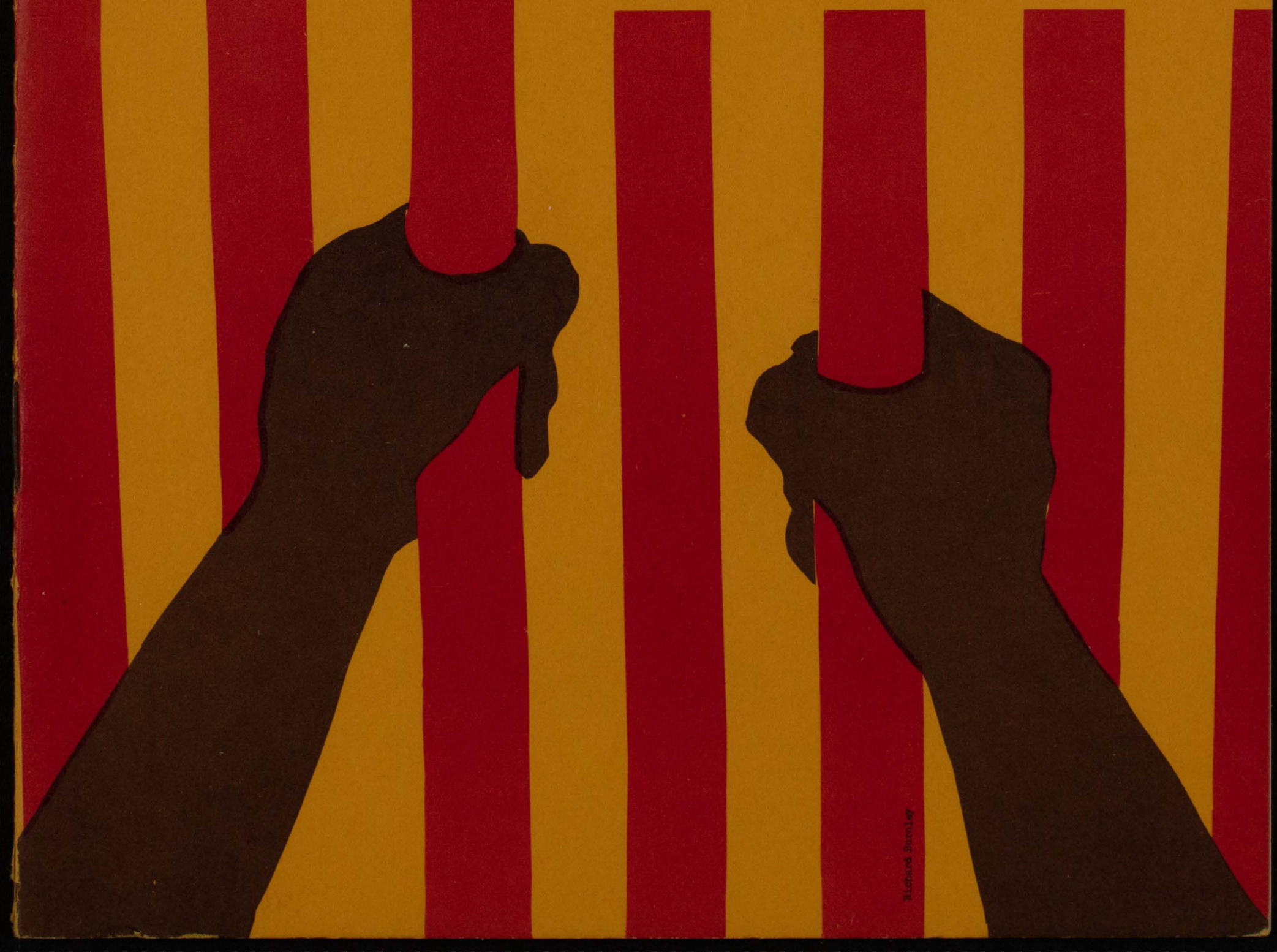


FrameUp

the opening defense
statement made by

Angela Y. Davis

march 29, 1972



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They say that freedom is a constant struggle . . .

