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ards, whether the witness was a member of a labor union, a Congressman, an employee of the Department of Justice or of the F.B.I., or a Communist or a member of the present or some former Communist Party or a friend or associate of any of the defendants?

Would you use the same test for every one of them?

Prospective Juror No. 2: I would.

The Court: Mrs. Conant?

Prospective Juror No. 4: Yes.

The Court: Mrs. Stern?

Prospective Juror No. 6: Yes.

The Court: Now, the next question—every one of these questions are very important, and I am trying to make them just as impressive and read them just as slowly (T-516) as I can so that you may get every feature of them plainly and clearly—if you were selected as a juror and came to the conclusion that a verdict of not guilty was required by the evidence in accordance with the instructions of the Court, would you be embarrassed in arriving at or rendering a verdict of not guilty in any way connected with your employment or by reason of your membership in or affiliation with any church, political party, club, society, or any other organization of any kind whatsoever, or in any other manner?

Would you be so embarrassed, Mr. Schieck?

Prospective Juror No. 2: No, sir, I would not.

The Court: Mrs. Conant?

Prospective Juror No. 4: No.

The Court: Mrs. Stern?

Prospective Juror No. 6: No.

The Court: This question is the last I shall ask before I go to your occupations, and I shall probably repeat it later also, and I address this to the three new prospective jurors: Do you know of any reason why you should not serve as a juror in this case, any fact or circumstance such a nature as to prevent you from rendering a fair and impartial

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verdict based solely on the evidence and the instructions and rulings (T-517) of the Court?

Mr. Schieck?

Prospective Juror No. 2: No, sir.

The Court: Mrs. Conant?

Prospective Juror No. 4: No.

The Court: Mrs. Stern?

Prospective Juror No. 6: No.

The Court: I will now inquire as to your occupations.

LESTER A. SCHIECK, Prospective Juror No. 2, was examined as follows:

By the Court:

Q. Mr. Schieck, you are stated, in the card, as retired.
A. Right.

Q. Have you been retired long? A. About four years.

Q. Before you retired what was the nature of your occupation? A. I worked for the Metropolitan Life Insurance Company 41 years as a clerk.

Q. As a clerk? A. Right.

Q. Did that mean that you were making entries in books or things of that kind in the office there? A. No, at that time I passed on applications.

Q. You passed on applications as a clerk. Have you any—I don't know whether this is—

The Court: I had better look at the questions (T-518) because I am trying to be precise and entirely uniform here and I don't want to vary these questions.

(After examining.) Yes. I guess what I was thinking of I have already covered.

Q. Have you lived up here in this same address for some little time? A. Oh, yes, six or seven years.

(T-518) Q. Did you do any work on the side in addition to that clerical work that you did for the Metropolitan Life Insurance Company? A. No, sir.

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The Court: Now Mrs. Conant, your card indicates—oh, wait a minute, there was one other question, too.

Q. Mr. Schieck, do you belong to any union? A. No, sir.

Q. Have you any relative that is now or has at any time in the past been employed by the Government? A. My father was connected away back but he is dead some 20-odd years or more.

Q. Would the fact that his—in what capacity was he connected? A. Clerk of the City Court.

Q. What is that? A. Clerk of the City Court.

Q. Clerk of the City Court? A. That is right.

Q. Well, that was not the Government of the United States. A. Oh!

Q. I meant the Government of the United States.

(Clerk hands paper to Court.)

(T-519) Q. Have you formed any opinion or impression concerning the guilt or innocence of any of the defendants of the crime charged which it would require evidence to remove? A. I haven't.

Q. Have you formed any opinion or impression concerning the guilt or innocence of any of the defendants of the crime charged which might prevent you from being completely impartial and free from bias in this case? A. No, your Honor.

The Court: Yes, I will grant this request. I'll see if I will do it in the same identical words.

(After examining.) Yes, I will give this direction in the identical language here. While these questions—and I refer to all of the questions that I have just asked, and I am now addressing myself not only to the three new prospective jurors but the other jurors in addition—while these questions are directed to the prospective jurors who have newly taken their places in the box, yet I call the attention of the others in the box to the fact that it is their duty and their obligation under their oaths to

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make known to the Court the fact, if it should develop, that upon hearing repeated the questions previously put to them they now recall some incident or association which might well qualify an answer previously given to one of those questions, this should not be a matter of any embarrassment (T-520) whatsoever.

Now addressing myself to those of you who were there before the new jurors took their seats, have any of you thought of something as I have read over these questions which would be such a qualification?

Prospective Juror No. 1: Your Honor, I would like to get the name of that Tenants' League organization in upper Manhattan.

The Court: The name of what league?

Prospective Juror No. 1: The Tenants' League organization.

The Court: Tenants' League?

Prospective Juror No. 1: Yes.

The Court: Let me see if I find that. (Examining.)

Will some of you gentlemen help me about that? Was that on either of the lists submitted—the Tenants' League?

Well, I will glance through them all and see if I find anything that approximates that.

Mr. McGohey: I think there may have been one in the Government's list, your Honor. I will look through it.

The Court: Will you glance and see if it is there—oh, yes, United Harlem Tenants and Consumers Organization.

(T-521) Prospective Juror No. 1: Do you have the address? I can't quite recall the name of a tenants' organization.

The Court: Well, we will see if we can find that. That was one of the organizations on the list submitted by the Government. Perhaps they can find the address.

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THELMA DIAL, Prospective Juror No. 1, was examined as follows:

By the Court:

Q. You don't remember the name very accurately? A. I can't remember the name because I didn't attend any of the meetings but I did pay \$2 in the lobby a year or two ago.

Q. Well, let me ask you a question which may save the trouble of getting the address and all that. From such connection as you had with that league, that Tenants' League as you describe it, did anything arise or was anything heard by you, either said or written by anyone whatsoever which would have a tendency to leave some bias or prejudice in your mind unfavorable either to the Government or to the defendants? A. No, your Honor, because I didn't attend any of the meetings and I really know nothing about it. We were just trying to get better service in our building (T-522) and we joined this organization.

Q. And whatever happened, that left you with no impression— A. No, your Honor.

Q. —that you could recall any bias or partiality or prejudice here? A. No.

Q. That is what we are all trying to find out, and of course it is my duty in particular as I question the jurors to ascertain if hidden away somewhere in the back of your minds is something that you heard or something that was said or something that you read or some association of yours, there may be some bent of mind unfavorable either to the Government or to these defendants, or as I stated in some of those other questions, one of them in particular as to Communists and Communism, that would affect the matter here. That is what all these questions are designed to do.

The Court: Now let me look at this other question. (After examining.) Yes.

Mr. Schieck, are you the recipient of any pension which might be terminated by the grantor of the pension without giving any particular reason for it, that is, terminable at the will of the grantor?

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Prospective Juror No. 2: No, sir, that is till I die.

Mr. Gladstein: May I hear that answer?
(T-523) The Court: He says "No, sir, not until I die."

LESTER A. SCHIECK, Prospective Juror No. 2, was examined as follows:

By the Court:

Q. I think you mean by that your pension is absolutely sure until it terminates by your death? A. Right.

Q. And whoever is paying that pension, as you understand it, has no right to terminate it for any reason; that is what you mean, is it? A. Yes, your Honor.

Q. Now even taking that to be so, I will turn to one of these other questions that I read that really covers it, but I will put it again here. Bearing in mind that you have that pension, and even though you think that nobody could terminate it for any reason at all, if you were selected as a juror and came to the conclusion that a verdict of not guilty was required by the evidence in accordance with the instructions of the Court, would you be embarrassed in arriving at or rendering a verdict of not guilty or influenced in any way in connection with that pension? A. Absolutely not.

MARY CONANT, Prospective Juror No. 4, was examined as follows:

By the Court:

Q. Now Mrs. Conant, it is indicated here on the card that you are a saleslady at R. H. Macy & Company.
(T-524) A. No, subsequent to that—

Q. Let that voice come right out; I know it can. A. I haven't been selling on the floor for the past year and a half.

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Q. But you are still employed by Macy? A. I am still employed by Macy.

Q. And in what capacity are you now employed there? A. Well, I am in the special order department of the china department.

Q. And I take it that description is sufficiently clear so that you do not need to expatiate upon it. You receive special orders in that particular department? A. Yes.

Q. Now how long have you been connected with Macy? A. Ten years.

Q. And before you became connected there, what other occupation did you have? A. Housewife.

Q. And I think you remember I asked about whether you had any employment at any time with the Government and you said no. Now does any member of your family or—I want to get these questions uniform here.

Does any relative of yours now or have they in the past been employed by the Government? A. No.

(The clerk hands a paper to the Court.)

Q. Are you a member of any union? A. Macy's Unaffiliated.

(T-525) Q. You have given the name of the union, have you? I didn't hear it; I guess the reporter got it and counsel heard it.

Have you formed any opinion or impression concerning the guilt or innocence of any of the defendants of the crime charged which would require evidence to remove? A. (Shaking head.)

Q. Have you formed any opinion or impression concerning the guilt or innocence of any of the defendants of crime charged which might prevent you from being completely impartial and free from bias in this case? A. (Shaking head.)

The Court: Now Mrs.—

Q. Oh, I beg your pardon, I meant to inquire as to your husband's occupation. A. He is a Wall Street customers' man.

Q. A Wall Street customers' man? A. That is right.

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Q. That means that he is a customers' man in some brokerage house? A. That is right.

Q. What is the name of the house? A. Herrick, Wadell & Reed.

Q. Has he been employed by them for some years? A. Since the war.

Q. Is he a partner in the firm? A. No, he is not.

Q. An employee? A. That is right.

(T-526) Q. Does he have a number of men working under him or does he work himself as a customers' man, his contact with the men who are his particular customers, I take it? A. That's right.

MARIE STERN, Prospective Juror No. 6, was examined as follows:

By the Court:

Q. Now Mrs. Stern, you are listed here as a housewife, is that correct? A. That is correct.

Q. Have you ever been employed in any occupation? A. Not outside of what I said before—

Q. Now you will have to let that voice of yours come out a little bit so this reporter can hear it.

I think what you said was that you were in the sense of what you told us you did a little while ago but except for that that you had not been employed in any occupation, is that right? A. That is correct.

Q. And so I suppose you are not a member of any union? A. No, your Honor.

Q. Do you know whether any relative of yours is now or has ever been employed by the Government? A. Well, my sons have been in the army during the war.

Q. And except for that, no one, no relative— A. No.

(T-527) Q. —has been employed by the Government? A. No, outside of that.

Q. Would the fact that your son was in the Army during the war have any tendency to create any bias or prejudice here one way or another? A. No, not at all.

Q. What is your husband's occupation? A. He is a sales manager for a manufacturer of smoking pipes.

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Q. What is the name of the firm that he is employed by? A. L. & H. Stern—it happens to be the same name but not related.

Q. They are not related but it happens to be the same name, Stern? A. Yes.

Q. How long—and, by the way, where does he perform his duties as sales manager? A. In different States. He has different States. He travels quite a good deal.

Q. Oh, he travels? A. Yes.

Q. And all for this same firm? A. That is right.

Q. Has he been employed by that firm for some years?

A. Oh, about 24 years.

Q. 24 years? A. Yes.

Q. Now unless I have inadvertently omitted some, the only two around here that I haven't asked are these: have you formed any opinion or impression concerning the guilt or innocence of any of the defendants of the crime charged which it would require evidence to remove? (T-528) A. I have not.

Q. Have you formed any opinion or impression concerning the guilt or innocence of any of the defendants of the crime charged which might prevent you from being completely impartial and free from bias in this case? A. I have not.

Mr. Isserman: If the Court please, I did not get the name of the Wall Street brokerage house for which Mr. Conant is working.

The Court: Well, the reporter will give it to you.

(Record read.)

The Court: Is that R-e-i-d or R-e-e-d?

Prospective Juror No. 4: I believe it is R-e-e-d.

The Court: Very well, Mr. McGohey.

Mr. McGohey: May I have the chart, please?

The Court: Yes (handing to clerk who hands to Mr. McGohey).

(Mr. McGohey hands chart to clerk.)

The Clerk: Juror No. 10, Mrs. Mollie Singer, excused by the Government.

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(Prospective juror No. 10 excused.)

The Clerk: Miss Margaret B. White, No. 10.

(T-529) (Margaret B. White takes seat No. 10
in the jury box.)

MARGARET B. WHITE, Prospective Juror No. 10, was examined as follows:

By the Court:

Q. Now, Mrs. White, have you heard these questions that I have been asking? A. Yes, your Honor.

Q. Do you think you understood them? A. Yes, I did.

Q. You know I read off a long list of names. Could you hear those distinctly? A. Every one of them.

Q. I think possibly I shall ask a number of the questions not relating to names and then, if there is no objection, let you take my sheets of paper here and read the names. You have your glasses with you that you use for reading, have you? A. Yes, I have.

Q. So then you can read all those names and that will save me reading them aloud, unless someone thinks it is better for me to read them aloud, in which event I will be very happy to do it, but I thought we might save that if I just hand them to you, and I will read the questions in between, and then I will hand you some notes and you can look over the names and see if you know anyone or have had any dealings with anyone of them or any of their families.

Now do you have—

(T-530) Mr. Crockett: If the Court please, may I suggest that the names be read off by the clerk? I want to save your Honor the trouble of using your voice, but at the same time—

The Court: Well, I have a pretty healthy voice and I know from my many years of lecturing that I can throw it to the back of the courtroom, and when I pronounce a name somebody will get it. Now Mr. Borman is probably just as good but I

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want to have no doubt whatsoever that the reading of these names is done distinctly and clearly, and I think I will do it myself, and it isn't going to hurt me any very much either, and I don't regard it as any great burden.

(T-531) So we will go back to them here, Mrs. White—or it is Miss White, isn't it?

Do you know or have you had any dealings with any of the following persons or members of their families? And I am now going to read them just a little bit faster than I did before because I tried on the other two occasions, when I read all these names, to read them very slowly and just as distinctly as I could, and I shall now read them just a little bit faster:

Counsel for the prosecution:

John F. X. McGohey, Frank H. Gordon, Irving S. Shapiro, Edward C. Wallace, Lawrence K. Bailey.

The defendants named in the indictment:

William Z. Foster, Eugene Dennis, also known as Francis X. Waldron, Jr., John B. Williamson, Jacob Stachel, Robert G. Thompson, Benjamin J. Davis, Jr., Henry Winston, John Gates, also known as Israel Regenstreif, Irving Potash, (T-532) Gilbert Green, Carl Winter, Gus Hall, also known as Arno Gust Halberg.

Counsel for the defendants:

Harry Sacher, Abraham J. Isserman, Richard Gladstein, Louis F. McCabe, George W. Crockett, Jr., Mary M. Kaufman, Abraham J. Unger, David M. Freedman, Louis Fleischer, Maurice Sugar, Yetta Land.

Other attorneys, not connected with the defense here, but their names are down:

Lee Pressman, O. John Rogge, Carol Weiss King, Leon Josephson, Nathan Witt, John

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Abt—A-b-t, Emanuel Bloch, Arthur G. Silverman, (T-533) Harold Cammer, George W. Fish, Marian Wynn Perry.

Or any of the following persons:

Israel Amter, Marion Bachrach, Dr. Edward K. Barsky, Lyman R. Bradley, Isidore Begun, Elizabeth Bentley, Lionel Berman, Abner W. Berry, Alexander Bittelman, Earl Browder, William Browder, Jay David Whittaker Chambers, generally known as Whittaker Chambers, George Blake Charney, Morris Childs, Rev. John W. Darr, Jr., Louis Diskin, Gerhart Eisler, Howard Fast, Frederick V. Field, Dr. Louis Finger, (T-534) Elizabeth Gurley Flynn, Betty Gannett, Rose Gaulden, Simon W. Gerson, Ben Gold, David Goldway, Alger Hiss, V. J. Jerome, Arnold Johnson, Claudia Jones, Barney Josephson, Jack Kling, Albert Lannon, Charles Loman, Vito Marcantonio, George Marshall, of the Civil Rights Congress, Rev. William Howard Melish, Sampson Milgrom, Jacob "Pop" Mindel, Robert Minor, Alberto Moreau, Steve Nelson, William Norman, William L. Patterson, (T-535) Jacob Perilla, J. V. Peters, also known as Alexander Stevens, Paul Robeson, Dorothy Rodman, Nathan Ross, Dr. Annette T. Rubenstein, Murray Savage, Howard Selsam, Harold Simon, George Siskind, Jessica Smith, Mrs. John Abt, that is; Joseph Storobin, Alexander Trachtenberg, Carl Vetro, William Weiner, William Weinstone, Max Weiss, Rev. Eliot White, Doxey Wilkerson.

Do you know any of them or have you had any dealings with them or any members of their families?

Prospective Juror No. 10: No.

The Court: As to the list submitted by the defendants, do you know or have you had any dealings with any of the following persons or members of their families:

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(T-536) Louis Francis Budenz, George Hewitt, also known as Tim Holmes, Joseph Kornfeder, also known as Joseph Zack, J. B. Matthews, Benjamin Gitlow, Benjamin Mandell, also known as Bert Miller, Eugene Lyons, David Dallin, Max Eastman, Max Yergan, Hedda Gompertz, also known as Massing and Billinger, Nat Honig, George N. Dimitroff, Ferenc Nagy, William Nowell, Ken Goff, Howard Rushmore, Michael Quill, Joseph Curran, Benjamin Stolberg, Sidney Hook, Harry Gideonse, John Pace, Eddy Chayfetz, Ken Eckert or Egert (T-537) Farrell Dobbs, George Schuyler, A. A. Berle?

Prospective Juror No. 10: No, your Honor.

The Court: Do you know anyone employed in or connected with the office or staff of the United States Attorney for this district?

Prospective Juror No. 10: No, sir.

The Court: Do you know any of the Judges or employees of this court or members of their families?

Prospective Juror No. 10: No.

The Court: Have you or any member of your family or personal friends been party to any legal action or dispute with the United States or any of its officers, agents, or employees, or had any interest in such legal action?

Prospective Juror No. 10: No.

The Court: Do you have any prejudice or bias for or against any defendant by reason of the race of any defendant which would prevent you from keeping your mind fully open until all the evidence and the instructions of the Court have been completed?

