers of the monopolies, it will be possible to march forward through democratic processes to attain socialism in this country.

The Court: Don't you think Mr. Davis has been given a very good opportunity to say all that, and that he has done so?

Defendant Dennis: I think the opportunity that he has had to state the position of our party and his views, he has utilized extremely effectively.

The Court: How can anybody—

Defendant Dennis: Though I think he should have an opportunity to present—

The Court: Just a moment. How can anybody, with any show of reason, claim that Mr. Davis has not been given not only a reasonable but a very full opportunity to state his views on that, what he advocated and what he taught? It seems clear to me. I don't know why—

(T-9553) Defendant Dennis: Well, on this question—

The Court: —it has to be gone over so many times.

Defendant Dennis: On this question I presume it is a matter of what side of the bench one is on. I, surely, have an opinion which is shared by all the defense, and we have had great difficulty on a whole host of questions of explaining our full position and particularly to show the changes in our policy occasioned by events and developments.

The Court: But Mr. Davis has just been doing that.

Defendant Dennis: For the short time he has been on the stand he has been—

The Court: Doing very well.

Defendant Dennis: He has been very effective.

The Court: I think we had better let the matter rest there.

Mr. Sacher: No, if it please the Court, I wish to point this out: the matter of self-determination as a separate subject was treated separately by the witness Nowell, and this is the first time we have

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touched on the subject of self-determination. What is more, I respectfully submit that the exclusion of this resolution is an exclusion of what the Communist Party taught and advocated. Up to this time, it is true, you have afforded Mr. Davis an opportunity to state what he reported (T-9554) to the National Committee.

The Court: Not only that, I thought I had given him an excellent opportunity, not only once, not twice, not three times, but in a variety of ways and with reference to a variety of occasions, to tell the full story of his fight for Negro rights, as he has put it.

Now, let me see the part of that exhibit, if there is a part, which I am pretty sure there is, as I read it, which has to do with that, and perhaps we can have that part put in and not the whole.

Mr. Sacher: May I consider this with my colleagues during the recess, your Honor?

The Court: Certainly you may.

Mr. Sacher: Thank you.

The Court: So we will now take a short recess.

(Short recess.)

(T-9555) Mr. Sacher: In regard to this resolution of the National Committee, your Honor, at your suggestion we have examined it and re-offer that portion of it which begins at the bottom of page 10 and runs to the middle of page 12.

* * *

The Court: It is marked in the exhibit?

Mr. Sacher: I haven't marked it.

* * *

The Court: You can do that after Mr. McGohey is finished reading.

Mr. McGohey: If the Court please, maybe I can shorten the time if I could point out without stating what is in here that the part beginning at page 10, that paragraph beginning at the bottom of page 10 and going down to the line of stars which appear on

*Excerpts From Defendants' Exhibit 8 x Z-4,
Read into Record*

page 11, I believe to be objectionable on the ground that it is repetitious. However, I would have no objection and now interpose no objection to the part which begins after the break where the stars appear and continues down to the stars at the end of page 12.

(T-9556) The Court: Is that whole subject matter self-determination.

Mr. McGohey: The part that I have no objection to is, your Honor.

The Court: All right, I will look at it.

The part on page 10 starts the second line from the bottom of the page, does it not?

Mr. Sacher: That is right, your Honor.

The Court: Yes, I think the part that refers to self-determination begins with those asterisks on page 11 and runs over to the succeeding asterisks on page 12, I will receive that part.

(Marked Defendants' Exhibit 8 x Z-4 in evidence.)

By Mr. Sacher:

Q. Will you be good enough, Mr. Davis, to read that portion of the resolution which is enclosed within these marks from the middle of page 11 to the middle of page 12?

The Court: Is that a resolution of the National Board or of the National Committee?

Mr. Sacher: National Committee, your Honor.

A. (Reading):

"As always, the Communist Party stands firmly in the forefront of the struggle for full economic, social and political equality for the Negro people.

"In fighting for their equal rights, the Negro (T-9557) people are becoming more unified as a people. Their fight for liberation from oppression in the Black Belt—the area of Negro majority population—is a struggle for full nationhood, for their rightful position of full equality as a nation. In

*Excerpts From Defendants' Exhibit 8 x Z-4,
Read into Record*

recognizing the struggle for equal rights in the South as a movement towards full nationhood, the Communist Party supplies new power to the Negro liberation movement and also advances the perspective of full freedom for the Negro people. This understanding, growing out of a constant fight for Negro rights, strengthens white and Negro solidarity, based firmly on working class unity, and provides the program of permanent alliance between the Negro and white masses.

"Today, the struggle for Negro liberation is concerned with gaining equal rights throughout the country, which includes in the South the struggle for attaining representative government and land reform. As our own history shows (Reconstruction) the development towards full and equal Negro participation in State and Federal government also moves in the direction of various forms of self-government by the Negro people, together with their white allies, in the Black Belt areas where they are in the majority.