—old gospel refrain.

PREFACE

ON JANUARY 5, 1971, a young Black woman Communist stood before a judge in a tiny Marin County, California, courtroom. Armed police lined the walls of the court and filled the hallway outside. The atmosphere was very quiet, very tense: Angela Davis was being arraigned on charges of murder, kidnapping and conspiracy.

Despite continual, angry demands by the prosecutor that the defendant be silenced, Angela spoke:

. . . I now declare publicly before the court, before the people of this country that I am innocent of all charges that have been levelled against me by the state of California. I am innocent and therefore maintain that my presence in this courtroom is unrelated to any criminal act.

I stand before this court as a target of a political frame-up which far from pointing to my culpability implicates the state of California as an agent of political repression. Indeed, the state reveals its own role by introducing in evidence against me my participation in the struggles of my people, Black people, against the many injustices of this society—specifically my involvement with the Soledad Brothers Defense Committee. The American people have been led to believe that such involvement is constitutionally protected. . .

“Frame-up”—the word was instantly on the lips of thousands and thousands who believed the prosecution of Sister Angela to be a part of the conspiracy to behead the Black liberation movement and the growing prison movement. It was bitterly ironic that Angela, who had so often used that phrase to describe the prosecution of three young Black inmates from Soledad Prison, suddenly found that “frame-up” and “legal lynching” also described her own situation.

Soon after these three brothers—the “Soledad Brothers”—were charged with the murder of a Soledad guard in January, 1970, sisters and brothers all over California began to mobilize and organize support for the three, who were so obviously targets of a plot to behead the growing movement for unity inside the state’s prisons. In the opening defense statement which you are about to read, Angela outlines the activities of the Soledad Brothers Defense Committee, describing the strategy which that committee devised to free the Brothers of criminal charges. The recent, complete acquittal of the two surviving Soledad Brothers, John Clutchette and Fleeta Drumgo, proved the correctness of this strategy.

In retrospect, now that the acquittal verdict is in, it seems almost self-evident that Angela in turn became the victim of a fraud prosecution because of her effectiveness in the work of mobilizing her community in the defense of political

prisoners like the Soledad Brothers. The state knew that it could not succeed in its efforts to eliminate the Brothers as long as they were protected by a support movement encompassing great masses of people. The state also appreciated what was at stake: a defeat—such as the one it in fact suffered—would irreversibly set back the state's overall program to stifle and repress the movement for radical social change. Killing the Soledad Brothers movement was a prerequisite to a murder conviction of the Brothers in the courtroom. And the necessary first step in the drive to squelch the movement was the elimination of its leadership. In this manner, the state turned a cold, calculating eye towards Angela Davis. It soon attempted to stitch her into a new murder plot "conspiracy" called *The People of the State of California vs. Angela Y. Davis*.

In the months following Angela's arrest in Manhattan (October 13, 1970), people across the country—and in fact the world—began the task of building a national, united movement that would stand over the shoulder of the court, expose the frame-up and eventually free Angela and all political prisoners.

Throughout 1971 the judicial system ground on ruthlessly as a succession of judges denied more than 30 pre-trial motions made by defense counsel. Hampered by a total lack of evidence against Angela, the state had the case moved to Santa Clara County where Prosecutor Albert Harris (the state's Assistant Attorney General, specially appointed to prosecute Angela Davis) counted on finding an all-white jury that would convict Angela, in the absence of any evidence, because she is a Black woman Communist.

Although the legal situation looked grim, there were indications that a political turn-about in the case was forthcoming. When Angela was moved from Marin County to a tiny, cold, damp, and hopelessly inadequate jail in Santa Clara County, authorities were swamped by a flood of protest calls, telegrams and letters from all over the nation—and, in fact, the world. Pressure was so intense that the police gave way and quickly improved jail conditions. Prosecutor Albert Harris complained more and more frequently and bitterly about the "international conspiracy to free the defendant." Nixon, Mitchell, Hoover, Reagan and others were deluged with millions of pieces of protest mail. Our political defense effort was beginning to prove its effectiveness.