Prospective Juror No. 10: Not any.

The Court: Have you or any relative or close friend ever been the subject of any investigation or accusation by any committee of Congress?

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(T-538) Prospective Juror No. 10: No, sir.
The Court: Have you ever been employed by the Federal Government?

Prospective Juror No. 10: No.
The Court: Have you or any member of your immediate family ever been associated with any agency, either public or private, which was or is engaged in the detection of law violations?

Prospective Juror No. 10: No.
The Court: Do you know any of the following named persons who were members of the grand jury that indicted the defendants now on trial, that is to say:

Edmund L. Cocks, Jerome S. Blumauer, Adelaide E. Lowe, Benjamin C. Brush, Herbert C. Cantrell, Thomas Hill Clyde, Andrew J. Coakley, Walter A. Coleman, Mrs. Pauline J. Charal, Charles P. Fenlon, Henry J. Hauck, Arthur S. Heiman, George T. Hodell, (T-539) James C. Johnson, Walter I. Metz, Jos. I. Morris, Frederick Q. Nehring, Huestis G. Sincerbeaux, Carl M. Spero, Russell W. Todd, Helen R. Walsh, Milton Watkins,

Donald C. Webster?
Prospective Juror No. 10: No, sir.
The Court: Have you or any member of your immediate family ever been associated with any agency of law enforcement?

Prospective Juror No. 10: No, your Honor.
The Court: Are you related or friendly to or associated with any employee of the Department of Justice or the Federal Bureau of Investigation, generally known as the FBI?

Do you know any Congressman who is now or has been a member of the House Committee on Un-American Activities?

Prospective Juror No. 10: No.
The Court: Do you know any present or former employee investigator or member of the staff of the House (T-540) Committee on Un-American Activities?

Prospective Juror No. 10: No.

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The Court: Have you ever testified before or given information to the House Committee on Un-American Activities or the FBI?

Prospective Juror No. 10: No.

The Court: Do you know any person who has testified before or given information to the House Committee on Un-American Activities or the FBI?

Prospective Juror No. 10: No.

The Court: Have you ever served as a juror before?

Prospective Juror No. 10: Yes.

The Court: If you were, as you say you have been, have you been summoned and did you attend in any district court of the United States within one year prior to the time you were called for this term?

Prospective Juror No. 10: Only in the Supreme Court, in October.

The Court: But not in any district court—

Prospective Juror No. 10: No.

The Court: —of the United States?

Do you remember my reading the indictment? You know I read it through twice—

Prospective Juror No. 10: I do.

(T-541) The Court: —word for word. Do you think that you remember my reading of that?

Prospective Juror No. 10: You did, twice.

The Court: Yes. And did you listen to it intently?

Prospective Juror No. 10: Yes.

The Court: As I read it to you, and you remember I also read from the provisions of the law for violations of which the indictment was found?

Prospective Juror No. 10: Yes.

The Court: Have you any prejudice against the law or the enforcement of that law?

Prospective Juror No. 10: None at all.

The Court: Do you recall that I read the comments by another federal judge about the importance of jurors entering the jury box with a completely open mind?

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Prospective Juror No. 10: You did.

The Court: And my taking out the piece of white paper, which had nothing on it, and indicating that that was the attitude of mind that a juror should start the case with, and that if they had some hidden bias or prejudice or bent of mind, unfavorable to one of the parties, they just ought not to sit as a juror; you remember that?

Prospective Juror No. 10: Yes, I do.

The Court: Do you remember also that I explained (T-542) that the indictment was just a means of bringing the defendants into court and that it was no evidence against them at all; you remember my saying that?

Prospective Juror No. 10: You did, yes. I do.

The Court: And also my saying that they come here clothed with the presumption of innocence?

Prospective Juror No. 10: Yes.

The Court: And that that went with them right through the trial. Did you understand all that, Miss White?

Prospective Juror No. 10: Thoroughly.

The Court: Now, have you ever been employed by, made any contributions to, or had any dealings with, any of the following publications:

The Daily Worker, The Worker, The Communist, Political Affairs, Morning Freiheit, New Masses, In Fact, People's World, The German American, Soviet Russia Today, (T-543) Masses and Mainstream, People's Voice, The Protestant or the Protestant, whichever way it may be pronounced, I don't know, Contact, The National Guardian, New Foundations, New Times?

Prospective Juror No. 10: No, I didn't.

The Court: Have you ever been employed by, made contributions to, or had any dealings with any of those publications?

Prospective Juror No. 10: No, sir.

The Court: Did you or have you or any member of your family had any dealings with or were you ever—were you or were they, that is, any member of the family, ever employed by:

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Cafe Society Uptown, Cafe Society Downtown, World Tourists, Inc., Amtorg-Tass New Agency, Earl Browder, Inc., The Soviet Embassy, any of the former Soviet Consulates, former Soviet Purchasing Commission, (T-544) Freedom of the Press, Inc., International Publishers, New Century Publishers, Workers Bookshop, Jefferson Bookshop, Four Continent Book Corp.?

Prospective Juror No. 10: No.

The Court: Well, we have this big long list now and I think, despite the suggestion that—well, I will read them. Maybe it is the best way.

Has any member of the jury ever been a member of, or—have you ever been a member of, made contributions to, or been associated in any way with any of the following organizations:

Abraham Lincoln School, Chicago, Illinois, American League Against War and Fascism, American Association for Reconstruction in Yugoslavia, Inc., American Committee for European Workers' Relief, American Committee for Protection of Foreign Born, American Committee for Yugoslav Relief, Inc., American Council for a Democratic Greece, American Council on Soviet Relations, American Croatian Congress, American League for Peace and Democracy, American Peace Mobilization, (T-545) American Polish Labor Council, American Russian Institute (of San Francisco), American Slav Congress, American Youth Congress, American Youth for Democracy, Armenian Progressive League of America, California Labor School, Inc. of 216 Market Street, San Francisco, California, Central Council of American Women of Croatian Descent, also known as Central Council of American Croatian Women, National Council of Croatian Women, Citizens Committee of the Upper West Side (New York City), Citizens Protective League, Civil Rights Congress and its State affiliates, Committee to Aid the Fighting South, Communist Party, U. S. A., Communist Political Association, Connecticut State Youth Conference, Congress of American Revolu-

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tionary Writers, Congress of American Women, Council on African Affairs, Council for Pan-American Democracy, Dennis Defense Committee, Friends of the Soviet Union, (T-546) George Washington Carver School, New York City, German-American Bund, Hollywood Writers Mobilization for Defense, Hungarian-American Council for Democracy, International Labor Defense, International Workers Order, including People's Radio Foundation, Inc., Jefferson School of Social Science, New York City, Jewish Peoples Committee, Joint Anti-Fascist Refugee Committee, Ku Klux Klan, Labor Research Association, Inc., League of American Writers, Macedonian-American People's League, Michigan Civil Rights Federation, National Committee for the Defense of Political Prisoners, National Committee to Win the Peace, National Council of Americans of Croatian Descent, National Council of American-Soviet Friendship, National Federation for Constitutional Liberties, National Negro Congress, Nature Friends of America (since 1935), Negro Labor Victory Committee, New Committee for Publications, Ohio School of Social Sciences, (T-547) People's Educational Association, People's Institute of Applied Religion, People's Radio Foundation, Inc., Philadelphia School of Social Science and Art, Photo League (New York City), Proletarian Party of America, Revolutionary Workers League, Samuel Adams School, Boston, Massachusetts, School of Jewish Studies, New York City, Seattle Labor School, Seattle, Washington, Serbian Vidovdan Council, Silver Shirt Legion of America, Slovenian-American National Council, Socialist Workers Party, including American Committee for European Workers' Relief, Socialist Youth League, Southern Negro Youth Congress, Tom Paine School of Social Science, Philadelphia, Pennsylvania, Tom Paine School of Westchester, New York, United Committee for Democratic Rights, United Committee of South Slavic Americans, United Harlem Tenants and Consumers Organization, United May Day Committee,

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United Negro and Allied Veterans of America, (T-548) Veterans of the Abraham Lincoln Brigade, Walt Whitman School of Social Science, Newark, New Jersey, Washington Bookshop Association, Washington Committee for Democratic Action, Wisconsin Conference on Social Legislation, Workers Alliance, Workers Party, including Socialist Youth League, Young Communist League.

Now, the question is, have you ever been a member of, made contributions to, or been associated in any way with any of those organizations?

Prospective Juror No. 10: No, your Honor.

The Court: Have you at any time been a member of, made contributions to or been associated in any way with any of the following organizations:

American Action, The America First Committee, American Legion, American Patriots, Inc., Americans for Democratic Action, Association of Catholic Trade Unionists, The Christian Front, The Coalition of Patriotic Societies, Columbians, (T-549) The Constitutional Educational League, Knights of Columbus, Liberal Party, National Association of Manufacturers, The National Committee to Keep Out of Foreign Wars, National Economic Council, Proletarian League of America, Protestant War Veterans of the U. S. A. Inc., The Small Business Men's Association, Steuben Society, The Tool Owners' Union, United States Chamber of Commerce, We, The Mothers, Workers Party, The Holy Name Society, Society for the Propagation of the Faith, The Central Association of the Miraculous Medal, American Defense Society, Inc., American Destiny Party, American Fellowship Forum, American Nationalist Party, Committee for Constitutional Government, Citizens Protective League, German-American Republican League, American Rock Party, (T-550) America's Future, Christian Front Sports Club, Christian Mobilizers, German-American Voters Alliance, International Catholic Truth Society, Women United, Fellowship for Re-

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conciliation, Catholic War Veterans, Veterans of Foreign Wars, Socialist Party, League for Industrial Democracy.

Now, the question is, have you at any time been a member, made contributions to, or been associated in any way with any of those organizations?

Prospective Juror No. 10: No, your Honor.

The Court: Have you read any of the following publications:

This is my Story by Louis F. Budenz, I Confess by Ben Gitlow, The Whole of Their Lives by Ben Gitlow, I Chose Freedom by Victor Kravchenko, Out of the Night by Jan Valtin, The Trojan Horse in America by Martin Dies, The Red Decade by Eugene Lyons, (T-551) The Road to Serfdom by Hayek, The Struggle Behind the Iron Curtain by Ferenc Nagy, The War We Lost: Yugoslavia's Tragedy & the Failure of the West by Constantin Fotitch, Is Communism Compatible with Christianity by Clare Boothe Luce.

* * *

(Adjourned to Monday, March 14, 1949, at 11.00 a. m.)

(T-552)

New York, March 14, 1949;
11.00 a. m.

TRIAL RESUMED.

The Court: Yes, Mr. Isserman?

Mr. Isserman: If the Court please, in view of the fact that under the Court's ruling the challenges must be peremptorily made, I would like to ask leave to withdraw from the courtroom during the voir dire proceedings because of my occupation with other matters connected with the case to which I would like to give attention.

The Court: Who would you like to have and who would your clients like to have represent them in your absence?

Mr. Isserman: I would like to designate Mr. Gladstein to represent my clients in my absence.

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The Court: Very well. Now your two clients are Mr. Williamson and Mr. Green, are they?

Mr. Isserman: That is correct.

The Court: Mr. Williamson and Mr. Green, will you rise, please.

(T-553) (Defendants Williamson and Green stand.)

The Court: Do you desire that in Mr. Isserman's absence Mr. Gladstein represent you today?

Defendant Williamson: Yes.

Defendant Green: Yes.

The Court: And do you consent to Mr. Isserman's absence during the day?

Defendant Williamson: I do.

Defendant Green: I do.

The Court: Do each and all of the other defendants similarly consent?

The Defendants: Yes.

The Court: They each answer Yes, do they?

Mr. Sacher: Yes.

The Court: Very well, Mr. Isserman.

Mr. Crockett: If the Court please, I should like to be absent from the courtroom for the remainder of the voir dire, and during my absence the interests of my clients, Mr. Stachel and Mr. Winter, will be represented by Attorney Sacher.

The Court: Mr. Stachel and Mr. Winter, will you kindly rise?

(Defendants Stachel and Winter rise.)

The Court: Is it your desire that Mr. Sacher represent you in the absence of Mr. Crockett as he has (T-554) requested?

Defendant Stachel: Yes.

Defendant Winter: Yes.

The Court: And do all the other defendants consent to the absence of Mr. Crockett and the representation in the interval by Mr. Sacher?

Mr. Gladstein: They do, your Honor.

Mr. McGohey: If the Court please—

The Court: Is that agreeable to the prosecution?

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Mr. McGohey: It is agreeable to me, your Honor, if the clients presently represented by Mr. Gladstein will consent that he may in addition, during the absence of Mr. Isserman, represent Mr. Isserman's clients, and if the clients presently represented by Mr. Sacher will agree that during the absence of Mr. Crockett Mr. Sacher may in addition represent Mr. Crockett's clients.

The Court: Now Mr. Thompson and Mr. Hall are represented by Mr. Gladstein, are they not?

Mr. Gladstein: That is correct, your Honor.

The Court: Will you gentlemen kindly rise?

(Defendants Thompson and Hall rise.)

The Court: Do you give your consent as stated by Mr. Gohey?

Defendant Thompson: Yes.

Defendant Hall: Yes.

(T-555) The Court: And as to Mr. Sacher, there is Mr. Gates and Mr. Potash.

Mr. Sacher: And Mr. Davis.

The Court: Do you similarly—

Mr. McGohey: And Mr. Davis, your Honor, also.

The Court: Do you all say Yes?

Defendant Davis: Yes.

Defendant Gates: Yes.

Defendant Potash: Yes.

The Court: Very well.

Mr. Sacher: Yes.

(T-556) The Court: All right, gentlemen, you may be excused. That excuse, I noticed, Mr. Crockett stated to be for the remainder of the voir dire and you, Mr. Isserman, expressed your desire to absent yourself only for today.

Mr. Isserman: No, I would also—however I did, I would like to have it cover the remainder of the voir dire, and I so intended it.

The Court: Very well.

Do those who signified their consent previously signify again, all of you?

Do you think, Mr. McGohey, it is necessary to have each defendant separately recorded or do you think their consent—

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Mr. McGohey: I would desire that, so there shall be no doubt about it, that each defendant agrees to each and every agreement made this morning separately on the record.

The Court: I will ask them. Mr. Gates, do you consent to each and every one of these arrangements just stated?

Defendant Gates: I do.

The Court: Mr. Stachel?

Defendant Stachel: I do, your Honor.

The Court: Mr. Winston?

(T-557) Defendant Winston: I do, your Honor.

The Court: Mr. Dennis?

Defendant Dennis: I do.

The Court: Mr. Winter?

Defendant Winter: I do.

The Court: Mr. Thompson?

Defendant Thompson: Yes.

The Court: Mr. Davis?

Defendant Davis: Yes.

The Court: Mr. Williamson?

Defendant Williamson: Yes.

The Court: Mr. Green?

Defendant Green: Yes.

The Court: Mr. Potash?

Defendant Potash: Yes.

The Court: And Mr. Hall?

Defendant Hall: Yes.

The Court: Very well.

* * *

(T-558) The Court: Now, Miss White, I will resume my questions where I left off on Friday.

MARGARET B. WHITE, Prospective Juror No. 10, was examined as follows:

By the Court:

Q. From reading the newspapers or written matter of any kind or from conversation had with friends or others, or by listening to the radio or in any other way, have you

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formed any opinions or impressions as to the merits of the charge, unfavorable either to the Government or the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and instructions of the Court are complete? A. No, sir.

Q. Have you at any time—

Mr. McGohey: Your Honor, may I interrupt? I have just been looking at the record. It has been called to my attention by Mr. Gordon. It appears that Miss White—it seems that Miss White did not answer on Friday the question which you put, "Have you read (T-559) any of the following publications"? And then you read a list of books beginning with that by Mr. Budenz.

The Court: I will repeat that question then.

Q. Miss White, have you read any of the following publications:

This is My Story, by Louis Budenz, I Confess by Ben Gitlow, The Whole of Their Lives by Ben Gitlow, I Chose Freedom by Victor Kravchenko, Out of the Night by Jan Valtin, The Trojan Horse in America by Martin Dies, The Red Decade by Eugene Lyons, The Road to Serfdom by Hayek, The Struggle Behind the Iron Curtain by Ferenc Nagy, The War We Lost: Yugoslavia's Tragedy and the Failure of the West by Constantin Fotitch, Is Communism Compatable with Christianity by Clare Booth Luce? A. I haven't read any of those.

Q. Have you at any time been a member of, made contributions to, or been associated in any way with business or religious organizations, or organizations of any character, in connection with the activities of which you have formed any opinions or impressions as to the (T-560) merits of the charge, unfavorable either to the Government or to the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete? A. Not any of them.

Q. But I say, have you—I will read it again. You see, you only answered part of it, and if the answer is in

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the affirmative as all, you will say no; and if it is the affirmative, you will say yes. So I will repeat it.

Have you at any time been a member of, made contributions to, or been associated in any way with business or religious organizations, or organizations of any character, in connection with the activities of which you have formed any opinions or impressions as to the merits of the charge, unfavorable either to the Government or to the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete? A. No.

Q. Have you at any time been a member of, made contributions to, or been associated in any way with business or religious organizations, or organizations of any character, whose officers or representatives have made any expressions of advocacy of or friendliness toward Communists or Communism in general on the one hand, (T-561) or of opposition or hostility to Communists or Communism in general on the other hand, which expressions you have heard or read in any manner, which have led you to form any opinions or impressions as to the merits of the charge, unfavorable either to the Government or to the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete? A. No.

Q. In determining the truth or falsity of the testimony of any witness, would you, in accordance with the instructions of the Court, submit the testimony of such witness to the same scrutiny and test it by the same standards, whether the witness was called by the defense or by the prosecution? A. No, I wouldn't.

Q. Well, I say, in determining the truth or falsity of the testimony of any witness, would you test that testimony by the same standards and submit it to the same scrutiny, whether it was a witness for the prosecution or for the defense? You said no, you wouldn't? You mean that you would apply different standards in determining the credibility of the witness if the witness was called by the prosecution? A. No, I would not.

