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# The Ruthenberg Trial

## [Morning Session — April 27, 1923]

by Caleb Harrison

Mimeographed press release of the Workers Party of America News Service.  
Copy in Comintern Archive, f. 515, op. 1, d. 211, ll. 90-91.

April 27, 1923.

(Special Wire.)- The morning session of the trial of C.E. Ruthenberg was taken up to a great extent by a contest over the admissibility as evidence of a program brought to the Bridgman Convention by the defendant and seized in his baggage by the officers at the time of his arrest. It is the contention of the defense that this program had been adopted by the Central Executive Committee prior to the Bridgman Convention and that it was the only program of Communism in the United States, it having been agreed by all factions in the Communist movement that all political work should be done through the Workers Party, for which this program was prepared.

Attorney Frank P. Walsh opened the proceedings by reading from the theses of the Third Congress of the Communist International the instruction to the American Party that it must find ways and means of throwing off its illegalized existence and carrying on open work. This was followed by the testimony of Ruthenberg that there was a contest within the Communist Party over the question: whether the Party should come out into the open, and that he had written articles and speeches advocating an open Communist Party. He said that those who opposed this action did so because they claimed that the condition which in 1920 had driven the Communist Party underground because of raids and persecution had not changed, and that the Communist Party, if it came into the open would be similarly persecuted.

At this point Attorney Walsh attempted to have introduced into evidence and read the program Ruthenberg had brought to Bridgman, but the prosecution objected that it was not sufficiently identified, although one of their own detectives had testified that he found it in Ruthenberg's suitcase. The jury was excused while the attorneys argued the question. It seemed that Attorney Smith had no legal objection to its introduction, but based his objection solely on his review of the situation. Walsh countered with the

statement that that question was a question for the jury and not for Mr. Smith to decide.

After a long wrangle Smith was permitted to question Ruthenberg as to whether a record had been kept of the meeting at which the program was adopted. Ruthenberg stated there had and Judge White ruled that the record would have to be produced.

Walsh thereupon withdrew Ruthenberg from the witness stand for the time being and called Jay Lovestone. Prosecutor Smith objected that he was a co-defendant and could not testify. Mr. Walsh stated that as Lovestone's personal attorney he had requested that he be permitted to testify. Judge White asked Lovestone whether that was his request, to which he answered in the affirmative and the Judge then ruled he might take the witness stand.

The Judge's ruling that Lovestone might testify is a big legal victory for the defense and again shows the prosecution unable to meet defense counsel when it comes to a struggle over law points, practically every big legal question in the case having been ruled in favor of the defense.

Lovestone stated his age as 25, his education as public school, high school, New York City College, and New York and Columbia Universities. He outlined various clerical positions he had held. Since June 1921 and up to the Bridgman Convention he stated he had been an employee of the Communist Party acting as editor, Assistant Secretary, and Executive Secretary of that organization.

At the time the noon recess was taken Lovestone's report to the Bridgman Convention was being read to the jury as part of the evidence for the defense.

*Edited by Tim Davenport*

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