Juries in major cities across the country were turning back the state's conspiratorial attacks on activists and organizers. Defendants were cleared of all charges in New Haven, New York, New Orleans, Los Angeles, San Francisco, Denver, Detroit, and other cities. The Harrisburg 7, Erika Huggins and Bobby Seale, Huey Newton, the New York 21, and many other brothers and sisters were freed. Indeed, where the people have intervened to organize broad, militant defense campaigns victories have been won. Years of agitating, demonstrating, petition passing, speech making, and education about the corruption and repression endemic in our judicial and legal systems enlightened and encouraged men and women who later found themselves in jury boxes. When the state demonstrated its inability to shoulder the burden of proof in these cases, the jurors threw the absurd charges out of court. Since these jurors were themselves powerless to give the defendants fair trials, they expressed their feelings in the only possible way that they could as jurors: they brought in verdicts of "not guilty."

In Angela's case, the turn-about came in February 1972, when the state Supreme Court finally succumbed to years of persistent pressuring by a host of

groups and organizations and invalidated the state's death penalty. The broad, militant campaign to focus public attention on prison conditions and prisoners' lives, the assault by Black and Brown people on the entrenched racism which is a cornerstone of the judicial-penal system, the highly organized pressure from within the prisons themselves: all these factors, adding up to a massive pressure for radical change, created the climate conducive to the Supreme Court's decision. It opened a legal road to Angela's release on bail.

Right-wing forces raised a storm of reaction which we knew the Supreme Court could not long resist. We quickly mobilized a massive, national protest, deluging Angela's trial judge with demands that she be released on bail immediately. His office was flooded with mail, including one telegram signed by all 13 members of the Congressional Black Caucus. On February 23, he consented, noting the immensity of the people's response.

Prosecutor Harris was deeply shaken by this great people's victory. He considered asking for a very lengthy delay in the trial proceedings—until people "forgot" about the case—but Harris realized that Angela's release on bail nearly destroyed the presumption of her guilt which had been so carefully nurtured in the courtroom and in the press during the preceding 16 months. This serious political defeat showed the state that it could no longer pursue a purely political prosecution of Angela Davis. The release on bail set the stage for the complete, final smashing of the state's conspiracy. That effort, which exacts a great measure of our time, skills and dedication, is now underway throughout the nation.

On Monday, March 27, state Prosecutor Albert Harris made his opening argument to the jury. Mindful of his recent defeat, Harris awkwardly tried to draw a picture of Angela Davis, the "student of violence," the "woman of uncontrollable passions," the vicious conspirator blinded by love. Simultaneously, short miles away, jurors jumped from their seats to hug and kiss the men they had just acquitted of murder charges, the Soledad Brothers. Like Angela, these brothers had once been similarly described by another state prosecutor as bestial, violent killers.

In the opening defense statement, which follows, Angela Davis discusses the structure, function, and rationale behind the state's conspiracy to silence her. It is the anatomy of a frame-up.

*National United Committee
to Free Angela Davis
San Francisco, California
April 7, 1972*



Stephen Shames

OPENING DEFENSE STATEMENT PRESENTED BY
ANGELA Y. DAVIS
IN SANTA CLARA COUNTY SUPERIOR COURT
MARCH 29

Members of the Jury:

You have heard a rather lengthy outline of what the prosecutor expects to prove in this case. I do not expect that our opening statement will be as long. I am sure you will not find this unusual, for throughout the voir dire you have heard that insofar as the trial is concerned, it is the prosecutor's case to prove beyond a reasonable doubt—not ours to disprove.

The prosecutor has the burden of proof upon him. I, the defendant, need not say anything, if I so desire.

As you have already been informed, none of what the prosecutor has said may be considered as evidence in this case. All the evidence must be presented to you in the form of sworn testimony and other matters which the judge will permit you to consider. At this stage in the proceedings, the prosecutor has done no more than explain to you what *he* contends his evidence will prove. You are the ones who, in the final instance, must judge whether his contentions have any validity or whether his case is unsupported by his own evidence.