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Q. So, I will repeat the question in different (T-562) form, now, to make sure that you understand it.

Now, you know, various witnesses are going to be called here, they are in every case, and sometimes they are witnesses called by the prosecution, sometimes they are witnesses called by the defense. Now, when I come to my charge to the jury, I will instruct the jury the tests of credibility that they are to apply and, naturally, I will tell them that the same standards are going to be applied to all the witnesses irrespective of whether they are called by the prosecution or by the defendants.

Now have you any bent of mind by which you would apply a different test under those instructions to a witness called by the prosecution on the one hand from the test applied to a witness called by the defendants, or would you test them both by the same standard? A. I would test them both by the same standard.

(T-563) Q. Now I ask you the same question, as to whether you would test the credibility of the witness by the same standards, whether the witness was a member of a labor union, a Congressman, an employee of the Department of Justice or of the FBI, or a Communist, or a member of the present or some former Communist Party, or a friend or associate of the defendants, and I say whether they were one or the other of any of those, would you test them by the same standard and in accordance with my instructions? A. Yes.

Q. Now if you were selected as a juror and came to the conclusion that a verdict of not guilty was required by the evidence in accordance with the instructions of the Court, would you be embarrassed in arriving at or rendering a verdict of not guilty in any way connected with your employment or by reason of your membership in or affiliation with any church, political party, club, society or any other organization of any kind whatsoever, or in any other manner? Would you be so embarrassed?

A. No.

Q. You say no? A. No.

Q. Have you such a bias or prejudice against the Administration, that is to say, the Government, or any agency of the United States or against any of the defendants (T-564) or Communists in general or the Communist

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Party, whatever its aims and purposes may be, as would prevent you from reaching your verdict solely on the evidence presented in court and the law as contained in the instructions and rulings of the Court? Have you any such bias or prejudice? A. No.

Q. Have you formed any opinion or impression concerning the guilt or innocence of any of the defendants of the crime charged which it would require evidence to remove? A. No, I haven't.

Q. Have you formed any opinion or impression concerning the guilt or innocence of any of the defendants of the crime charged which might prevent you from being completely impartial and free from bias in this case? A. No.

Q. Have you ever expressed any opinions or views as to the guilt or innocence of these defendants? A. No, your Honor.

Mr. Gladstein: Your Honor, I think that question has not been asked of the previous jurors; am I correct on that?

The Court: Well, you know, I am going to read that other omnibus question that you submitted to me on Friday or Thursday, which I am going to do every time a new juror or new jurors come to the box. I am going to read the omnibus question and I will come to that in (T-565) just a moment.

Q. Miss White, here is my last question, except for that one that I am going to address to all the jurors:

Do you know of any reason why you should not serve as a juror in this case, any fact or circumstance of such a nature as to prevent you from rendering a fair and impartial verdict based solely on the evidence and the instructions and rulings of the Court? A. No, your Honor.

The Court: Now here is the omnibus question that I desire to address to all the jurors in the box. while these questions are directed to the prospective jurors who have newly taken their places in the box or, in this last instance, to the single prospective juror who has taken her place in the box, yet I call the attention of the others to the fact that it is

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their duty and their obligation under their oaths to make known to the Court the fact, if it should develop, that upon hearing repeated the questions previously put to them or hearing any new questions that were put to the juror just recently placed in the box, they now recall some incident or association which might well qualify an answer previously given to one of these questions, or an answer that would be given to any new question addressed to the new prospective juror, you should speak (T-566) up and say so. This should not be a matter of any embarrassment whatsoever.

Now as you other jurors have listened, has any such incident or thought come to your mind?

(No response.)

The Court: Very well, gentlemen. You may exercise your challenge.

(Mr. Gladstein rises.)

The Court: Just wait a moment—what is it, Mr. Gordon?

(Mr. Gordon approaches the bench and speaks to the Court off the record.)

The Court: Oh, no, you are quite right. It slipped my mind.

By the Court:

Q. I meant to ask you, Miss White, some questions about your occupation and it slipped my mind.

What is your present occupation? A. Well, Judge, I am retired from the Metropolitan Life. I retired in 1947 after many years of service. Then the cousin with whom I live, she is not well, and I manage the house for her. I collect the rents and do the shopping and marketing. There is no salary attached to it.

Q. Whom do you do that for? A. My cousin with whom I live.

(T-567) Q. The cousin with whom you live? A. Yes.

Q. So that you are sort of house manager for your cousin? A. But I do not do any of the work connected with the cooking or house cleaning or anything like that.

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Q. I see. Now you were formerly employed by the Metropolitan Life Insurance Company? A. Yes, your Honor.

Q. In what capacity? A. As a clerk.

Q. As a clerk? A. Yes.

Q. What sort of work did you do as a clerk? A. I was in the loan and surrender division.

Q. You helped keep records and make certain entries? A. No, your Honor. When a policy holder came in for a loan or to surrender his policy and the loan was granted, the cash value was granted, then it came to our particular section, and we had to review it, any forms of correspondence that went on the application before it went to the permanent file, we were to place them in such a position, and initial them, and let them go.

Q. And I take it when you say "we" that there were others in that division doing the same work? A. That is right, your Honor.

Q. That is, did you have other people working under you or were you just one of the clerks? A. I was one of many.

(T-568) Q. One of many? A. Yes.

Q. Now there was a question submitted to me the other day that had to do with a pension. Do you receive any pension from the Metropolitan Life Insurance Company? A. Yes, your Honor, I do.

Q. Do you remember that question I asked you about whether you would be in any way embarrassed if under the evidence you felt that you should render a verdict of not guilty, would there be anything to embarrass you in connection with doing it, and you said No? A. No.

Q. Now I ask you specifically with reference to this pension, bearing in mind the fact that you have this pension from the Metropolitan Life Insurance Company, if you should, after hearing the evidence and the instructions of the Court and after deliberating, decide that you ought to render a verdict of not guilty, would it embarrass you in any way to do that in connection with this pension? A. No, your Honor.

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Q. Is your husband or any relative now or was any one of these formerly employed by the Government? A. No, your Honor.

Q. As far as you know, have you any relative who is now applying for some position with the Government? A. No, sir.

(T-569) Q. As far as you know, have you any relative who expects to be employed by the Government? A. No.

The Court: And I am going to address that same question or that same series of questions to all of the jurors in the box.

Have any of you any relative, other than has been disclosed by previous answers to previous questions, who was formerly employed by the Government?

I address that—

Prospective Juror No. 1: Your Honor, I have a brother working at Camp Beauregard in Louisiana. He has been working there for 20 or 25 years.

The Court : Is he in the military branch at all?

Prospective Juror No. 1: No.

The Court: Just working for the Government?

Prospective Juror No. 1: Yes. I don't know quite now what capacity he is in but he has been there for about 20 or 25 years.

The Court: Would the fact that you have a brother working for the Government there give you any bias or prejudice in this case one way or another?

Prospective Juror No. 1: None.

The Court: Would it affect your judgment in any manner?

Prospective Juror No. 1: No.

(T-570) Q. Miss White, do you belong to any union? A. No, I don't, your Honor.

The Court: Mrs. Dial, in reference to your brother, as far as you know, has he ever had anything to do with this so-called loyalty program or anything connected with the checking upon any-

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body to see whether they are loyal to the Government or not, so far as you know?

Prospective Juror No. 1: So far as I know, no.

The Court: You never heard anything of that kind?

Prospective Juror No. 1: No, sir, because I haven't lived around him for 15 or 20 years myself.

The Court: Well, all I am interested in is, so far as you know, you know of no such thing?

Prospective Juror No. 1: So far as I know, no.

The Court: Very well.

Mr. Gladstein: May it appear on the record that the series of four questions that I handed up at the beginning of this morning's session, as to those questions my request is that they be asked not only of Miss White but of all the jurors.

The Court: Yes. I have put them in the envelope and checked off the questions that I did ask.

Mr. Gladstein: Now may I approach the bench, (T-571) your Honor, and I would like Mr. McGohey to do so likewise?

The Court: Yes. Just a second until I look at this last question that you just submitted.

(After examining) I think I asked all the jurors whether they had previously served on juries and each answered in the affirmative.

You did, Mrs. White—or Miss White, didn't you?

Prospective Juror No. 10: Yes.

The Court: Yes.

Mr. Sacher: I respectfully except to your Honor's refusal to ask the last question submitted.

The Court: Very well.

(Following discussion took place at the bench:)

Mr. Gladstein: Now as to the last three newly called jurors, that is, Mr. Schieck, Mrs. Conant and Miss or Mrs. White—what is it?

The Court: Miss White.

Which are the three? Which is the first one?

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Mr. Gladstein: Mr. Schieck.

Mr. McGahey: Juror No. 2.

Mr. Gladstein: I desire to renew on all the grounds heretofore stated the challenge for cause. Those grounds were set forth with respect to challenge for cause as to the previous twelve. I desire to renew or to make, I should say, a challenge for cause on all those (T-572) grounds with respect to each and every one of these three new jurors.

The Court: Well, what is the cause, so that I understand what the cause is?

Mr. Gladstein: Well, the basic one, or one of the basic ones is that the questions thus far have made it impossible for the jurors to divulge information that would enable us to determine whether or not they have prejudices or interests or whether other facts and circumstances exist which upon inquiry would either prompt the juror to express that kind of view which would make it clear that the jurors should not sit, and in addition, that in the absence of the kind of inquiry that we submit the court should make, it makes it impossible for us intelligently and in an informed way to exercise peremptory challenge.

The Court: The challenge is denied.

Mr. Gladstein: Now with respect to juror No. 2 particularly, Judge, he said that he contributed to an organization known as the Tool Owners Union. We are prepared to show, and we think perhaps the Court should do this by way of further inquiry with Mr. Schieck, that the objectives of that organization which he says he supported by a financial contribution, and in other ways which he mentioned, the objectives of that organization (T-573) are such that support of such an organization is inconsistent with a possibility of that juror having a fair and open mind with respect to these defendants, the charges against these defendants and the political party that these defendants belong to. I may say briefly about the Tool Owners Union that

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it has sought to obtain incorporation in this State—and Mr. Sacher has some quotations from the opinion—

The Court: Well, he may not know all about those things; just because he sent in a dollar doesn't mean that he reads all that stuff.

Mr. Gladstein: Well, we can look at his answers but my point is that either further inquiry is required on the record as it now stands—there is every reason to hold that that juror should not be allowed in this case.

The Court: Well, I remember nothing in this case that would show the slightest prejudice.

Mr. Gladstein: Well, he said that he had contributed and that he had read their literature. Now one who contributed to an organization accepts, receives and reads its literature and has maintained membership. He has not terminated membership, so far as I know, this man, and can be presumed to be in agreement with the objectives of that organization. Now I think the Court—

(T-574) Mr. McGohey: Let us see what he did say about that. My impression was that he made one contribution once of a dollar and got some literature.

The Court: Yes. Let us look at the minutes.

Mr. McGohey: Let us get the minutes.

Mr. Sacher: May I in the meantime offer the decision of the Board of Standards and Appeals of the State of New York in regard to the Tool Owners Union, and I invite your Honor's attention to page 12 of that opinion (indicating), which describes the character of it.

The Court: Well, I think if the man has knowledge of it—let us get the minutes. I am not going to take proof outside of what is stated by the prospective jurors, as to the nature of these organizations. I will not do that.

Mr. McGohey: Well, he knows about it.

Mr. Sacher: We wish to note an exception to that ruling.

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The Court: Yes.

Mr. Sacher: Will your Honor permit this to be marked for identification?

The Court: No. I do not see any occasion for that.

Mr. Sacher: But you cannot deny us the right to have a paper marked for identification.

The Court: Well, it is a decision, isn't it?
(T-575) You told me it is a decision.

Mr. Sacher: I know, but you can—

The Court: You may refer to it in your briefs.

Mr. Sacher: Can't we identify it in some familiar way?

The Court: Well, I cannot see any necessity for identifying this paper.

Now let us get the minutes and see what he said.

Mr. Sacher: I wish to except to your Honor's ruling.

Mr. Gordon: Pages 503 to 505.

The Court: Let me look at it.

Mr. Gordon: With particular reference to 505.
(T-576) The Court: I think that is very clear.

Mr. Gladstein: What is?

The Court: There is no reason to suppose that he has knowledge of all these things that you want to bring to my attention.

Mr. Gladstein: I ask the Court to inquire of the juror to ascertain the circumstances under which he joined or gave support to that organization, his knowledge of the objects of that organization and his present, if any, relationship with it.

The Court: He has already told me that. He says here on page 504: "The idea of that organization, from my standpoint, was of reducing the prices and bringing prices down."

Mr. Gladstein: Well, that happened to be not the basic purpose of that organization.

The Court: Is the basic purpose of that organization to do something antagonistic to Communists?

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Mr. Gladstein: The basic purposes are set forth in the form that Mr. Sacher just offered you and, if I may say—

The Court: Let me look at it.

Mr. Gladstein: Yes.

(Mr. Sacher hands paper to the Court.)

The Court: What page is that on?

(T-577) Mr. Gladstein: Page 12, I think.

Mr. Sacher: Page 12.

The Court: Well, that is somebody's characterization of it.

Mr. Gladstein: That is an official —

Mr. Sacher: That is a decision.

Mr. Gladstein: That is a decision.

Mr. Sacher: That is a decision which was confirmed by the court in 190 Miscellaneous.

The Court: I overrule the objection.

Mr. Sacher: Will your Honor now mark it for identification?

The Court: No, I am not going to put any opinion of some court in evidence and accept it. I see no occasion to do that.

Mr. Gladstein: Will your Honor—

The Court: I thought you were going to show me something that was the constitution of this—

Mr. Sacher: They have sections in the opinion. There are sections dealing with the constitution.

The Court: You may show me such part of it that states a quotation from the constitution of it.

Mr. Sacher: Those underlined portions are all quotes.

Mr. Gladstein: I may say, I just happen to know (T-578) that this organization achieved a considerably wide publicity concerning its objectives, and the characterization in the opinion of the New York Department of Labor was upheld by the court later, that this was an undemocratic and Fascist organization. What its general reputation was—

The Court: But it might nevertheless be true, as the juror testified, that what he understood it was

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was something to bring down prices. He gave them a dollar and that is the end of it.

Mr. Gladstein: But I think your Honor's ruling, which prevents any questioning, forecloses the finding out—

The Court: I am not going into Fascism and undemocratic tendencies.

Mr. Gladstein: —the frame of the juror's mind.

The Court: No, Mr. Sacher, have you got that page?

Mr. Sacher: I am trying to find something which your Honor will—

The Court: Well, I will ask him a question or two more and let it go at that.

(At this point the discussion at the bench ended.)

The Court: Mr. Schieck, you remember that question of that Tool Owners' Union, that you gave a (T-579) dollar to?

Prospective Juror No. 2: Yes.

The Court: And, as I remember, in answer to one of my questions, you said, "The idea of that organization from my standpoint, was of reducing the prices and bringing prices down." Remember that?

Prospective Juror No. 2: Yes, sir.

The Court: Did you read through all the literature of that organization to see exactly what it was?

Prospective Juror No. 2: No, sir.

The Court: I am told that there was some advertising campaign of that organization. Did you ever read any of that advertising matter?

Prospective Juror No. 2: No, sir.

The Court: Is your statement to me of your knowledge of its aims and purposes right now, on reflection, the same as it was when you told me first?

Prospective Juror No. 2: Yes, sir.

Mr. Gladstein: May I, however, take an exception to the Court's cessation of questions because I don't think the juror has expressed any—

The Court: You know, Mr. Gladstein, if I followed the lead that you and your colleagues give me, I think we

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would probably be here for a good many months asking questions, and I don't intend to go into any other matters (T-580) than the ones that I consider proper in order to determine whether the prospective jurors have any bias or prejudice. I think my questions sufficiently cover the field and were explicit and clear.

Mr. Sacher: I would like to note an objection to your Honor's remark concerning the length of time that it would take to put the questions that defense counsel have requested.

The Court: Very well.

Mr. Gladstein: Your Honor, peremptory challenges are exercised against the following jurors: Mr. Schieck, Juror No. 2; Mr. von Goeben, Juror No. 3, and Miss Margaret White, Juror No. 10.

(Prospective Jurors Nos. 2, 3 and 10 excused.)

The Clerk: Mrs. Eva Mendelsohn, No. 2.

William Harris, No. 3.

Mrs. Eugenie Oberwager, No 10.

(Mrs. Eva Mendelsohn takes seat No. 2 in the jury box; Mr. William Harris takes seat No. 3 in the jury box; Mrs. Eugenie Oberwager takes seat No. 10 in the jury box.)

The Court: I am going to try a little different system here today to save my reading so much.

I gather that you three new prospective jurors have been listening to the questions as I put them to the (T-581) other jurors.

(Responses of "Yes.")

The Court: And you know I have been over them a good many times now. And so, as to these lists of names, I am going to hand you each a copy. Have you got your glasses with you so that you can read these? All right.

So that as I come to the long list, and I now hand you a copy of lists that go with the question that I will ask, after you have them in your hands—and I shall repeat this question after you have had a chance to read them, but I will read it first, and then you may read over the list and then I will ask the question again.

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Do any of you know or has he or she had any dealings with any of the following persons or members of their families?

Now, if you will just take the time to read through that list of names there, which you have already heard me read off once or twice, and see whether there is anyone on that list that you have had any dealings with or with any of the members of their families?

WILLIAM HARRIS, Prospective Juror No. 3, was examined as follows:

By the Court:

Q. Have you found someone that you know, Mr. Harris?
A. Yes, I did.

(T-582) Q. Who is that? A. Paul Robeson.

Q. Paul Robeson? In what connection did you know Mr. Robeson? A. I became acquainted with him about 24 years ago. We crossed on the Majestic to France together.

Q. Have you seen much of him in the interval? A. No, I did not except that about four years ago I ran into him by chance at the Los Angeles Air Field.

Q. Just passed the time of day? A. Well, he was making a plane to the East and I had just arrived and we greeted each other.