(T-9558) "This movement provides the basis for the full realization of Negro nationhood, whether it be achieved under capitalism or socialism. The Communist Party supports the rights of self-determination for the Negro people, that is, their right to realize self-government in the Negro majority area in the South. Only on this basis will the relation of the Negro people to the State and Federal governments be determined on the basis of freedom.

"The Communist Party does not attempt to impose any specific solution in advance of the form in which the right of self-determination will be exercised; nor does it prematurely raise self-determination as an immediate slogan of action. The future solution of this question must arise from the living movement itself, out of the current and future struggles for democracy and equal rights. Its form will be determined by the relationship of social forces in the country as a whole and by the relation of the Negro people to the progressive coalition."

* * *

Colloquy of Court and Counsel

(T-9559) Q. Now you testified earlier this afternoon, Mr. Davis, that among those who discussed your report were Mr. Foster and Mr. Dennis, is that right? A. That's right.

* * *

Q. I show you Defendants' Exhibit 8 x Z-1 and ask you whether it contains the remarks made by Mr. Foster at the meeting of the National Committee held on December 3-5, 1946 (handing)? A. It does.

Mr. Sacher: I offer that in evidence, your Honor (handing to Mr. McGohey).

Mr. McGohey: (After examining.) Has your Honor had an opportunity to read this?

The Court: Yes.

Mr. McGohey: Well, the exhibit now offered, 8 x Z-1, I object to it.

The Court: As to the exhibit as a whole, I will sustain the objection. It seems to me, however, that (T-9560) there are certain portions that are admissible.

Mr. Sacher: I think we could save time if Mr. McGohey or your Honor would indicate the—

The Court: Well, there are two places there: one near the beginning and one near the end where this question of self-determination is referred to, and if you will find those places and submit them to Mr. McGohey for his scrutiny, my present thought is that I shall receive them.

(To witness) What did they do about this, Mr. Davis? Did they have a stenographer there at the meetings to take down these reports? I am a little puzzled. They always seem to have so many of them all written out. I wonder how they got them.

The Witness: Well, sometimes the meetings have stenograms taken of reports; sometimes the reports are prepared in written form.

The Court: Well, do you remember whether there was a stenographer at this meeting that we are talking about here?

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The Witness: Yes, sir, there was a stenographer there.

* * *

(T-9561) Mr. Sacher: I have tried to eliminate all the matter that might not specifically refer to the matter of self-determination but after re-examining it I think that the material from the fourth paragraph—beginning with the fourth paragraph on page 14 and going over to the top of page 17 deals continuously with that subject, and then the last two paragraphs on page 18.

The Court: Now wait a minute. I am not so sure that that first part deals continuously with that (examining).

Where did you say—up to the top of page 17?

Mr. Sacher: Yes, I think ending at the third or fourth line, the paragraph that ends right near the top.

The Court: Near the top.

Mr. Sacher: And then the last two paragraphs on page 18.

The Court: (After examining.) What do you say, Mr. McGohey? I feel clear the last two paragraphs on page 18 ought to go in. Now what do you think about that other part?

Mr. McGohey: I did not get what your Honor did about the last two paragraphs.

(T-9562) The Court: It seems to me that the last two paragraphs on the bottom of page 18 clearly have to do with self-determination.

Mr. McGohey: Yes, your Honor, but I think that those two paragraphs give a distorted view of what they are talking about unless the paragraph immediately preceding goes in, that is, the last paragraph on page 17, which is carried over—

The Court: Well, I don't think Mr. Sacher will quarrel with you about that.

Is that all right with you, Mr. Sacher, to add that paragraph starting at the bottom of page 17, with the words "Another important question", and going to the bottom of page 18?

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Mr. Sacher: Yes, I have no objection.

The Court: How about the other part?

Mr. McGohey: Let me see, that is page—the fourth paragraph on 14 to the top of 17?

The Court: That is right.

Mr. McGohey: Well, there are some parts of that, your Honor, I may not object to, but, as it is offered as a whole, it seems to me there are parts there that are clearly irrelevant.

The Court: See if you cannot get together with Mr. Sacher on what ought to be out. There is (T-9563) a part about India there that I do not think has any bearing on this case in any sense, direct or remote.

Mr. McGohey: That is what I have in mind, your Honor.

The Court: I suggest you go over it and talk with Mr. Sacher.

Mr. Sacher: May I just observe here that the experience of other nations was taken into account and that is why it is an integral part of the question. You see, from a legal point of view it may not seem to have any significance but, from a political point of view, it does.

The Court: Maybe it has some importance that escapes me, Mr. Sacher, at the moment. See if you cannot, by discussion—

Mr. Sacher: I shall.

The Court: —with Mr. McGohey reach some basis of agreement here.

Mr. Sacher: Without prejudice, however, to my offer of the entire—

The Court: Without prejudice to your offer and without prejudice to any further offer that you may desire to make.

(Mr. Sacher and Mr. McGohey confer.)

Mr. McGohey: I am not going to tell you what I want. You take what you want out.

(T-9564) Mr. Sacher: He won't tell me what he wants out.