Similarly, what I am about to say to you must not be considered as evidence. At this moment I am speaking to you in the stance of my own counsel. And of course you will distinguish between what I am about to say and the evidence you will hear.

The prosecutor has introduced you to the long and complicated path down which he hopes his evidence will lead you during the course of this trial. He says that this path will point squarely in the direction of my guilt. He says that his evidence is so conclusive that it will leave you with no choice but to convict me of these very serious crimes of murder, kidnapping, and conspiracy. He says that his evidence will wipe away every single reasonable doubt you might entertain with respect to my guilt.

We say to you that the prosecutor's evidence itself will demonstrate to you that his case is no case at all. The evidence will show that I am totally innocent of the charges of murder, kidnapping and conspiracy. It will reveal that the prosecutor's contentions are entirely without substance. They are based on guesswork, speculation and conjecture—to use the words Mr. Moore used during the voir dire.

By now you have heard a great deal about the events of August 7, 1970. The evidence will confirm the fact that four human beings lost their lives in the

vicinity of the Marin County Courthouse on that day. Judge Harold Haley was killed, as were Jonathan Jackson and two prisoners from San Quentin, James McClain and William Christmas. Human beings were wounded. An assistant district attorney from Marin County—Gary Thomas—and a juror—Mrs. Maria Graham—were wounded, as was Ruchell Magee, a prisoner at San Quentin.

We do not dispute the truth of these facts—that lives were lost and persons were wounded on that day, facts which, as the evidence will show, have not become a matter of public knowledge. But, we remind you of something which was said during the voir dire, namely, that there are two separate issues involved here. There is the issue of whether deaths occurred on August 7. There is the issue of whether I had anything to do with the occurrence of those deaths.

As you listen to the testimony in this case—and I am confident that you will all listen with the greatest degree of attentiveness—you will undoubtedly reach the conclusion in your own minds that the prosecution is creating its case out of a labyrinthine network of false assumptions.

NOW, MEMBERS OF THE JURY, what must the prosecutor show you about me in order to prove his case. If Mr. Harris desires to prove that I am guilty of the crimes as charged—murder, kidnapping, and conspiracy—there are basically three things he must prove beyond a reasonable doubt. First of all, he must prove beyond a reasonable doubt that there was a plan which pre-dated the events of August 7, 1970. Secondly, he must prove beyond a reasonable doubt that I had foreknowledge of a plan which was to be executed on that day. Thirdly, he must prove beyond a reasonable doubt that I took certain steps with the deliberate intent to further that plan. But he will not prove these things. He will be unable to prove them, members of the jury, because they simply are not true.

A brief review of the case will show you conclusively why the prosecutor cannot prove these three essential facts. Before I go into this, however, you should be aware that we will not now present to you the totality of our defense. In this opening statement, members of the jury, you will be given a skeletal outline of the evidence with which we intend to contest the prosecution's contentions. This will be the skeleton, so to speak—flesh will be added to the bones as the trial progresses. Basically, the purpose of this opening statement is to give you some material and some categories in the form of evidence with which you can place the prosecutor's evidence in its proper perspective. In this way, you will have a more comprehensive view of the case as it unfolds before you.

It is important to understand the nature of this case. The evidence will reveal that I was not present at the Marin County Civic Center when the events themselves transpired. The prosecutor of course, has at no time indicated that he will attempt to place me there. He has indicated, however, that I participated in a preconceived plan, a conspiracy, to commit the crimes of murder, kidnapping, escape and rescue.

But I did nothing of the sort and he will not be able to prove this. He will certainly not be able to prove his claims beyond a reasonable doubt as he must in order to demand a conviction. As the various phases of this trial unfold before you, as the evidence accumulates, you will see that we are right and the prosecutor is wrong.

It is your duty as jurors to objectively judge all the evidence which the judge permits to become part of this case. We ask you to keep your eyes focused on the evidence which goes to the two essential issues in this case. If indeed there was a plan there are only two issues which can have some bearing on my guilt or innocence. They are knowledge and intent—whether I had knowledge of what was to transpire on August 7, 1970, and whether I did anything with the deliberate intent to further those events.