Q. That is what I say, you just greeted one another? A. Yes.

Q. That is all there was to that. In connection with this acquaintanceship that you describe, has there been anything that, in your judgment, would influence you one way or another in this case, either favorable to the Government or favorable to the defendants or any of them? A. In the event he were to be called as a witness, sir? I believe that I would believe him.

The Court: Then I think you may be excused.
Prospective Juror No. 3: Thank you.

The Court: I have no way of knowing how many of these persons may be called as witnesses, but my desire has been to remove, as far as I can,

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any even (T-583) remote bias that may exist in the case.

Mr. Gladstein: Your Honor, I object to the action of the Court without even ascertaining—I know, for example, nothing at all about Mr.—

The Court: Mr. Gladstein—

Mr. Gladstein: May I make my objection?

The Court: Is it an objection? I thought you were arguing again.

Mr. Gladstein: No. I desire to note an objection—

The Court: All right.

Mr. Gladstein: —to the hasty action—

The Court: (To Mr. Harris) You remain there. You may take your—you may just wait.

Mr. Gladstein: Without seeking to ascertain, on those questions your Honor has put to other jurors, whether Mr. Harris—is it Mr. Harris? Yes—under the instructions of the Court and upon his oath, would apply the same standards to any witness, be it Mr. Paul Robeson, if he appears, or anybody.

The Court: You see, personal acquaintanceship is a little bit different from the generality of applying the tests as jurors. My desire has been here, whenever I saw anything—if anyone, for instance, said they knew Mr. McGohey, I would excuse them at once. I wouldn't ask them any further questions about it at all because (T-584) it is my desire to get people here that are so completely detached from this case in every way as not to have any conceivable bias. It may seem different to you but I must follow the course that my conscience tells me to follow, and I excuse this juror.

You may go, Mr. Harris.

(Prospective juror No. 3 excused.)

Mr. Gladstein: May I ask your Honor—this is quite in line, but this applies to all jurors, I would think, and I certainly am in accord with any desire to obtain a fully unbiased and impartial jury—I think, however, that it is impossible to ascertain the acquaintance of any of the men

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and women sitting in the jury box with people who will appear as witnesses unless the Government submits a list to the Court to ask the jurors about, and I, therefore, ask, and this is not at all unusual, indeed, in all the Federal courts in which I have practiced, your Honor, it is true that at the outset of the questioning of the jurors, the United States Attorney is requested by the Court to advise the Court, so that the Court may properly question the jurors, the names of those persons whom the United States Attorney expects to put on as witnesses. I think that is only fair. And certainly, as far as the defense is concerned, they are entitled to it, and I think that Court would want (T-585) that. Therefore, I ask the Court to require Mr. McGohey that he do this, so that the Court may ask of the 12 people who are going to be jurors, or who are prospective jurors, whether they knew one or another of the people whom the United States Attorney expects to call.

The Court: It seems to me, Mr. Gladstein, a curious procedure to have the prosecution disclose to the defendants everything the defendants want to know, including the names of the witnesses. I had not supposed that it was necessary to do that. Have you disclosed to the Government all the names of the witnesses the defense is to call?

Mr. Gladstein: Your Honor, it is not a question of that. It is a question of the Court asking the jurors whom they know.

The Court: I say, but, I take it, if I were to do that for one side, I would have to do it for the other, wouldn't I?

Mr. Gladstein: That is agreeable. That is agreeable. I think that is perfectly satisfactory, and I—

The Court: It seems to me—

Mr. Gladstein: —would be very happy to supply the Court with a list of those persons whom we can (T-586) reasonably expect will be witnesses.

The Court: Yes, that is what it will be, that you reasonably expect, and then the witnesses called might be different ones.

Mr. Gladstein: But, your Honor, the Government puts on its case first. Obviously—

The Court: Well—

Mr. Gladstein: May I finish? Obviously I cannot—

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The Court: I find, Mr. Gladstein, in this case that no matter what happens, there is always argument. Now, you have made an application to me and that application is denied.

Mr. Gladstein: Very well.

A Voice: That's all.

Mr. McGohey: Did somebody say something? Was there a supplement to what Mr. Gladstein said? I thought I heard an observation. I didn't know whether it was argument at all.

Mr. Wallace: Mr. Sugar spoke up.

The Court: I hope it was complimentary.

Mr. McGohey: It was Mr. Sugar, who is not of counsel. He made an observation.

The Court: I think we can pass over that.

Mr. Sacher: Maybe you can tap our wires here.
(T-587) What is this?

The Court: I heard nothing, Mr. Sacher.

Mr. Sacher: Are we to be denied freedom of speech even among ourselves at the table? Is that Mr. McGohey's idea?

The Court: No, I think not.

Mr. McGohey: I just wanted to make sure, if an argument was being offered, that the Court hear it completely, as I did, and that it went upon the record.

The Court: I think we had better drop that subject now and get on with the filling of the vacant place in the box.

The Clerk: Mrs. Ida F. Howell, No. 3.

(Mr. Ida F. Howell takes seat No. 3 in the jury box.)

IDA F. HOWELL, Prospective Juror No. 3, was examined as follows:

By the Court:

Q. Mrs. Howell, have you been listening to these questions? A. Yes, I have.

Q. You understood them pretty well? A. Yes.

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Q. Now, if you will just take that list that is on the rail in front of you and then bear in mind that the question with reference to that is, whether you know or have had any dealings with any of the persons on that (T-588) list or members of their families.

The Court: I take it the other jurors have already looked through theirs, so we will just wait until Mrs. Howell is finished, and then I will put the question to each of you.

A. I have read this.

Q. Have you read them over? A. The first one.

Q. You see, there are several pages to that list and you should read all of the pages.

Mr. Sacher: May I approach the bench for just a moment, your Honor?

The Court: Yes, you may.

(Discussion at the bench between the Court and Mr. Sacher.)

The Court: Have you each read the list?

Now, Mrs. Mendelsohn, do you know or have you had any dealings with any of the persons on that list or members of their families?

Prospective Juror No. 2: None, your Honor.

The Court: Mrs. Howell, do you know or have you had any dealings with any of the persons on that list or members of their families?

Prospective Juror No. 3: No.

The Court: And Mrs. Oberwager—

(T-589) Prospective Juror No. 10: No, your Honor.

The Court: —have you had any dealings with any of those persons or members of their families?

Prospective Juror No. 10: No, your Honor.

The Court: Now, you had better hand me those lists back and then I will give you another one in connection with the next question.

Let's see if I can get this system working.

I am going to ask the same question about the persons on this list (indicating). It is just a one-page list, and if you will glance it over, I will then ask the question.

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Mrs. Mendelsohn, do you know or have you had any dealings with any of the persons named on that list or members of their families?

Prospective Juror No. 2: No, I have not.

The Court: Mrs. Howell, do you know or have you had any dealings with any of the persons named on that list or members of their families?

Prospective Juror No. 3: No, I have not.

The Court: And Mrs. Oberwager, have you? Do you know or have you had any dealings with any of the persons named on that list or members of their families?

Prospective Juror No. 10: No, your Honor.

Mr. Gladstein: Your Honor, may the record show (T-590) which the lists are as a matter of record that you have asked the jurors about? Because it will simply say a list and it won't be indicated in any way.

The Court: Well, the first list had to do with the question that I have on my list as Question No. 2. The question that I call No. 1 was to the one having to do with the length of the trial prior to my passing on the excuses of the prospective jurors. The question, or the list just submitted now has to do with the question that I have on my list as No. 3. But I really don't quite see—

Mr. Gladstein: Your Honor, that doesn't tell me—

The Court: —where the ambiguity comes in that you are trying to bring to my attention. It is a little bit difficult for me to perceive it.

Mr. Gladstein: All I am asking your Honor is, when you hand the jurors a list that enough be said on the record to indicate the character of the list, whether it is names of groups, names of organizations, or names of books and so on.

The Court: I will read it.

Mr. Gladstein: I am not suggesting that they all be read, but just for identification.

The Court: If we identify them further than (T-591) I have already done, I cannot understand what identification is necessary. They are all marked. Perhaps you had better look at them and then you will see—would you, Mr. Borman, please get those three lists and show them

Voir Dire

to Mr. Gladstein? They are all keyed in with my list of questions that I have here just as plain as anything.

Mr. Gladstein: Yes, your Honor, all I want is to know, because neither the record shows nor do I know sitting here, not having seen a copy of the list, just what is on the list. I don't raise any question about what is on the list or the method of the summary.

The Court: In the future I will hand you a copy as I hand them to the jurors.

Mr. Gladstein: Very well.

The Court: Perhaps that will suffice.

Mr. Gladstein: All right, your Honor.

(T-592) The Court: Now, Mrs. Mendelsohn, do you know anyone employed in or connected with the office or staff of the United States Attorney for this district?

Prospective Juror No. 2: No, I do not.

The Court: Mrs. Howell, do you know anyone employed in or connected with the office or staff of the United States Attorney for this district?

Prospective Juror No. 3: No, I do not.

The Court: Mrs. Oberwager?

Prospective Juror No. 10: No, I do not.

The Court: Mrs. Mendelsohn, do you know any of the judges or employees of this court or members of their families?

Prospective Juror No. 2: No, your Honor.

The Court: Do you, Mrs. Howell?

Prospective Juror No. 3: No.

The Court: Do you, Mrs. Oberwager?

Prospective Juror No. 10: No.

The Court: Have any of you three new prospective jurors or any member of your family or personal friend, been a party to any legal action or dispute with the United States or any of its officers, agents, employees, or had any interest in such legal action?

Do you, Mrs. Mendelsohn?

Prospective Juror No. 2: No, your Honor.

(T-593) The Court: Mrs. Howell?

Prospective Juror No. 3: No, your Honor.

The Court : Mrs. Oberwager?

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Prospective Juror No. 10: No, your Honor.

The Court: Do any of you have any prejudice or bias for or against any defendant by reason of the race of any defendant which would prevent you from keeping your mind fully open until all the evidence and the instructions of the Court have been completed?

Prospective Juror No. 2: None whatsoever.

The Court: Mrs. Howell?

Prospective Juror No. 3: No.

The Court: Mrs. Oberwager?

Prospective Juror No. 10: No.

The Court: Have you or any relative or close friend of yours ever been the subject of any investigation or accusation by any committee of Congress?

Mrs. Mendelsohn?

Prospective Juror No. 2: No.

The Court: Mrs. Howell?

Prospective Juror No. 3: No.

The Court: Mrs. Oberwager?

Prospective Juror No. 10: No.

The Court: I address this to you, Mrs. Mendelsohn: Have you ever been employed by the Federal (T-594) Government?

Prospective Juror No. 2: I have not.

The Court: Are you seeking Government employment?

Prospective Juror No. 2: No.

The Court: Mrs. Howell, have you ever been employed by the Federal Government?

Prospective Juror No. 3: No.

The Court: Are you now seeking Government employment?

Prospective Juror No. 3: No.

The Court: Mrs. Oberwager, have you ever been employed by the Federal Government?

Prospective Juror No. 10: No, your Honor.

The Court: Are you now seeking Government employment?

Prospective Juror No. 10: No, your Honor.

The Court: Now I will address each of you three:

Voir Dire

Have you or any member of your immediate family ever been associated with any agency, either public or private, which was or is engaged in the detection of law violations?

Prospective Juror No. 2: No.

Prospective Juror No. 3: No.

Prospective Juror No. 10: No.

(T-595) The Court: You each say No?

Prospective Juror No. 2: No.

The Court: You see, if you nod your heads perhaps it will be left in doubt whether maybe you say Yes or maybe you say No.

Now you each appear to me to be saying No.

Prospective Juror No. 2: I said No.

The Court: But why don't you speak up?

Prospective Juror No. 2: No.

The Court: And Mrs. Howell and Mrs. Oberwager?

Prospective Juror No. 3: No.

Prospective Juror No. 10: No.

The Court: That is right.

Now we come to the list of grand jurors, and the question is to each of you, do you know any of the following named persons who were members of the grand jury that indicted the defendants now on trial:

Edmund L. Cocks, Jerome S. Blumauer, Adelaide E. Lowe, Benjamin C. Brush, Herbert C. Cantrell, Thomas Hill Clyde, Andrew J. Coakley, Walter A. Coleman, (T-596) Mrs. Pauline J. Charal—C-h-a-r-a-l, Charles P. Fenlon, Henry J. Hauck—H-a-u-c-k, Arthur S. Heiman—H-e-i-m-a-n, George T. Hodell, James C. Johnson, Walter I. Metz, Jos. I. Morris, Frederick Q. Nehring, Huestis G. Sincerbeaux, Carl M. Spero, Russell W. Todd, Helen R. Walsh, Milton Watkins, Donald C. Webster?

Do any of you know any of those persons?

Prospective Juror No. 2: No, your Honor.

Prospective Juror No. 3: No.

Prospective Juror No. 10: No.

The Court: Have you or any member of your immediate family ever been associated with any agency of law enforcement?

Prospective Juror No. 2: No, your Honor.

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Prospective Juror No. 3: No.

The Court: Mrs. Oberwager? You say, No, as well?
(T-597) Prospective Juror No. 10: No.

The Court: Are you related or friendly to or associated with any employee of the Department of Justice or the Federal Bureau of Investigation, generally known as the FBI?

Mrs. Mendelsohn?

Prospective Juror No. 2: No, your Honor.

The Court: Mrs. Howell?

Prospective Juror No. 3: No.

The Court: Mrs. Oberwager?

Prospective Juror No. 10: No, your Honor.

The Court: Do you know any Congressman who is now or who has been a member of the House Committee on Un-American activities?

Mrs. Mendelsohn?

Prospective Juror No. 2: No.

The Court: Mrs. Howell?

Prospective Juror No. 3: No, your Honor.

The Court: Mrs. Oberwager?

Prospective Juror No. 10: No, your Honor.

The Court: Do you know any present or former employee investigator or member of the staff of the House Committee on Un-American Activities?

Mrs. Mendelsohn?

Prospective Juror No. 2: No, your Honor.

(T-598) The Court: Mrs. Howell?

Prospective Juror No. 3: No, your Honor.

The Court: Mrs. Oberwager?

Prospective Juror No. 10: No, your Honor.

The Court: Have you ever testified before or given information to the House Committee on Un-American Activities or the FBI?

Mrs. Mendelsohn?

Prospective Juror No. 2: No, your Honor.

The Court: Mrs. Howell?

Prospective Juror No. 3: No, your Honor.

The Court: Mrs. Oberwager?

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Prospective Juror No. 10: No, your Honor.

The Court: Do you know any person who has testified before or given information to the House Committee on Un-American Activities or the FBI?

Prospective Juror No. 2: No, your Honor.

Prospective Juror No. 3: No, your Honor.

Prospective Juror No. 10: No, your Honor.

The Court: Have you ever served as a juror before?

Prospective Juror No. 2: Yes.

Prospective Juror No. 3: Yes.

Prospective Juror No. 10: Yes.

The Court: Each of you has.

(T-599) Now the next question has to do with your qualification to sit because you cannot sit within a year of being called before.

Have you been summoned and did you attend in any district court of the United States within one year prior to the time you were summoned for this term of court?

Prospective Juror No. 2: No, your Honor.

Prospective Juror No. 3: No, your Honor.

Prospective Juror No. 10: No, your Honor.

The Court: Now on several previous occasions I have read the indictment in full, and I think perhaps I shall read it again.

Did you hear me when I read it before to the jurors?

Prospective Juror No. 2: Yes.

Prospective Juror No. 3: Yes.

Prospective Juror No. 10: Every word.

The Court: I think perhaps I had better read it again because these questions that follow have a bearing on it, and I want to be sure that it is understood.

I think perhaps before I do that we will take a short recess of seven or eight minutes.

(Short recess.)

(T-600) The Court: Now I am going to read this a little bit faster than I did before because you have already heard it several times.

Voir Dire

The grand jury charges:

That from on or about April 1, 1945, and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York, and elsewhere, William Z. Foster, Eugene Dennis, also known as Francis X. Waldron, Jr., John B. Williamson, Jacob Stachel, Robert G. Thompson, Benjamin J. Davis, Jr., Henry Winston, John Gates, also known as Israel Regenstreif, Irving Potash, Gilbert Green, Carl Winter, and Gus Hall, also known as Arno Gust Halberg, the defendants herein, unlawfully, wilfully, and knowingly, did conspire with each other, and with divers other persons to the grand jurors unknown, to organize as the Communist Party of the United States of America a society, group and assembly of persons who teach and advocate the overthrow and destruction of the Government of the United States by force and violence, and knowingly and wilfully to advocate and teach the duty and necessity of overthrowing and destroying the Government of the United States by force and violence, which said acts are prohibited by Section 2 of the Act of June 28, 1940 (Section 10, Title 18, United States Code), commonly known as the Smith Act.

It was part of said conspiracy that said defendants would convene, in the Southern District of New York, a meeting of the National Board of the Communist Political Association on or about June 2, 1945, to adopt a draft resolution for the purpose of bringing about the dissolution of the Communist Political Association, and for the purpose of organizing as the Communist Party of the United States of America a society, group, and assembly of persons dedicated to the Marxist-Leninist principles of the overthrow and destruction of the Government of the United States by force and violence.

It was further a part of said conspiracy that said defendants would thereafter convene, in the Southern District of New York, a meeting of the National Committee of the Communist Political Association on or about June 18, 1945, to amend and adopt said draft resolution.

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It was further a part of said conspiracy that said defendants would thereafter cause to be convened, in the Southern District of New York, a special National Convention of the Communist Political Association on or about July 26, 1945, for the purpose of considering and acting upon said resolution as amended.

(T-602) It was further a part of said conspiracy that said defendants would induce the delegates to said National Convention to dissolve the Communist Political Association.

It was further a part of said conspiracy that said defendants would bring about the organization of the Communist Party of the United States of America as a society, group, and assembly of persons to teach and advocate the overthrow and destruction of the Government of the United States by force and violence, and would cause said Convention to adopt a Constitution basing said Party upon the principles of Marxism-Leninism.

It was further a part of said conspiracy that said defendants would bring about the election of officers and the election of a National Committee of said Party, and would become members of said Party, and be elected as officers and as members of said National Committee and the National Board of said Committee, and in such capacities said defendants would assume leadership of said Party and responsibility for its policies and activities, and would meet from time to time to formulate, supervise, and carry out the policies and activities of said Party.