I repeat, the only two elements of this case which have a direct bearing on me are knowledge and intent. You must continually seek out, through the huge maze of evidence which will confront you, that testimony which relates directly to whether I had foreknowledge of what occurred on August 7 and whether I did anything to intentionally further the commission of the crimes of murder, kidnapping and conspiracy. As you sift through the evidence, this is what you must look for. And you may be sure that no testimony which comes to you from this witness stand will prove the prosecutor's claims that I had foreknowledge of the events and that I had an intent to participate in them.

The prosecutor has already indicated that a great deal of time will be consumed in recreating in the courtroom here the events of August 7. He has told you that you will hear much testimony from people who were present that day, people who allegedly witnessed the events which transpired that day. But, as you know, the evidence will show that I was not there. Therefore, what bearing do the events have on the critical issues of the case against me? What bearing can these events have on the question of my foreknowledge and my intent with respect to them?

When all the testimony surrounding the events of August 7 is complete, the prosecutor will certainly have demonstrated that in some way lives were lost and individuals were wounded on August 7, 1970. But, members of the jury, this is all he will have proven. He will not have proven that I participated in the formulation of the plans which led to these events—if indeed there were any plans at all. He will have proven nothing—absolutely nothing—with respect to my guilt.

We dispute the accuracy of the prosecutor's version of what actually happened in the Marin County Civic Center on August 7. But many of these differences are of no real moment in the case at hand. They are not so important because basically, if the prosecutor is to prove anything at all, he must prove that I had knowledge of the events beforehand and that I deliberately promoted them. Basically, we say again, this case boils down to the questions of knowledge and intent. For this reason, we may often refrain from engaging the prosecutor in controversy where our differences do not relate to these two questions—to the only real issues in the case, to knowledge and intent. The prosecutor claims that he is in possession of certain evidence—evidence through which he attempts to draw me into a plan to commit the crimes of murder, kidnapping and conspiracy. What, then, are those elements of the prosecutor's case whereby he attempts to explicitly link me to the occurrence of the events of August 7?

First of all, he contends that the overriding or primary purpose of what happened on August 7 was to achieve the freedom of George Jackson. He claims that I was in love with George Jackson and that my feelings would have forced me to employ any means to free him from prison. In this way the prosecutor

would have you believe, members of the jury, that I had a motive to participate in a plan relating to the events of August 7.

He then points to my association and friendship with Jonathan Jackson, George's brother, as evidence that I participated with Jonathan in the events at the Marin County Civic Center.

LET US DEAL with the evidence the prosecutor intends to present to you in support of his contention that I had a motive to participate in the events of August 7. He began by telling you Monday that he is building his case against me as a crime of passion. He said that my passion for George Jackson was so great that it knew no bounds—that it had no respect for human life. He went on to say later in his statement that I was not concerned with the struggle to free all political prisoners—that I was not concerned with the movement to improve the character of prisons in the United States. The prosecutor told you that he intends to prove that I was exclusively interested in the freedom of one man—George Jackson—and that this interest was motivated by pure passion.

Members of the jury, the prosecutor is aware, himself, that his case is the product of guesswork, speculation, and conjecture. The evidence will show that when I was indicted, the Grand Jury of Marin County considered evidence of my participation in the movement to free the Soledad Brothers—not only George Jackson, but also Fleeta Drumgo and John Clutchette. The evidence will show that the "First Overt Act" of the conspiracy count consists of a description of a rally around the Soledad Brothers, other political prisoners, and prison conditions in general. On June 19, 1970, I was exercising constitutional rights guaranteed me by the First Amendment when I participated in this rally. Yet, this was the first overt act of the conspiracy count—evidence that I had participated in a conspiracy to free the Soledad Brothers through the events of August 7.

Recently, the prosecutor moved the court to strike the first overt act from the indictment. Monday, he told you that he will present no evidence with respect to speeches I made around the Soledad Brothers case. He says that he will present no evidence which entails constitutionally protected activities.