It was further a part of said conspiracy that said defendants would cause to be organized clubs, and (T-603) district and State units of said Party, and would recruit and encourage the recruitment of members of said Party.

It was further a part of said conspiracy that said defendants would publish and circulate, and cause to be published and circulated, books, articles, magazines and newspapers advocating the principles of Marxism-Leninism.

It was further a part of said conspiracy that said defendants would conduct, and cause to be conducted, schools and classes for the study of the principles of Marxism-Leninism, in which would be taught and advocated the

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duty and necessity of overthrowing and destroying the Government of the United States by force and violence.

In violation of Sections 3 and 5 of the Act of June 28, 1940, (Sections 11 and 13, Title 18, United States Code), commonly known as the Smith Act.

Now I think right here I am going to read the statute and ask you the question about that. The pertinent portions of the statute referred to in that indictment are as follows:

“It shall be unlawful for any person—
“to knowingly or wilfully advocate or teach the duty or necessity of overthrowing or destroying (T-604) any government in the United States by force or violence;

“to organize any society, group or assembly of persons who teach, advocate the overthrow or destruction of any government in the United States by force or violence.”

“For the purposes of this section, the term ‘government in the United States’ means the Government of the United States, the government of any State, Territory or Possession of the United States, the government of the District of Columbia, or the government of any political subdivision of any of them.

“It shall be unlawful for any person to conspire to commit any of the acts prohibited by the provisions of this Title.”

Now I ask you this question:

Have you any prejudice against enforcement of this law or against punishment of any person for conspiracy to teach and advocate the duty and necessity of the overthrow of the United States Government by force and violence as set forth in the portions of the statute which I have read to you?

Prospective Juror No. 2: No, your Honor.

Prospective Juror No. 3: No.

(T-605) Prospective Juror No. 10: No, your Honor.

Voir Dire

The Court: Now I am going to read again the part that I read from the comments of another federal judge when he was selecting a jury in another case that attracted widespread comment and was talked about in the newspapers a good deal, and I want you to listen to it no matter how many times I might repeat this, it wouldn't be repeating too often.

It is the purpose, so said the Judge in that case, and object of these questions to secure a jury that has no feeling, no bias, no prejudice as to either side in this controversy. To put it another way—let me see if I can find a plain sheet of paper here to illustrate it.

To put it another way, the minds of the jurors should be the same as this white sheet of paper (indicating). There is nothing on it, as you start in your deliberations. And you should only take the testimony as it comes from the witnesses in the case, and from no other source.

It is the object of the Court to select jurors who will keep their minds open during the entire trial, and at no time during the proceedings to say, "Now I know what I am going to do." If a juror takes that position he might just as well go home and come back when the matter is submitted. That is important. A piece of evidence might come in later that will change that opinion (T-606) one way or another. And not even when the evidence is all in should you say, "Well, I know what I am going to do now," without listening to the arguments of counsel. Because counsel on either side might place a different construction on the evidence than would be acceptable to you. But if you have made up your mind pride of opinion may cause you to adhere to a position that you would not adhere to had you kept your mind open.

This is a court of justice. Why I emphasize that you should only make your determination on the evidence as it comes from the witnesses is because that is distinguished from what we call gossip, newspaper talk and so on. That belongs on the street, not in a court of justice, and that is where we propose to leave it.

The grand jury has returned this indictment that I have read. —that is what the same Judge continued, because he had read the indictment in that other case just as I read it here to you.

Voir Dire

That is no evidence of guilt and should be entirely disregarded by you as evidence. It is merely a method by which the government called into a court of justice individuals who they claim have violated the law. And you shall entirely disregard it as evidence.

The defendants are presumed to be innocent until it is established beyond a reasonable doubt that (T-607) they have offended against the law as charged in the indictment. The defendants stand before you as any individual in this court, and clothed with that presumption all through the trial.

Now I come to these other questions.

Has any juror—and I had better hand you now this next list—well, the next list here is so short that I haven't had it written out, so you will just listen to it.

Has any juror ever been employed by made any contributions to, or had any dealings with, any of the following publications:

The Daily Worker, The Worker, The Communist, Political Affairs, Morning Freiheit, New Masses, In Fact, People's World, The German American, Soviet Russia Today, Masses and Mainstream, People's Voice, The Protestant—or the Pro-testant—I do (T-608) not know which way it is pronounced, Contact, The National Guardian, New Foundations, New Times?

Mrs. Mendelsohn?

Prospective Juror No. 2: No, your Honor.

The Court: Mrs. Howell?

Prospective Juror No. 3: No, your Honor.

The Court: Mrs. Oberwager?

Prospective Juror No. 10: No, your Honor.

The Court: Has any juror, or any member of his family, had any dealings with, or ever been employed by:

Cafe Society Uptown, Cafe Society Downtown, World Tourists, Inc., Amtorg-Tass News Agency, Earl Browder, Inc., The Soviet Embassy, any of the former Soviet Consulates, former Soviet Purchasing Commission, Freedom of the Press, Inc., International Publishers (T-609) New Century Publishers, Workers Bookshop, Jefferson Bookshop, Four Continent Book Corp.

Prospective Juror No. 2: No, your Honor.

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Prospective Juror No. 3: No, your Honor.

Prospective Juror No. 10: No, your Honor.

The Court: Now we come to this long list and this is entitled "List 3" in connection with my question 22, so if you, Mr. Borman, will be good enough to hand one of these to Mr. Gladstein and the other three to the jurors who have just taken their places in the box (handing to clerk).

(The clerk distributes to Mr. Gladstein and Prospective Jurors Nos. 2, 3 and 10.)

The Court: Now the question I am going to ask is, have you ever been a member of, made contributions to, or associated in any way with any of the following organizations—so if you will just read them over carefully and take your time then I will ask the question again.

(Prospective Jurors Nos. 2, 3 and 10 examine the list.)

The Court: Have you each read them all through?

Prospective Juror No. 2: Yes.

(T-610) The Court: Now I will get back to the question.

Now have you ever been a member of, made contributions to, or been associated in any way with any of those organizations?

Prospective Juror No. 2: No, your Honor.

Prospective Juror No. 3: No.

Prospective Juror No. 10: No, your Honor.

The Court: Now if you will just hand those lists back to Mr. Borman, I have another one here.

(Prospective Jurors Nos. 2, 3 and 10 hand list back to the Clerk.)

The Court: Now this I have called "List 4" in connection with my question 23, so that if you will hand one copy to Mr. Gladstein and one of the other copies each to the three new jurors.

(The clerk distributes list as requested.)

The Court: Now it is the same question with reference to these, each side having submitted a list and it reads:

Voir Dire

Have you at any time been a member of, made contributions to, or been associated in any way with any of the following organizations—

Mr. Gladstein: Would your Honor be good enough to add to that list an organization known as Common Cause, Incorporated?

(T-611) The Court: Common Cause?

Mr. Gladstein: Incorporated.

The Court: Incorporated?

Mr. Gladstein: Yes, your Honor.

The Court: I will.

Have you each of you read this list?

Prospective Juror No. 2: Yes.

Prospective Juror No. 3: Yes, your Honor.

Prospective Juror No. 10: Yes.

The Court: And will you treat it as though that list contained in addition the name Common Cause, Incorporated?

Now have you at any time been a member of, made contributions to, or associated in any way with any of those organizations?

Prospective Juror No. 2: No.

Prospective Juror No. 3: No, your Honor.

Prospective Juror No. 10: No, your Honor.

The Court: Now if you will just get those lists back,
Mr. Borman.

(Clerk collects list as requested.)

The Court: Have you read any of the following publications:

This is my Story by Louis F. Budenz, (T-611-A) I Confess by Ben Gitlow, The Whole of Their Lives by Ben Gitlow, I Chose Freedom by Victor Kravchenko, Out of the Night by Jan Valtin.

(T-612) Mr. McGohey: Your Honor, the juror raises her hand.

The Court: One you have read, Mrs. Oberwager, is Out of the Night?

Prospective Juror No. 10: Yes, your Honor.

The Court: By Jan Valtin. It is a curious thing but I have never read any of these books and I don't know

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anything about them but I assume, from the fact that they have been submitted to me here, that they have something to do with Communists and that their expression—or they have given expression to antagonism to or hostility to Communism. Did you find that to be true with that book?

Prospective Juror No. 10: Your Honor, it is such a long time ago that I have read it that I almost have forgotten about it, but I did read it.

The Court: Don't you think that it had something to do in a not very complimentary way with Communist or Communism?

Prospective Juror No. 10: I really don't know, but I do remember reading it.

The Court: You do remember reading the book?

Prospective Juror No. 10: That is right.

The Court: Has your reading of it left you with any bias or prejudice against Communists or Communism or any of these defendants?

(T-613) Prospective Juror No. 10: None.

The Court: I will go on with the remainder of the list:

The Trojan Horse in America by Martin Dies, The Red Decade by Eugene Lyons, The Road to Serfdom by Hayek, The Struggle behind the Iron Curtain by Ferenc Nagy, The War We Lost: Yugoslavia's Tragedy and the Failure of the West by Constantin Fotitch, Is Communism Compatible with Christianity by Clare Boothe Luce.

Now, have any of you read any of those publications? I will address myself to Mrs. Mendelsohn.

Prospective Juror No. 2: No, I haven't, your Honor.

The Court: And Mrs. Howell?

Prospective Juror No. 3: No, your Honor.

The Court: And as to you, Mrs. Oberwager, did you read any of them in addition to the one mentioned?

Prospective Juror No. 10: No, your Honor.

The Court: From reading the newspapers or written matter of any kind or from conversation had with friends or others or by listening to the radio or in any other way, (T-614) have you formed any opinions or impressions as to the merits of the charge, unfavorable either to the

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Government or to the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete?

Mrs. Mendelsohn?

Prospective Juror No. 2: No, your Honor.

The Court: Mrs. Oberwager?

Prospective Juror No. 10: No, your Honor.

The Court: Mrs. Howell?

Prospective Juror No. 3: No, your Honor.

The Court: And Mrs. Oberwager.

Have you any time been a member of, made contributions to, or been associated in any way with business or religious organizations, or organizations of any character, in connection with the activities of which you have formed any opinions or impressions as to the merits of the charge, unfavorable either to the Government or to the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete?

Prospective Juror No. 2: No, your Honor.

Prospective Juror No. 3: No, your Honor.

(T-615) Prospective Juror No. 10: No, your Honor.

The Court: Have you at any time been a member of, made contributions to, or been associated in any way with business or religious organizations, or organizations of any character, whose officers or representatives have made any expressions of advocacy of or friendliness toward the Communists or Communism in general on the one hand, or of opposition or hostility to Communists or Communism in general on the other hand, which expressions you have heard or read in any manner, which have led you to form any opinions or impressions as to the merits of the charge, unfavorable either to the Government or to the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete?

Prospective Juror No. 2: None, your Honor.

Prospective Juror No. 3: None whatsoever.

Prospective Juror No. 10: No, your Honor.

The Court: In determining the truth or falsity of the testimony of any witness, would you, in accordance with

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the instructions of the Court submit the testimony of such witness to the same scrutiny and test it by the same standards, whether the witness was called by the defense or by the prosecution?

Prospective Juror No. 10: Yes.

(T-616) Prospective Juror No. 3: Yes.

Prospective Juror No. 2: I did not understand the question.

The Court: You don't understand the question?

Prospective Juror No. 2: No.

The Court: Then I will put it to you in a different way.

Now, witnesses are going to be called here, some by the Government, some by the defendants, and when it comes my turn to instruct the jury, I am going to tell the jury that they must take every one of those witnesses and scrutinize their testimony and decide their credibility by the same tests, because it doesn't make a bit of difference whether the prosecution calls a witness or whether the defense calls a witness. And so I say, if I instruct you that way, are you going to apply the same test to every witness, whether the witness is called by the prosecution or whether the witness is called by the defense?

Prospective Juror No. 2: Yes, I would.

The Court: And, Mrs. Oberwager, you would too?

Prospective Juror No. 10: Yes, your Honor.

The Court: I am going to ask that same question about a number of different types of persons. I don't know (T-617) who will be called as witnesses here but I have made up these questions from a number of suggestions made by counsel for both sides and with my own ideas, and so here again, when the time comes for the instructions, I am going to tell the jury that every witness has got to have his credibility tested by the same tests and scrutinized in the same way, and I ask you whether you would apply the same tests, if I instruct you so, whether the witness be a member of a labor union, or a Congressman, or an employee of the Department of Justice or of the F.B.I., or a Communist or a member of the present or some former Communist Party or a friend or associate of any of the defendants?

Now, whichever one of those he might happen to be, would you apply the same test of credibility, in accordance with my instructions?

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Prospective Juror No. 2: Yes, your Honor.

Prospective Juror No. 3: Yes, your Honor.

Prospective Juror No. 10: Yes, your Honor.

The Court: If you were selected as a juror and came to the conclusion that a verdict of not guilty was required by the evidence in accordance with the instructions of the Court, would you be embarrassed in arriving at or rendering a verdict of not guilty in any way connected with your employment or by reason of your (T-618) membership in or affiliation with any church, political party, club, society, or any other organization of any kind whatsoever, or in any other manner?

Prospective Juror No. 2: No, your Honor.

Prospective Juror No. 3: No, your Honor.

Prospective Juror No. 10: No, your Honor.

The Court: Has any juror such a bias or prejudice against the Government or any agency of the United States, or against any of the defendants or Communists in general, or the Communist Party, whatever its aims and purposes may be, as would prevent you from reaching your verdict solely on the evidence presented in court and the law as contained in the instructions and rulings of the Court?

Prospective Juror No. 2: No, your Honor.

Prospective Juror No. 3: No, your Honor.

Prospective Juror No. 10: No, your Honor.

The Court: Now, I have a number of other questions here that I have copied on these little sheets of paper.

Have you ever expressed any opinions or views as to the guilt or innocence of any of these defendants?

Prospective Juror No. 2: No, your Honor.

Prospective Juror No. 3: No, your Honor.

Prospective Juror No. 10: No, your Honor.

(T-619) The Court: Have you formed any opinions or impressions concerning the guilt or innocence of any of the defendants of the crime charged which it would require evidence to remove?

Prospective Juror No. 2: No.

Prospective Juror No. 3: No.

Prospective Juror No. 10: No.

The Court: Have you formed any opinion or impression concerning the guilt or innocence of any of the de-

Voir Dire

fendants of the crime charged which might prevent you from being completely impartial and free from bias in this case?

Prospective Juror No. 2: No, your Honor.

Prospective Juror No. 3: No, your Honor.

Prospective Juror No. 10: No, your Honor.

The Court: Is any relative of yours now or was he or she formerly employed by the Government? In other words, have you got any relative—two of you have. Mrs. Howell, you haven't any relative employed by the Government?

Prospective Juror No. 3: No, I haven't.

The Court: Or any relative that was formerly employed by the Government, as far as you know?

Prospective Juror No. 3: No, not as far as I know.

(T-620) EVA MENDELSON, Prospective Juror No. 2, was examined as follows:

By the Court:

Q. Mrs. Mendelsohn, which member of your family is employed by the Government? A. My son was in the United States service during the war.

Q. His employment had solely to do with the armed forces during the war? A. Yes.

Q. Does that circumstance give rise to any bias or feeling on your part favorable to the Government and unfavorable to these defendants or any of them? A. None whatsoever.

EUGENIE OBERWAGER, Prospective Juror No. 10, was examined as follows:

By the Court:

Q. How about you, Mrs. Oberwager? A. Well, I had two sons, one of them a Navy pilot, and the other was a radio operator during the war. And the Navy pilot at the present time is instructor in the State of Colorado in

Voir Dire

animal husbandry. I don't think it is a Government job. I think it is a State job.

Q. Yes, yes, because you understand, when I say Government, I mean the United States Government? A. Yes. I believe it is a State job. And I also have a nephew who is at the present time working in the UN.

(T-621) Q. I don't know about the character of employment in the United Nations. Is that a Government— A. I don't know.

Q. You think it is Government employment? A. I don't know whether it is or not.

The Court: Let us ask Mr. McGohey. Mr. McGohey, can you enlighten the Court on that?

Mr. McGohey: No, I cannot, your Honor. It is my understanding that the UN has its own organization.

The Court: Separate organization.

Mr. McGohey: And that its funds come from appropriations from all the countries which are members of it.

The Court: I think that is so but I don't feel certain about it.

Mr. Sacher: How are assignments made to the UN?

The Court: I suppose each government must designate certain representatives.

Mr. Sacher: Precisely.

The Court: So that we would take —

Mr. McGohey: That, your Honor, wouldn't necessarily mean that UN has the—UN would not have employees of its own. I don't know that is so, but I assume it to be so.

The Court: I think it depends not so much on the (T-622) fact, but the fact as it appears to Mrs. Oberwager.

By the Court:

Q. Has he told you whether he was appointed by the United States Government or anything about that? A. Your Honor, I wouldn't be able to answer that question.

Voir Dire

I don't know. What I do know is he is working for the UN, and that is all I know about that.

Q. Do you know what kind of work he does there?
 A. Well, during the war he worked in Aberdeen, in the proving grounds, as a visual instructor—visual aid instructor—and I believe it might be in the same capacity. I really don't know.

Q. Taking the first, the matter of your sons who were in the service— A. Yes?

Q. —would that circumstance or anything connected with it, or does that circumstance or anything connected with it give rise to any bent of mind on your part that would be a bias in this case unfavorable to any of the defendants? A. Absolutely none.

Q. Or favorable to the Government, perhaps? A. No, absolutely nothing.

Q. You feel not? A. No, your Honor.

Q. How about this other—this boy who is with the UN? Don't you think, perhaps, something connected with that has given you a little feeling of bias or antagonism (T-623) here to, possibly, these defendants or Communism or Communists? A. Your Honor, may I say that I haven't seen this nephew of mine. We get together at affairs, at weddings and such, and I have never discussed with him the type of work he does.

Q. Do you say then that from that relationship and his work you feel no bias or prejudice in this matter? A. Absolutely none.

The Court: Do any of you have any relative who is looking for Government employment now to your knowledge?

Prospective Juror No. 2: No.

Prospective Juror No. 3: No.

Prospective Juror No. 10: No, your Honor.

The Court: Do any of you belong to a union?

Prospective Juror No. 2: No, I don't.

Prospective Juror No. 3: No, your Honor.

Prospective Juror No. 10: No.

The Court: Here is a new question that has just been submitted to me this morning, that I will put to all of the jurors: Do you or does any close relative hold or have they held any office or position or been a member of any committee of any political party?

Voir Dire

Prospective Juror No. 10: No.

Prospective Juror No. 2: No.

(T-624) Prospective Juror No. 3: No.

The Court: That I ask of all the jurors in the box. Do each of you answer my question in the negative or in the affirmative?

(A chorus of "Noes.")

The Court: You each say No?

(A chorus of "Noes.")

The Court: Now my final question: Do you know of any reason why you should not serve as a juror in this case, any fact or circumstance of such a nature as to prevent you from rendering a fair and impartial verdict based solely on the evidence and the instructions of the Court and rulings of the Court?

(A chorus of Noes.)

The Court: Without taking the trouble to read that omnibus question, I will reformulate it in my own way, and I address this question to every one of you in the jury box.

Taking all the questions that I have asked and that you have heard repeated here and the new questions that have come along, those of you who were questioned before, has any fact or circumstance or incident come to your minds that you should tell me about that qualifies, perhaps some of the answers made previously? Because, if so, you need feel no (T-625) embarrassment about it at all. And, as you listened to each of these repeated questions, if something occurs to you that you did not think of before, now is the time to speak up.

And I take it that if none of you do, it will mean that you have thought of no such qualification.

Now, am I right about that?

(A chorus of Yeses.)

The Court: We will adjourn now until a quarter past two.

• • •

Voir Dire

AFTERNOON SESSION

EVA MENDELSONH, Prospective Juror No. 2, was examined as follows:

By the Court:

Q. Mrs. Mendelsohn, you are down here as a housewife. Do you have some other occupation, too? A. No, I do not.

Q. What was your occupation before you became a housewife or before—if you had some other occupation formerly, what was it? A. Stenographer and typist.

Q. Stenographer and typist? A. Yes.

Q. And for whom did you work as a stenographer and typist? A. Fox Film Corporation and the Goldwyn Pictures.

Q. And were you working at that work for some years? (T-626) A. Yes, about seven or eight years.

Q. Seven or eight years, so going back some little time that is the only occupation you had? A. That is the only occupation.

Q. Now what is your husband's occupation? A. Real estate management.

Q. What is the company that he works for? A. Bing & Bing.

Q. Bing & Bing? A. Yes.

Q. And just what does he do in that work? A. Complete management of about 20 buildings.

Q. He runs about 20 buildings? A. Yes.

Q. What is, he hires the help and tends to the repairs and hears the complaints of the tenants and everything of that kind? A. Yes, sir.

Q. Has he been engaged in that occupation for some years? A. 29 years.

IDA F. HOWELL, Prospective Juror No. 3, was examined as follows:

By the Court:

Q. Now Mrs. Howell, you are down here as a housewife, and you also have some occupation in addition, have you not? A. Yes, I have.

Voir Dire

Q. And what is that? A. I am a beautician.

Q. A beautician? A. Yes.

(T-627) Q. You work for some firm? A. Well, it is not a firm; it is a person that has a beauty shop.

Q. That is, the individual who owns the beauty shop—
A. That is right.

Q. —is the person for whom you work? A. That is right. I am an operator there.

Q. What is that?

(Answer read.)

Q. And what is the name of the person for whom you work? A. Clark Beauty Shop.

Q. And before you became an operator—is that the name? Is that the expression, an operator? A. Yes.

Q. —operator in that beauty shop, did you have some former occupation? A. Yes, I was a clerk for the Eighth Avenue Subway. That is the Independent Division.

Q. As such clerk, was that administrative work, clerical work? A. Well, very little clerical work. It was mostly making change and taking turnstile readings.

Q. That is, you were situated in one of the subway stations in a little booth there? A. That is right.

Q. And that is the work you did before your present occupation? A. That is right.

Q. What is your husband's occupation? A. He is a chauffeur for a cab company.

(T-628) Q. That is, he is the driver of a taxicab? A. Yes, he is.

Q. Working for one of the companies? A. Yes, he is.

Q. What is the name? A. Jeff Cab Company.

The Court: Mrs. Oberwager, you are—perhaps I had better go back and get the business addresses.

What is your husband's business address, Mrs. Mendelsohn?

Prospective Juror No. 2: 119 West 40th.

The Court: 119 West 40th Street?

Prospective Juror No. 2: Right.

The Court: And Mrs. Howell, I suppose your husband goes out from his home?

Voir Dire

Prospective Juror No. 3: Yes. I don't know the exact address, but I know it is 137th Street and Buckner Boulevard.

EUGENIE OBERWAGER, Prospective Juror No. 10, was examined as follows:

By the Court:

Q. Mrs. Oberwager, you are down here as a housewife, is that correct? A. Yes, your Honor.

Q. Do you do any work now? A. I do not.

Q. Did you have a former occupation? A. I did.

Q. What was that? A. I was a bookkeeper.

Q. What firm did you work for as bookkeeper? A. Bernard (T-629) Ullman, on Grand Street, a yarn house.

Q. Were you there as bookkeeper for several years? A. Yes, I was, about three to four years.

Q. When was it that that occupation terminated? A. When I got married in 1920.

Q. I was wondering. That might have been last year. A. No, 1920, your Honor.

Q. What is your husband's occupation? A. He has an automobile repair shop.

Q. What is the address? A. 523 West 131st Street.

The Court: I think I asked each of you ladies whether you were a member of any union, didn't I? And you each answered it in the negative?

(Yes.)

The Court: Mrs. Mendelsohn, you have stated that you have no bias or prejudice of any kind in this case, and I am now submitting a special question: Would your judgment as to the guilt or innocence of the defendants or any of them be affected in any wise if it should develop that these defendants advocate the extension and strict enforcement of rent controls—would that affect your judgment in passing on the evidence here?

Prospective Juror No. 2: No, your Honor.

(Jury card holder handed to Mr. McGohey.)

Voir Dire

(T-630) Mr. McGohey: Will your Honor pardon me just a minute? I have a question I desire to hand up to your Honor.

The Court: Yes.

(Mr. McGohey hands paper to the Court through the clerk.)

The Court: Mrs. Howell, when you worked for the subway were you a member of the Transport Workers Union?

Prospective Juror No. 3; No, the temporary people didn't even join that. They were not allowed to join the union.

The Court: Mrs. Conant, is it required that you remain a member in good standing with your union in order to retain your employment?

Prospective Juror No. 4: Yes, sir.

(Mr. McGohey approaches the bench and converses with the Court.)

The Court: I am going to, Mrs. Conant, I am going to change around one of the other questions that I asked earlier. If you were selected as a juror and came to the conclusion that a verdict of guilty was required by the evidence, in accordance with the instructions of the Court, would you be embarrassed in arriving at or rendering a verdict of guilty in any way connected with your employment or the union of which you are a member?

(T-631) Prospective Juror No. 4: No, your Honor.

(Mr. Sacher submits a paper to the Court through the bailiff.)

The Clerk: Juror No. 7, Mr. Charles Zulanch, excused by the Government.

(Prospective Juror No. 7 excused.)

The Clerk: George Herbert Crossan, No. 7.

(Mr. George Herbert Crossan takes seat No. 7 in the jury box.)

Voir Dire

GEORGE HERBERT CROSSAN, Prospective Juror No. 7, was examined as follows:

By the Court:

Q. Mr. Crossan, have you been listening to these questions? A. I have, very carefully.

Q. Do you think you have understood them all? A. I do.

Q. No ambiguities that you felt left you in doubt as to the meaning of any of them? A. No.

Q. The first question has to do with a list, and I hand you this list.

The Court: And I don't think a copy of this, Mr. Borman, has been furnished to Mr. Gladstein—it is the one that I first used—so the set of lists may be complete.

(The clerk hands a paper to Mr. McGohey; (T-631-A) Mr. McGohey hands paper to Mr. Gladstein.

Q. Just read that over if you will, Mr. Crossan. That is list 1 to be used in connection with my question 2, a list of names submitted by the prosecution, and I ask you whether you know or have had any dealings with any of the persons named on that list or members of their families? A. I have not, your Honor.

(T-632) (The clerk hands paper to Prospective Juror No. 7.)

By the Court:

Q. Have you read the list? A. Yes.

Q. That is the list submitted by the defendants and is entitled "List 2" to be used in connection with my question 3, which reads as follows: Do you know, or have you had any dealings with any of the persons on that list, or members of their families? A. I have not, your Honor.

Q. Do you know anyone employed in or connected with the office or staff of the United States Attorney for this district? A. No.

Voir Dire

Q. Have you or any member of your family or personal friend, been party to any legal action or dispute with the United States or any of its officers, agents, or employees, or had any interest in such legal action? A. No, your Honor.

Q. Do you have any prejudice or bias for or against any defendant by reason of the race of any defendant which would prevent you from keeping your mind fully open until all the evidence and the instructions of the Court have been completed? A. No, your Honor.

Q. Have you or any relative or close friend of yours ever been the subject of any investigation or accusation (T-633) by any Committee of Congress? A. No, your Honor.

Q. Have you ever been employed by the Federal Government? A. No, your Honor.

Q. Are you now seeking Government employment? A. No.

Q. Have you or any member of your immediate family ever been associated with any agency, either public or private, which was or is engaged in the detection of law violations? A. No, your Honor.

Q. Do you know any of the following—

(The clerk hands paper to the Court.)

The Court: Well, I am requested by the defendants to add to the list that I submitted a moment ago the following questions, so that this question may be deemed to be addressed to each and every one of the jurors in the jury box as these names are new; I will go back to the question, which is, whether any juror knows or has had any dealings with any of the following persons or members of their families:

Lieutenant General Robert E. Eichelberger, Rev. Dr. Samuel Shoemaker, Eric Warburg, Goodhue Livingston, Jr., Christopher Emmet, Sumner Wells, (T-634) Dorothy Thompson, Arthur Bliss Lane, Rev. Robert I. Gannon, General Follett Bradley, Eugene Lyons, William H. Chamberlain, Dr. George S. Counts—Co-u-n-t-s, Mrs. Lois Mattox Miller, Major George Fielding Eliot, Dr. Harry J. Carman, Mrs. Aida de Acosta Breckenridge?

Voir Dire

Any of you know them?

Prospective Juror No. 9: Well, my period of service in the Army was under General Eichelberger's 8th Army.

The Court: Well, was he a personal friend of yours?

Prospective Juror No. 9: No, I had no acquaintance with him. I worked in his headquarters.

The Court: Would the fact that you worked in his headquarters have any bearing in this case so far as you can see?

Prospective Juror No. 9: No, it would not, your Honor.

The Court: I am informed by a little note (T-635) appended to this list by counsel for the defendants that those are names of people listed as sponsors of Common Cause—Common Cause, whether it is incorporated—

Mr. Gladstein: Incorporated, your Honor.

The Court: Wait until I find where I put that down before. (Examining.) Yes. That was added to the defendants' list of organizations.

Do you know anything about that Common Cause, Incorporated?

Prospective Juror No. 9: No, I do not, your Honor.

The Court: Very well.

Now, do any of the other jurors know or have they had any dealings with any of those persons or members of their families?

(Prospective Jurors answer No.)

By the Court:

Q. Now the next question, Mr. Crossan, is Do you know any of the following named persons who were members of the grand jury that indicted the defendants now on trial:

Edmund L. Cocks, Jerome S. Blumauer, Adelaide E. Lowe, Benjamin C. Brush, (T-636) Herbert C. Cantrell, Thomas Hill Clyde, Andrew J. Coakley, Walter A. Coleman, Mrs. Pauline J. Charal, Charles P. Fenlon, Henry J.

Voir Dire

Hauck, Arthur S. Heiman, George T. Hodell, James C. Johnson, Walter I. Metz, Jos. I. Morris, Frederick Q. Nehring, Huestis G. Sincerbeaux, Carl M. Spero, Russell W. Todd, Helen R. Walsh, Milton Watkins, Donald C. Webster? A. No, your Honor.

Q. Have you or any member of your immediate family ever been associated with any agency of law enforcement? A. No, your Honor.

Q. Are you related or friendly to or associated with any employee of the Department of Justice or the Federal (T-637) Bureau of Investigation, generally known as the FBI? A. No.

Q. Do you know any Congressman who is now or who has been a member of the House Committee on Un-American Activities? A. No.

Q. Do you know any present or former employee investigator or member of the staff of the House Committee on Un-American Activities? A. No, your Honor.

Q. Have you ever testified before or given information to the House Committee on Un-American activities or the FBI? A. No, your Honor.

Q. Do you know any person who has testified before or given information to the House Committee on Un-American activities or the FBI? A. No, your Honor.

Q. Have you ever served as a juror before? A. Yes.

Q. Have you been summoned and did you attend in any district court of the United States within one year prior to the time you were summoned for this term of court? A. No, your Honor.

Q. Do you think you followed my reading of the indictment— A. I did.

Q. Carefully? A. I did.

Q. I shall not read that again, then, but I shall read the statute, or do you remember my reading from the statute also? A. I remember you reading it several times.

(T-638) Q. It followed, or rather, the language in the indictment was in some part the language of the statute but I had better read it to you because I am going to ask you whether you have any prejudice against the statute or the enforcement of it, so I will read it—it is quite short:

Voir Dire

“It shall be unlawful for any person—

“to knowingly or wilfully advocate or teach the duty or necessity of overthrowing or destroying any government in the United States by force or violence;

“to organize any society, group or assembly of persons who teach or advocate the overthrow or destruction of any government in the United States by force or violence.

“For the purposes of this section, the term ‘government in the United States’ means the Government of the United States, the government of any State, Territory or Possession of the United States, the government of the District of Columbia, or the government of any political subdivision of any of them.

“It shall be unlawful for any person to conspire to commit any of the acts prohibited by the provisions of this Title.”

(T-639) And I ask you, have you any prejudice against the enforcement of this law or against punishment of any person for a conspiracy to teach and advocate the duty and necessity of the overthrow of the United States Government by force and violence— A. No.

Q. —in violation of the portions of the statute which I have read to you ? A. No, your Honor.

Q. Now do you recall that I read from language used by another judge in connection with another case? A. Yes.

Q. And the importance of the jurors having a complete and open mind at the start of the case, and I used a piece of blank paper to indicate that they should start their deliberations with a completely free and open mind? Do you remember that? A. Yes.

Q. And how I spoke of the fact that the indictment is a mere device to bring the defendants into court, a mere accusation and it is not to be taken as any evidence against the defendants in any manner whatsoever—you remember that? A. I do.

Voir Dire

Q. And the presumption of innocence with which the defendants stand now clothed, and that it remains with them throughout the entire trial? You remember my saying that? (T-640) A. Yes.

Q. Now comes another list which I will hand you (handing to clerk).

This is "List 3" in connection with my question—oh, wait a minute. Now it is just as I did before. This next list is a little short one so I can read this, and then we will come to the larger one later.

Have you ever been employed by, made contributions to, or had any dealings with any of the following publications:

The Daily Worker, The Worker, The Communist, Political Affairs, Morning Freiheit, New Masses, In Fact, People's World, The German American, Soviet Russia Today, Masses and Mainstream, People's Voice, The Protestant, or the Pro-testant—I don't know which, Contact, (T-641) The National Guardian, New Foundations, New Times?

A. No.

Q. Have you or any member of your family had any dealings with or ever been employed by:

Cafe Society Uptown, Cafe Society Downtown, World Tourists, Inc., Amtorg-Tass News Agency, Earl Browder, Inc., The Soviet Embassy, any of the former Soviet Consulates, former Soviet Purchasing Commission, Freedom of the Press, Inc., International Publishers, New Century Publishers, Workers Bookshop, Jefferson Bookshop, Four Continent Book Corp.?

A. No, your Honor.

The Court: Now if you will hand that list to Mr. Crossan.

(Clerk hands to Prospective Juror No. 7.)

Q. This is list 3 to be used in connection with my (T-642) question 22, which is as follows—I will read the question, or perhaps you had better read through the list first because you will probably remember the question and I will ask it later.

(Prospective Juror No. 7 examines list.)

Voir Dire

Q. Have you ever been a member of, made contributions to, or associated—or were you or have you ever been associated in any way with any of the organizations on that list? A. No, your Honor.

(Prospective Juror No. 7 hands list back to the clerk.)

Q. The next list is marked list 4 to be used in connection with my question 23, which I shall read in a moment.

(Clerk hands list to Prospective Juror No. 7.)

Mr. Gladstein: Was there a list 2 drawn up, your Honor?

The Court: Yes. Have you not got that list?

Mr. Gladstein: No.

The Court: I will be very glad to supply it.

(To the clerk) Give this to Mr. Gladstein.

Have you got a copy of each of the four lists now with this one that Mr. Borman is about to give you?

Mr. Gladstein: With that, I will have. I have 1, 3 and 4 at the present time.

(T-643) The Clerk: Oh, he hasn't got 2.

The Court: Take them down there and check them so that he has the four lists, the full set.

Q. Now Mr. Crossan, have you read that? A. I have.

Q. Have you at any time been a member of, made contributions to, or been associated in any way with any of those organizations? A. No, your Honor.

Q. Have you read any of the following publications:

This is My Story by Louis F. Budenz, I Confess by Ben Gitlow, The Whole of Their Lives by Ben Gitlow, I Chose Freedom by Victor Kravchenko, Out of the Night by Jan Valtin, The Trojan Horse in America by Martin Dies, The Red Decade by Eugene Lyons, The Road to Serfdom by Hayek, The Struggle Behind the Iron Curtain by Ferenc Nagy, The War We Lost: Yugoslavia's Tragedy & the Failure of the West by Constantin Fotitch, Is Communism Compatible with Christianity by Clare Boothe Luce? A. No, your Honor.

Voir Dire

(T-644) Q. From reading the newspapers or written matter of any kind or from conversation had with friends or others or by listening to the radio or in any other way, have you formed any opinions or impressions as to the merits of the charge, unfavorable either to the Government or to the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete? A. No, your Honor.