The evidence will show, members of the jury, that this indictment provoked widespread concern—throughout the world—that I was a victim of political repression. Is it not reasonable to infer that the prosecutor is aware that no fair-minded juror would convict me on the basis of such evidence?

Therefore, the prosecutor has attempted to change the character of his case. Now, he would have you believe that I am a person who would have committed the crimes of murder, kidnapping and conspiracy, having been motivated by pure passion. He would have you believe that lurking behind my external appearance are sinister and selfish emotions and passions, which, in his words, know no bounds.

Members of the jury, this is utterly fantastic, this is utterly absurd. Yet it is understandable that Mr. Harris would like to take advantage of the fact that I am a woman—and women in this society are supposed to act only in accordance with the dictates of their emotions and passions. This is a symptom of the male chauvinism which prevails in this society.

The evidence will show that my involvement in the movement to free the

Soledad Brothers began long before I had any contact with George Jackson as a person. You will learn that shortly after Fleeta Drumgo, John Clutchette, and George Jackson were indicted before a Monterey County Grand Jury, I began to attend meetings which were called to establish the basis for a movement to publicly defend them from the unfounded charges that they had killed a guard behind the walls of Soledad Prison.

BUT BEFORE WE INTRODUCE you to the evidence you will hear regarding my activities in the struggle to free the Soledad Brothers and other political prisoners, let us retrace our steps for a moment. Let us consider a fundamental aspect of the prosecutor's case, namely the existence or non-existence of a pre-formulated plan which was to be executed on August 7, 1970.

Was there really a plan? There is absolutely no consistent, credible proof of what the precise purpose of August 7 was.

The prosecutor will try to establish that the freedom of George Jackson and along with him, the freedom of John Clutchette and Fleeta Drumgo was the primary purpose of the events which unfolded that day. He will try to prove that a mere statement was made by someone during the course of the events demanding the freedom of the Soledad Brothers. But there will also be contradictory evidence as to the accuracy of that statement.

And even if he can establish to your satisfaction that such a statement was made—a simple statement—will there be anything else to support the position that the freedom of the Soledad Brothers was, in fact, the purpose of the events? We say that the evidence will not support the prosecutor's contentions.

There will be absolutely no evidence to indicate that those who participated in the events of August 7 made concrete arrangements for the release of the Soledad Brothers. There will be no evidence that they specified a procedure to make an exchange; nor will there be evidence that they specified a place for the exchange to occur.

Would a mere statement, uttered in passing, be sufficient to convince you, members of the jury, that the release of the Soledad Brothers was a purpose of August 7?

There will be no evidence to prove that the release of the Soledad Brothers was what motivated those who acted on August 7.

The evidence will show that my own efforts to free George Jackson always expressed themselves within the context of the movement to free all the Soledad Brothers and all men and women who are unjustly imprisoned.

Precisely what will the evidence show about my association with the struggle to free the Soledad Brothers? You will see that because of my own commitment to the struggle to achieve freedom for all oppressed people, upon learning of the plight of these three men, I along with others took steps to build whatever support we could for the movement around them, around other political prisoners and prison conditions in general.

What about the activities of this movement? It will be confirmed on the witness stand that all the activities of the Soledad Brothers Defense Committee, of which I was the Los Angeles co-chairwoman, were open and legal. The evidence will show that our meetings were open to anyone who wanted to participate. You will learn that we organized demonstrations, rallies, leafletting campaigns, and various other informational and educational activities.

You will learn that before any of us had any personal contact with any of the Soledad Brothers, we on the defense committee felt that these three Black men, charged with killing a white prison guard, were being persecuted, not because they had committed this crime behind the walls of Soledad Prison, but rather because of their militant political stance and because of their efforts to improve the character of prison life from within.

Because this is the way we viewed the Soledad Brothers' case, our most effective approach had to be that of informing and educating the public about their case, other cases and about prison conditions in general. We attempted to show people everywhere that they were victims of political repression. We attempted to show why they had been singled out as defendants in that very serious case.