Q. Have you at any time been a member of, made contributions to, or been associated in any way with business or religious organizations, or organizations of any character, in connection with the activities of which you have formed any opinions or impressions as to the merits of the charge, unfavorable either to the Government or to the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete? A. I have not, your Honor.

Q. Have you at any time been a member of, made contributions to, or been associated in any way with business or religious organizations, or organizations of any character, whose officers or representatives have made any expressions of advocacy of or friendliness toward Communists or Communism in general on the one hand, (T-645) or of opposition or hostility to Communists or Communism in general on the other hand, which expressions you have heard or read in any manner, which have led you to form any opinions or impressions as to the merits of the charge, unfavorable either to the Government or to the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete? A. No, your Honor.

Q. In determining the truth or falsity of the testimony of any witness, would you, in accordance with the instructions of the Court submit the testimony of such witness to the same scrutiny and test it by the same standards, whether the witness was called by the defense or by the prosecution? A. I would, your Honor.

Voir Dire

Q. In determining the truth or falsity of the testimony of any witness, would you, in accordance with the instructions of the Court submit the testimony of such witness to the same scrutiny and test it by the same standards, whether the witness was a member of a labor union, a Congressman, an employee of the Department of Justice or of the F.B.I., or a Communist or a member of the present or some former Communist Party, or a friend of or associate of any of the defendants? (T-646) A. I would, your Honor.

Q. If you were selected as a juror and came to the conclusion that a verdict of not guilty was required by the evidence in accordance with the instructions of the Court, would you be embarrassed in arriving at or rendering a verdict of not guilty in any way connected with your employment or by reason of your membership in or affiliation with any church, political party, club, society, or any other organization of any kind whatsoever, or in any other manner? A. No, your Honor.

(Paper handed to the Court by the bailiff.)

Q. Have you such a bias or prejudice against the Administration or any agency of the United States, or against any of the defendants or Communists in general or the Communist Party whatever its aims and purposes may be, as would prevent you from reaching your verdict solely on the evidence presented in court and the law as contained in the instructions and rulings of the Court? A. No, your Honor.

The Court: Have any of the jurors—
Mr. Gladstein: Your Honor, I did not hear the answer.

(Record read.)

The Court: I address this question to all of the (T-647) jurors, and each of them: Have any of you ever been or are you now a member of the Grand Jury Association?

(A chorus of Noes.)

The Court: You each answer in the negative?

Voir Dire

Is it desired that I poll the jury on such questions as this?

Mr. Sacher: No, I take it that your Honor understands that they all answered in the negative.

The Court: Yes, I did understand that, and if there is any time when it is thought that perhaps someone may not have answered, I shall be very glad to have the suggestion made that I address the question to each of the jurors to make sure.

There are a number of miscellaneous questions here.

Q. Mr. Crossan, I address these questions to you, which I have previously put to the other jurors: Have you formed any opinion or impression concerning the guilt or innocence of any of the defendants of the crime charged which would require evidence to remove? A. I have not, your Honor.

Q. Have you formed any opinion or impression concerning the guilt or innocence of any of the defendants of the crime charged which might prevent you from being completely impartial and free from bias in this case? (T-648) A. I have not, your Honor.

Q. Are you or any close relative—no, I will reframe that. Do you or any close relative now hold or have you or any close relative ever held any office or position held any position or been a member of any committee of any political party? A. No, your Honor.

Q. Have you expressed any opinions or views as to the guilt or innocence of any of these defendants? A. No, your Honor.

The Court: Now my omnibus question again to all of the jurors. You have heard me asking these questions of Mr. Crossan, and there have been some new ones, and you have all been listening, as I have observed, and I ask you now, having heard all those questions again and having heard the new ones, is there anything that has come up in your mind, any fact or circumstance, that you did not think of before but that you have thought of now that would qualify any answer that you previously

Voir Dire

gave? Because now is the time to say it. Now, is there any such thing? You need feel no embarrassment about saying so. Indeed, it is your sworn duty to say such a thing, if it has just come into your mind, listening to the questions.

Prospective Juror No. 1: Your Honor, I would like to ask about that organization of a church. Do you mean an organization within a church?

(T-649) The Court: I mean any kind of organization whatsoever, in a church, out of a church, any part of the church, any committee of the church, anything at all, and I will go back to that question again and read it to you so that you may ponder about it, because it includes the whole business.

Now, there are two questions. The first I will read again now: Have you at any time been a member of, made contributions to, or been associated in any way with business or religious organizations, or organizations of any character, in connection with the activities of which you have formed any opinions or impressions as to the merits of the charge, unfavorable either to the Government or to the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete?

Prospective Juror No. 1: Well, the last answer is no, but I do belong to a small organization in my church.

The Court: Well, that is all right, there is nothing to that, as long as you can answer that question no—

Prospective Juror No. 1: No is right.

The Court: —whatever your connection with any religious or other organization might be; but, (T-650) nevertheless, you have formed no opinions or impressions as to the merits of the charge, unfavorable either to the Government or the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete?

Voir Dire

Prospective Juror No. 1: No.

The Court: Now I will read the other one too because they are a little different, but it is the same general idea, to bring out any bias or prejudice that you might have. That is the idea of it because we want people here who can keep their minds open until the evidence is all in. That is why you have that in these questions one after another. I will read this next one.

Have you at any time been a member of, made contributions to, or been associated in any way with business or religious organizations, or organizations of any character, whose officers or representatives have made any expressions of advocacy of or friendliness toward Communists or Communism in general on the one hand, or of opposition or hostility to Communists or Communism in general, on the other hand, which expressions you have heard or read in any manner, which have led you to form any opinions or impressions as to the merits of the charge, unfavorable either to the Government or to (T-651) the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete?

Prospective Juror No. 1: No.

Mr. Sacher: Juror No. 11, your Honor.

Prospective Juror No. 11: Does that apply to James E. Forrestal? Wasn't he on the House Committee on Un-American Activities?

The Court: If he is, I never heard of it, but I am not up on those things as much as I should be, perhaps. I don't see how he could be. I never knew he was even a member of the House of Representatives.

May we not agree that he was not a member of that committee?

Mr. McGohey: I certainly so agree, your Honor. My recollection is he never was a member of the committee and never was a member of the House.

The Court: Let me see—

Voir Dire

Mr. McGohey: Your Honor, I think your Honor asked could there be an agreement among counsel. I don't know whether counsel for the defense has stated their view with respect to Mr. Forrestal's status.

Mr. Gladstein: I am sorry. I never heard that Mr. Forrestal was a member of any such committee or of (T-652) the House or Senate either.

The Court: I think that is pretty plain, that he was not, and I think we can let that matter rest right there.

Let me see.

By the Court:

Q. Mr. Crossan, do you belong to any union? A. No, sir.

Q. I will turn to questions relating to your employment. It says here on this card that you are at present unemployed. What was your last employment? A. General service manager, Underwood Corporation.

Q. What does general service manager mean? A. That means that that department heads up the service of all the products manufactured by the Underwood Corporation throughout the country.

Q. Well, you know, those statements are so— A. Type-writers and adding machines and counting machines.

Q. Now, does that mean that if somebody or some number of people had things wrong with their Underwood type-writers that you were in charge of sending the men out to fix them up? A. Yes, sir.

Q. How long were you employed by the Underwood Company? A. Over 20 years.

Q. Did you retire from— A. I did.

(T-653) Q. —that company? A. I did, September 1.

Q. When you retired, or do you now receive a pension from them? A. I do—wait a minute. From the Aetna.

Q. From the what? A. From the Aetna Insurance Company. It is not from the company.

Q. That is from some insurance company? A. Yes, sir.

Q. Whatever be the nature of that pension, I want to ask you this question: Suppose on this trial that you came

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to the conclusion on all the evidence, in accordance with the instructions of the law, that you should render a verdict of not guilty, would you feel doing that might embarrass you in some way or affect your pension in some way? A. The pension is not revocable except by death.

Q. So that your answer is no? A. That is right.

Q. That it would not affect your pension in any way. And I take it, in reference to the question I asked you earlier, that you would feel no embarrassment, for any reason, in rendering a verdict of not guilty, should you think that the evidence and the instructions of the Court required it, is that right? A. Right, sir.

(Paper handed to the Court.)

Q. Mr. Crossan, is any relative of yours now or was any relative of yours formerly employed by the United States Government? A. Yes, your Honor. My father, until he died, 20 years ago, Civil War veteran.

(T-654) Q. The fact that your father was a Civil War veteran, do you think that that would tend to give you any bias or prejudice one way or another in this case? A. No, your Honor.

Q. Or affect your judgment in any way? A. No, sir.

Mr. Sacher: I take it that was on the Union side that Mr. Crossan's—

The Court: I don't think we need to—do you really want me to ask him that?

Mr. Sacher: Yes, I think it is relevant, your Honor.

The Court: All right.

Q. Was he on the Union side? A. He was.

Q. So many of these questions here, I can't find them sometimes, but I know I had another two or three here, the general purport of which were as follows, and maybe I have asked them before: Do you contemplate applying for any position with the United States Government now? A. No, your Honor.

Q. Or any such thing in the future, as far as you know? A. No, your Honor.

Voir Dire

HAMILTON K. KERR, Prospective Juror No. 11, was examined as follows:

By the Court:

Q. Mr. Kerr, it has been suggested that I ask (T-655) you how long you have known Mr. Forrestal. A. I have known Mr. Forrestal very intimately with Dillon-Reed; played golf down in Meadow Brook; and he has done a great job; and he is a member of Princeton, he is a Tiger; and I used to see him until he was very busy.

Q. When did you see him last? A. Well, I haven't seen him in ten years now. Down in Washington.

Q. You haven't seen him in ten years. Before that you used to play golf with him and knew pretty well? A. I did, sir, and one of his mutual friends.

Q. Do you think that he has anything to do with this case? A. No, he has nothing to do with this case.

Q. Did you anticipate that possibly he might be called as a witness? A. No, his name was not mentioned.

Q. Does your acquaintance with him, or anything ever said between you or anything out of that entire relationship to give you any bias or prejudice one way or another in this case? A. No, sir, nothing that I ever said to him.

The Court: Very well.

Mr. Sacher: Would your Honor place the playing of golf with Mr. Forrestal ten years ago on a different level from what you placed the playing of tennis with Mr. Davis ten years ago?

Mr. McGohey: I suggest, if your Honor please, that Mr. Forrestal is not a defendant.

(T-656) The Court: In fact, it is not your place to catechize the Court.

Mr. Sacher: To do what?

The Court: To catechize the Court.

Mr. Sacher: But I asked a question.

The Court: I ruled the other day that a witness—rather, that a prospective juror who had some personal contact and, evidently some intimacy, with one of the defendants, should be excused because I

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felt I should excuse him. I cannot see any similarity in the situation of this prospective juror, knowing Mr. Forrestal who is, as far as I know, not even in the remotest way connected with the case.

Mr. Sacher: We don't know. May I suggest then, your Honor, that you put the question to Mr. Kerr as to what his—

The Court: I will take submitted questions in writing.

Mr. Sacher: Will you be kind enough then to hold it up?

The Court: I will wait just a moment.

Mr. McGohey: Your Honor, may I observe that under any aspect of this question, Mr. Forrestal certainly is not a defendant in the case.

The Court: Certainly is not.

(T-657) Mr. McGohey: I will represent to the Court now that I have no intention of calling Mr. Forrestal as a witness in the case.

Mr. Sacher: I should just like to make that observation, if I may, in view of Mr. McGohey's statement, that since this prosecution is brought by the Government, and since Mr. Forrestal has been Secretary of Defense, and was, therefore, infinitely identified with the Government in this situation, that that is an element to be taken into account to the same extent that another fact that your Honor has taken into account in connection with, 1, the relationship between prospective jurors and defendants or members of their families and, secondly, the attitude that defendants should have in regard to the credibility of persons or to the quality of persons named in the list. It means that we might—

The Court: You see, Mr. Sacher, no matter how hard I try, it seems impossible to avoid argument. Now, I feel quite confident to pass upon a question like this upon mere objection or suggestion without lengthy discussion.

Mr. Sacher: May I make the observation that your Honor has said that in regard to a number of items and that, after we have submitted arguments

Voir Dire

or briefs to your Honor, your Honor has changed his mind, and it is (T-658) on the basis of such changes that we sometimes are led to believe that if your Honor will hear a reasonable statement from us, that you will, on occasion, change your mind.

The Court: I think it is for me to determine when I will hear argument, as I often do and shall continue to do.

You may challenge.

Mr. Gladstein: Your Honor, there is another question that we have asked for opportunity to prepare.

The Court: I will await it.

Mr. McGohey: If your Honor please, I just want to ask the reporter to read back something that was stated.

The Court: Yes, you may do that.

(Record read, as indicated by Mr. McGohey, out of the hearing of the prospective jurors.)

(Mr. Sacher hands papers to the Court through the clerk.)

The Court: Mr. Kerr, you remember the question I asked about whether you and the other jurors would test the credibility of every witness by the same standards in accordance with the instructions of the Court, whether they were for the prosecution or defendants, or whether they were a Congressman or a Communist or anybody else. Remember that?

(T-659) Prospective Juror No. 11: Yes, sir.

The Court: Would your answer be the same, that you would test the credibility of Mr. Forrestal, should he be called, contrary to expectation, that you would be able to apply the same tests as to him?

Prospective Juror No. 11: I would.

The Court: In accordance with the instructions of the Court?

Prospective Juror No. 11: I would, your Honor.

Mr. Sacher: I take exception to your Honor's inquiry, and take exception to your Honor's refusal to put the question in the form that I had submitted it to the Court:

Voir Dire

The Court: I will put it in exactly the way it is submitted.

Will your acquaintance or friendship with Mr. Forrestal affect your judgment as to his credibility, if he should be called as a witness in this case by either side?

Prospective Juror No. 11: I would judge them all the same, and apply the same to Mr. Forrestal.

The Court: You would apply the same standards—

Prospective Juror No. 11: I would.

The Court: —as to all of them?

Prospective Juror No. 11: I would, your Honor.

(T-660) Mr. Gladstein: May I suggest that your Honor take the afternoon recess, if you will, now, and we will use that time to consult?

The Court: No, I think we had better go ahead. I may not take a recess this afternoon.

Mr. Gladstein: Very well. May we have a moment to confer?

The Court: Yes, you may.

Mr. Gladstein: May I approach the bench?

Mr. Sacher: May we approach the bench?

The Court: All right.

(The following discussion occurred at the bench between Court and all counsel, not in the hearing of the prospective jurors:)

Mr. Gladstein: I want to challenge for cause all of the jurors who have been put into the jury box since my previous challenge for cause as to all of them upon all the grounds heretofore stated, particularly the inadequacy of the Court's inquiry to enable us to obtain from the jurors the facts, circumstances, names, organizations, expressions of opinions they have given or have heard, opinions formed, and so on, regardless of whether or not the jurors think that they are able to keep their minds open. We should have the right to learn from the jurors all the facts and circumstances that (T-661) would assist us in exercising peremptories.

The Court: Overruled.

Mr. Sacher: I have an observation. I think that, par-

Voir Dire

ticularly in regard to Jurors Nos. 5 and 11, that they ought—

The Court: Do you think it is proper for me to hear this in this fashion, Mr. McGohey?

Mr. Sacher: It is the only way it is heard.

The Court: I thought it was just once or twice, but now it is a regular thing every time there is a challenge to be exercised. I wonder. What do you think?

Mr. Sacher: In the light of new facts developed, I think we ought to have the right to lay them before your Honor for consideration.

The Court: I do not see why it should not be out in open court just like everything else. This huddling around does not impress me. I thought it was just once or twice, but if you are going to do it every time you challenge somebody else—

Mr. Sacher: These defendants—

The Court: No, I won't hear you any more this way. You make your objections in open court.

Mr. Sacher: I want to object on the record upon the ground that what you are ordering is prejudicial to the defendants.

(T-662) The Court: It happens all the time.

Mr. McGohey: That is what happens in every criminal case.

The Court: Very well. You go make your objections out in the open.

Mr. Sacher: And I want to object to the tone of voice in which your Honor said it.

The Court: My tone?

Mr. Sacher: Within the hearing of the jury.

The Court: I hardly spoke loud enough to be heard two feet away.

Mr. Sacher: Waving me aside from the bench—

The Court: I didn't wave you aside.

Mr. Sacher: —in the full view of the jurors. I saw it done.

The Court: I deny it.

Mr. McGohey: Let the record show that I saw no gesture by the Court which in any way could be construed as waving anybody away from the bench.

Voir Dire

Mr. McCabe: And I certainly would like to put my comment on the—

The Court: You cannot do it here. You must do it back at the table.

(The following in the hearing of the prospective jurors:)

(T-663) The Clerk: Juror No. 5, Mrs. Myrtle Fensterheim, excused by the defendants.

Mr. Edward P. Nelson, Juror No. 9, excused by the defendants.

Mr. Hamilton K. Kerr, Juror No. 11, excused by the defendants.

(Prospective Jurors Nos. 5, 9 and 11 excused.)

The Clerk: Francis William Ward, No. 5.

John L. Stewart, No. 9.

Mrs. Carrie L. Robinson, No. 11.

(Mr. Ward takes seat No. 5 in the jury box; Mr. Stewart takes seat No. 9 in the jury box; Mrs. Robinson takes seat No. 11 in the jury box.)

The Court: Addressing myself to the three new jurors, have you heard all those questions as I have been reading them out here? Do you think you understood those questions pretty well? Anything ambiguous about them? When I read off the names and read the indictment, did you understand that too?

Well, I will then proceed, as I have done with the other new jurors here, and I will give you each a copy of the list concerning which I am about to ask you whether you know any of those persons or have had any dealings with them or with members of their families?

(T-664) And that is list No. 1 to be used in connection with my question described as No. 2.

Do any of you know, or have you had any dealings with any of the persons named on that list or members of their families?

Voir Dire

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: You say No also, do you, Mr. Stewart?

Prospective Juror No. 9: Yes, sir.

The Court: I didn't hear you, and I think if each of you tries to speak up firmly, so that the reporter can get it down, it will save us a little time.

Mr. Gladstein: Perhaps Mr. Ward, Juror No. 5, misunderstood you. I thought I saw him nod his head and say yes to the question. I may be mistaken.

Prospective Juror No. 5: No, you are mistaken, sir. I don't know any of those people.

The Court: You don't know any of them?

Prospective Juror No. 5: None of them at all.

The Court: You didn't mean to say yes, that you did know them?

Prospective Juror No. 5: No, your Honor, I do not know any of them.

The Court: I now hand you the list of names (T-665) submitted by the defendants, which is described as list No. 2 to be used with my question No. 3, and I will wait until you have read the list before I put the question,

Do you know or have you had any dealings with any of the persons named on that list or members of their families?

Prospective Juror No. 5: No, sir.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No, your Honor.

The Court: Do you know anyone employed in or connected with the office or staff of the United States Attorney for this district?

Prospective Juror No. 11: No.

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

The Court: Do you know of the judges or employees of this court or members of their families?

Prospective Juror No. 11: No.

Prospective Juror No. 9: No, your Honor.

Prospective Juror No. 5: No, your Honor.

The Court: Have you or any member of your family or personal friend been a party to any legal action or dis-

Voir Dire

pute with the United States or any of its officers, agents or employees, or had any interest in such legal action?

(T-666) Prospective Juror No. 11: No.

Prospective Juror No. 9: No.

Prospective Juror No. 5: No.

The Court: Do you have any prejudice or bias for or against any defendant by reason of the race of any defendant which would prevent you from keeping your minds fully open until all the evidence and the instructions of the Court have been completed?

Prospective Juror No. 11: No.

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

The Court: Have you or any relative or close friend of yours ever been the subject of any investigation or accusation by any committee of Congress?

Prospective Juror No. 11: No.

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

The Court: Have you ever been employed by the Federal Government?

Prospective Juror No. 11: No.

Prospective Juror No. 9: No.

Prospective Juror No. 5: Served in the army during the recent war.

The Court: In what capacity?

Prospective Juror No. 5: In the Air Corps, (T-667) Air Corps Communication System.

The Court: By reason of your service in the war or for any other reasons have you formed any bias or prejudice as to these defendants?

Prospective Juror No. 5: No, your Honor.

The Court: Or as to Communists or the Communist Party that would prevent you from keeping your mind fully open until all the evidence and the instructions of the Court have been completed?

Prospective Juror No. 5: No, your Honor.

The Court: Are you or any of you, and I address myself to each of the three new prospective jurors, now seeking Government employment?

Voir Dire

Prospective Juror No. 11: No, your Honor.

Prospective Juror No. 9: No.

Prospective Juror No. 5: I made application very recently, your Honor, for a job in the Federal Government, in the Veterans Department.

The Court: What department?

Prospective Juror No. 5: With the Veterans Administration.

The Court: With the Veterans Administration?

Prospective Juror No. 5: Yes.

The Court: That is, I will put the question this way: Suppose you served on this jury and after ((T-668) hearing the evidence and the instructions of the Court you decided that the evidence and the law required you to find a verdict of not guilty, would you be embarrassed in bringing in such a verdict because of this application you have made for a position with the Veterans Administration?

Prospective Juror No. 5: No, your Honor.

The Court: Do you think that the fact that you have made that application is going to play any weight at all in your determination in this case, if you should be selected as a juror?

Prospective Juror No. 5: None, your Honor.

(T-669) The Court: Do either of the other two new prospective jurors contemplate applying at any time for a position with the Federal Government?

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Have you or any member of your immediate family ever been associated with any agency, either public or private, which was or is engaged in the detection of law violations?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Do you know any of the following named persons who were members of the grand jury that indicted the defendants now on trial:

Edmund L. Cocks, Jerome S. Blumauer, Adelaide E. Lowe, Benjamin C. Brush, Herbert C. Cantrell, Thomas

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Hill Clyde, Andrew J. Coakley, Walter A. Coleman, Mrs. Pauline J. Charal, Charles P. Fenlon, (T-670) Henry J. Hauck, Arthur S. Heiman, George T. Hodell, James C. Johnson, Walter I. Metz, Jos. I. Morris, Frederick Q. Nehring, Huestis G. Sincerbeaux, Carl M. Spero, Russell W. Todd, Helen R. Walsh, Milton Watkins, Donald C. Webster?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Have you or any member of your immediate family ever been associated with any agency of law enforcement?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Are you related or friendly to or associated with any employee of the Department of Justice or the Federal Bureau of Investigation, generally known (T-671) as the FBI?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Do you know any Congressman who is now or who has been a member of the House Committee on Un-American activities?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Did you each say No?

Prospective Juror No. 5: I said No.

The Court: Because I did not hear that last No.

Do you know any present or former employee investigator or member of the staff of the House Committee on Un-American Activities?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Have you ever testified before or given information to the House Committee on Un-American Activities or the FBI?

Voir Dire

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

(T-672) The Court: Do you know any person who has testified before or given information to the House Committee on Un-American Activities or the FBI?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Have you ever served as a juror before?

Prospective Juror No. 5: Yes.

Prospective Juror No. 9: Yes.

Prospective Juror No. 11: Yes.

The Court: Each say Yes. Have you been summoned and did you attend in any district court of the United States within one year prior to the time you were summoned for this term of court?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Now do each of you think that you remember my reading the indictment so that I need not read it again?

Juror No. 9: Yes.

The Court: I think I have already read it three times. Do you think you remember it, each of you?

Prospective Juror No. 5: Yes.

(T-673) Prospective Juror No. 9: Yes.

Prospective Juror No. 11: Yes.

The Court: After I took it up the last time I asked Mr. Crossan whether he remembered about the statute and he said he remembered it pretty well; as I remember it, I thought I ought to read it anyway so we had one additional reading. Now do each of you new prospective jurors think you know and understand the wording of that statute pretty well so that I need not repeat it?

Prospective Juror No. 5: Yes.

Prospective Juror No. 9: Yes.

Prospective Juror No. 11: Yes.

The Court: And so I ask you, bearing in mind the provisions of that statute, have you any prejudice against enforcement of this law or against punishment of any person

Voir Dire

for conspiracy to teach and advocate the duty and necessity of the overthrow of the United States Government by force and violence as set forth in the portions of the statute which I read to you?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Now you remember also that I read that statement from one of the other judges, a judge (T-674) from out of the State who came here to try another case, and how in reading that I emphasized the importance of going into a trial with a completely open mind. You remember my taking a piece of blank paper and using that as an indication that you cannot fairly start a trial if you have some notion about the merits of the case or some bias or prejudice that would prevent you from doing it, and that it is so vital to have utterly unbiased and impartial jurors who start in the case with an open mind. Do you remember my going into it?

Prospective Juror No. 5: Yes.

Prospective Juror No. 9: Yes.

Prospective Juror No. 11: Yes.

The Court: So that I need not repeat that all again.

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Now do you remember also how I explained that the indictment is just an accusation, just a means of bringing the defendants into court and that it is not evidence to be taken by you as proof of any of the things done in it; do you remember my saying that?

Prospective Juror No. 5: Yes.

(T-675) Prospective Juror No. 9: Yes.

Prospective Juror No. 11: Yes.

The Court: And that the defendants are presumed to be innocent of the charge made against them and that that presumption stays with them all during the trial. Do you remember my saying that?

Prospective Juror No. 5: Yes.

Prospective Juror No. 9: Yes.

Prospective Juror No. 11: Yes.

Voir Dire

The Court: Then I think I need not—

Mr. Sacher: Excuse me, your Honor. I think from the point of view of form all that you are getting from the prospective jurors is a statement as to their recollection but you are not getting their answers to these questions.

The Court: Perhaps not. I can easily cure that. I will read the statement now in full. This is the part stated by that other judge who sat here—

Mr. Sacher: That isn't what I suggested, your Honor, because frankly I don't think it meets the point of my statement. I am making rather the point, for instance, where you inform the jury that the defendants are possessed and clothed with a presumption of innocence which they carry with them throughout the trial; then I think what your Honor has in mind is that they be asked (T-676) whether they will, obedient to your instruction, carry such a presumption for the defendants throughout the trial. That is the point I am making.

The Court: Well, it is in my judgment, Mr. Sacher, sufficient if I instruct them as to the law. Why should I suppose that they would not follow that? I do not understand the difficulty about it. I wanted them to be sure to understand that the presumption was in force.

Mr. Sacher: Then if your Honor is correct, it is simple enough to say to a jury: "Have no bias or prejudice." Why then bother asking these various questions?

The Court: Perhaps you are right. I will ask them.

The parts of the statement of that other judge that I referred to, that I now wish to read, are as follows—I will divide them into two parts, and I think I have a form of question that I can hand to you here.

First, the grand jury has returned this indictment that I have read. That is no evidence of guilt and should be entirely disregarded by you as evidence.

Do you understand me when I say that?

Prospective Juror No. 5: Yes.

(T-677) Prospective Juror No. 9: Yes.

Prospective Juror No. 11: Yes.

The Court: Are there any of you who doubt that you could bear that instruction in mind should you be chosen as a juror here?

Voir Dire

Do any of you have doubt as to that?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Please don't nod your heads but speak out.

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Do each of you say No?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Now the second one: The defendants are presumed to be innocent until it is established beyond a reasonable doubt that they have offended against the law as charged in the indictment. The defendants stand before you as any individual in this court, and clothed with that presumption all through the trial.

Do you understand that instruction as I give (T-678) it to you?

Prospective Juror No. 5: Yes.

Prospective Juror No. 9: Yes.

Prospective Juror No. 11: Yes.

The Court: Is that clear to you, what I say there?

Prospective Juror No. 9: It is.

Prospective Juror No. 5: Yes.

Prospective Juror No. 11: Yes.

The Court: Have any of you doubt as to your ability to follow such instruction should you be chosen as a juror in this case?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Do any of you have any doubt—I must ask each one of you—

Mrs. Dial, do you have any doubt that you could follow that instruction?

Prospective Juror No. 1: No.

The Court: Mrs. Mendelsohn, do you have any doubt?

Prospective Juror No. 2: No, your Honor.

The Court: Mrs. Howell, do you have any doubt that you could follow that instruction?

Prospective Juror No. 3: No, your Honor.

Voir Dire

(T-679) The Court: Mrs. Conant?
Prospective Juror No. 4: No, your Honor.
The Court: Mr. Ward?
Prospective Juror No. 5: No, your Honor.
The Court: Mrs. Stern?
Prospective Juror No. 6: No, your Honor.
The Court: Mr. Crossan?
Prospective Juror No. 7: No, your Honor.
The Court: Mr. Allen?
Prospective Juror No. 8: No, your Honor.
The Court: Mr. Stewart?
Prospective Juror No. 9: No, your Honor.
The Court: Mrs. Oberwager?
Prospective Juror No. 10: No, your Honor.
The Court: No. 11, Mrs. Robinson?
Prospective Juror No. 11: No, your Honor.
The Court: Mrs. Corwin?
Prospective Juror No. 12: No, your Honor.
The Court: Now lest I forget it, I want to repeat now
for the benefit of every prospective juror in this room the
instructions that I gave the other day about reading the
newspapers, and here it is so that I may use the same
language each time.

Should any of you be accepted and sworn as jurors
in this case you will be instructed by the Court strictly
(T-680) to refrain from reading the newspapers or any
written matter in any way pertaining to the trial or lis-
tening to the radio about the trial and from discussing the
case in any manner whatsoever either among yourselves
or others until the evidence is closed and you have retired
for deliberation upon your verdict after hearing the closing
arguments of counsel and receiving final instructions from
the Court. Now that I instructed you when you first
came in here the other day and I told you then and I repeat
now that instruction is in force now. It has been in force
ever since we started in here, and I cannot make it too
emphatic. You are not to do any reading of the news-
papers or anything else about the trial, not to listen to
the radio, not to talk among yourselves or with your
families or with anybody else about it, because that is
absolutely unfair, and you must not do it under any cir-
cumstances whatsoever. All right.

Voir Dire

Now addressing myself to the three jurors, the three new prospective jurors, have any of you ever been employed by, made any contributions to, or had any dealings with any of the following publications:

The Daily Worker, the Worker, The Communist, (T-681) Political Affairs, Morning Freiheit, New Masses, In Fact, People's World, The German American, Soviet Russia Today, Masses and Mainstream, People's Voice, The Protestant or the Pro-testant, Contact, The National Guardian, New Foundations, New Times?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Has any juror, that is, have any of you three new prospective jurors or any member of your family, had any dealings with, or ever been employed by the following:

Cafe Society Uptown, Cafe Society Downtown, World Tourists, Inc., Amtorg-Tass News Agency, (T-682) Earl Browder, Inc., The Soviet Embassy, any of the former Soviet Consulates, former Soviet Purchasing Commission, Freedom of the Press, Inc., International Publishers, New Century Publishers, Workers Bookshop, Jefferson Bookshop, Four Continent Book Corp.?

Prospective Juror No. 5: No.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Now we come to this long list, which is list no. 3, to be used in connection with my question No. 22.

(The clerk hands list to prospective jurors Nos. 5, 9 and 11.)

(Prospective jurors Nos. 5, 9 and 11 examine the list.)

The Court: Now have any of you three ever been a member of, made contributions to, or been associated in any way with any of those organizations on that list?

Prospective Juror No. 5: No.

(T-683) Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

(Prospective jurors Nos. 5, 9 and 11 hand back list to the clerk.)

Voir Dire

The Court: Now the next list is list 4 to be used in connection with my question 23, being the list submitted by the defense.

(Clerk hands list to jurors Nos. 5, 9 and 11.)

The Court: And there are certain names to be added to that that I will read off after you have considered those.

(Prospective jurors Nos. 5, 9 and 11 examine list.)

The Court: Have you at any time been a member of, made contributions to or been associated in any way with any of the organizations named on that list?

Prospective Juror No. 11: No.

Prospective Juror No. 9: I have.

The Court: Which one?

Prospective Juror No. 9: American Legion.

The Court: American Legion?

Prospective Juror No. 9: Yes.

The Court: And how about you?

Prospective Juror No. 5: The Holy Name Society.

The Court: The Holy Name Society?

(T-684) Prospective Juror No. 5: That is right.

The Court: Now let me first inquire.

Mr. Stewart, you are a member of the American Legion?

Prospective Juror No. 9: No, I am not. I made a contribution to the Welfare Fund.

The Court: You made a contribution to the Welfare Fund of the American Legion?

Prospective Juror No. 9: Well, down at the place I worked, they sent gifts to disabled veterans at Christmas time and I made contributions to that.

The Court: Well, does the fact that you did that, connected with any other facts that there may be, tend to give you any bias or prejudice in this case that would favor one side against the other?

Prospective Juror No. 9: No, your Honor.

The Court: Does it seem to you to have any bearing on the case at all, that would influence your judgment one way or another?

Prospective Juror No. 9: No, your Honor.

The Court: Now Mr. Ward, you say that you are a member of the Holy Name Society?

Prospective Juror No. 5: That's right, sir.

Voir Dire

The Court: I want you to search your mind in connection with—or perhaps I had better ask (T-685) you first some questions that I used when a person said he is a member of an organization.

What was the nature of your association with the Holy Name Society? Is it just as a member?

Prospective Juror No. 5: Yes, your Honor.

The Court: Are you an officer or a member of any committee or special group of that society?

Prospective Juror No. 5: I am not.

The Court: I am going to go ahead to one of the questions that fits in here, so that I may ask it now in connection with this particular organization, and then I will repeat it later—

There are two of these questions. The first one—and I address this to you alone now: Have you at any time in connection with the activities of the organization of which you have stated that you are a member, formed any opinions or impressions as to the merits of the charge against these defendants unfavorable either to the Government or to the defendants or any of them which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete?

Prospective Juror No. 5: I have not.

The Court: Have you at any time in connection with the organization of which you have just stated that you were a member, heard any statements or expressions (T-686) by any of the officers or representatives of that society of advocacy or of friendliness towards the Communists or Communism in general on the one hand, or of opposition or hostility to Communists or Communism in general on the other hand which have led you to form any opinions or impressions as to the merits of the charge against these defendants unfavorable either to the Government or to the defendants or any of them, which would prevent or hinder you from holding your mind fully open until all the evidence and the instructions of the Court are complete?

Prospective Juror No. 5: No.

Mr. Sacher: May I respectfully request that your Honor split that question in two, if you can, addressing—

Voir Dire

The Court: No. I have no reason to suppose, Mr. Sacher, that the question is not fully understood by each of these jurors.

Mr. Sacher: No, I do not mean that they are not fully understood.

The Court: Well, I will not split it up.

Mr. Sacher: I respectfully except.

The Court: Now let us see. I was just asking, and I now repeat the question, have you at any time been a member of, made contributions to, or been associated (T-687) in any way with any of the organizations whose names appear on that list other than the two already specified?

Prospective Juror No. 5: No, your Honor.

Prospective Juror No. 9: No.

Prospective Juror No. 11: No.

The Court: Now the additional names about which I will ask the same question, these additional names were handed to me after I had that mimeographing done, but they belong on that same list—are the following:

Lieutenant General Robert E. Eichelberger, Rev. Dr. Samuel Shoemaker, Eric Warburg, Goodhue Livingston, Jr., Christopher Emmet, Sumner Wells, Dorothy Thompson, Arthur Bliss Lane, Rev. Robert I. Gannon, General Follett Bradley, Eugene Lyons, William H. Chamberlain, Dr. George S. Counts, Mrs. Lois Mattox Miller, (T-688) Major George Fielding Eliot, Dr. Harry J. Carman, Mrs. Aida de Acosta Brenckenridge.

Do any of you—I think those names should have been added to the list that I showed you a little while previously, of names of individuals as distinguished from organizations, and so I will turn back to the question appropriate to that.

Mr. Gladstein, were not those names submitted to me in connection with the list of organizations?

Mr. Gladstein: One organization, yes. These are the people that sponsored an organization entitled Common Cause, Incorporated.

The Court: You desire me to ask a special question as to them?

Mr. Gladstein: If you would, concerning that.