Members of the jury, you will see—when testimony is adduced to this effect—that we sought out those kinds of activities which permitted us to involve ever greater numbers of people in the public defense of the Soledad Brothers. Testimony will make it clear that we felt that the influence of large numbers of people would help win them an acquittal—and that they would be freed, in this way, from an unjust prosecution.

Members of the jury, we were correct in our understanding of the case of the Soledad Brothers. Monday morning as you sat here listening to the prosecution's opening statement, and as you heard that I was not interested in furthering the movement to free all the Soledad Brothers, the ultimate fruits of our labors were attained. The 12 men and women who for a period of many months had listened to all the evidence which the prosecution could muster against the Brothers, entered a courtroom in San Francisco and pronounced the Soledad Brothers NOT GUILTY. If George Jackson had not been struck down by San Quentin guards in August of last year he too would have been freed from that unjust prosecution.

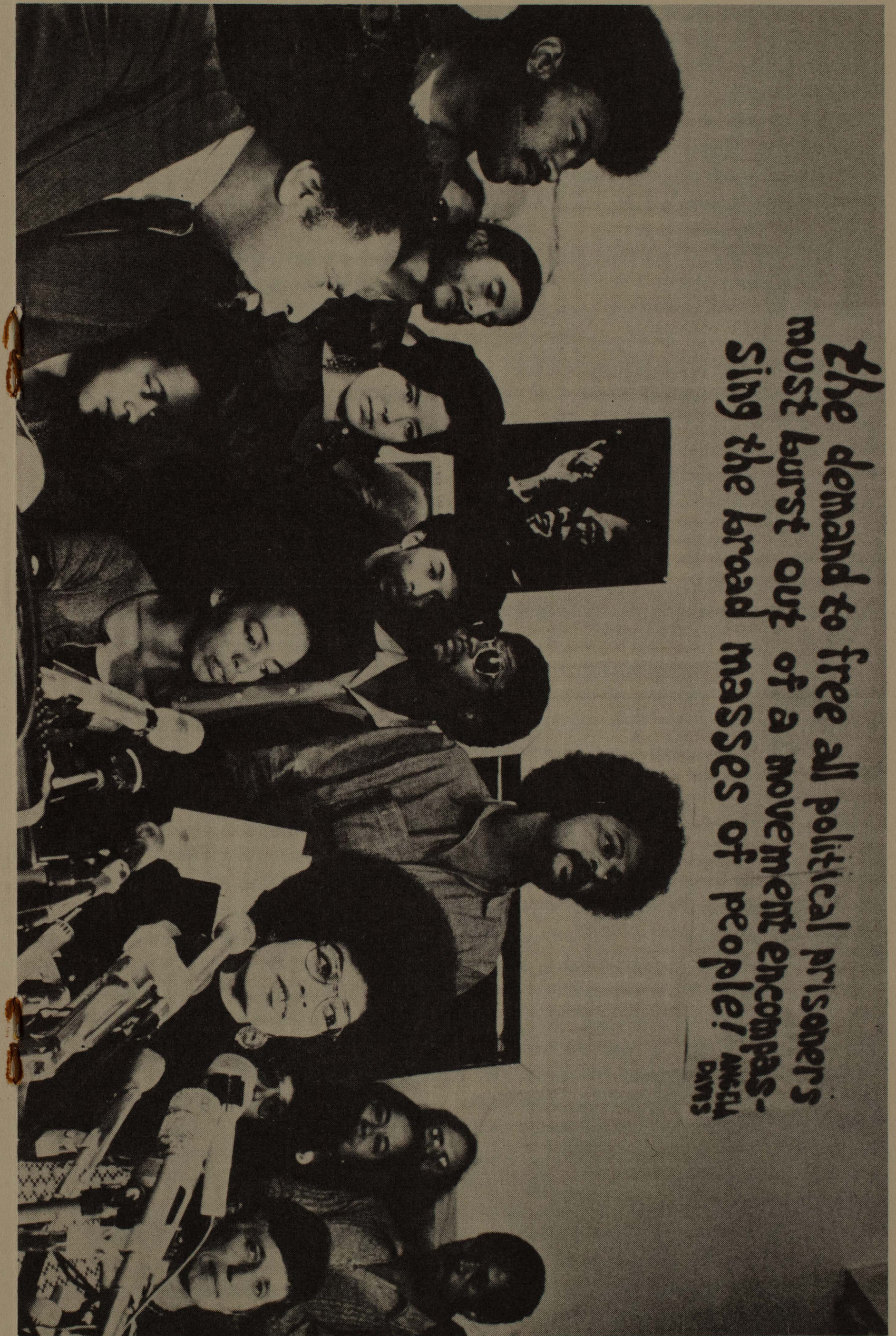
The evidence will show that as I worked with the Committee, I and others spoke to college students, high school students, and various community organizations about the things people could do to promote a defense of the Soledad Brothers. The evidence will show that each time we spoke we made concrete proposals to them regarding ways in which they could participate in the movement to free the Soledad Brothers.

The evidence will establish that we spoke at churches about the things that church members could do to further the cause of justice and freedom in the Soledad Brothers' case.

We always suggested, the evidence will show, that people make contributions—financial contributions—to the legal defense fund set up to cover the lawyers' expenses and other expenses related to the litigation in court. We organized benefits—film showings, art auctions, cocktail parties, etc.—in order to raise money for these legal costs.

The evidence will show that we attempted to influence public opinion about the need to transfer the site of the trial from Monterey County to a county where the Brothers might have a better chance of receiving a fair trial.

The evidence will show that every single activity organized by the Soledad Brothers Defense Committee was totally within the realm of legality. What relevance do the crimes of murder, kidnapping and conspiracy have to these, my efforts to free the Soledad Brothers?



Stephen Shames

The evidence will clearly establish my participating in exclusively lawful, open, political activity in defense of the Soledad Brothers and other political prisoners. The evidence will clearly establish the principled opposition of the Soledad Brothers Defense Committee, of which I was co-chairwoman in Los Angeles, to any illegal form of activity. You will therefore see that my activities towards the freedom of the Soledad Brothers and the freedom of George Jackson, in particular, far from being evidence of my guilt, are on the contrary evidence of my innocence.

THE EVIDENCE WILL SHOW that when I became involved in the Soledad Brothers Defense Committee, this was by no means my first experience in the struggle for Black and Brown liberation—and the struggle of oppressed people everywhere. All my political activity, covering a span of many years, had been similar in thrust and content to what I have described as the activities of the Soledad Brothers Defense Committee. The evidence will show that I had been associated with the Black Student Council at the University of California in San Diego, the Southern California Black Student Alliance, the Black Congress in Los Angeles, the Student Non-Violent Coordinating Committee, the California Federation of Teachers, the Black Panther Party, and, of course, the Che-Lumumba Club of the Communist Party—of which, the evidence will show, I am now a member.

I have been associated with the struggle to protect and extend the rights of working people whether they be Black, Chicano, Latino, Native American, Asian or white. I have done much work in the movement to end the war in Indochina. I have been involved in the fight to achieve equality for women who are oppressed in this society. I have also fought to preserve the basic principles of academic freedom from unconstitutional political assaults. In all of my activities my goal has been to aid in the creation of a movement encompassing millions of people, indeed the majority of the people in the United States today, a movement which will ultimately usher in a more humane, socialist society.

When I became involved in the struggle to free George Jackson, John Clutchette and Fleeta Drumgo this was not the first time I had assisted in the building of movements around political prisoners. Over a period of a few years the Black Panther Party found many of its members incarcerated on criminal charges. I contributed to the movement to free the 18 members of the Black Panther Party who were arrested in January 1970 in Los Angeles.

I participated in the struggle to free other Soledad Brothers—the Soledad 7, seven Black prisoners charged with a crime similar to the one involving the Soledad 3. The evidence will show that I corresponded with them concerning my deep love and compassion for them. (Parenthetically, all the cases I have just named have resulted either in acquittals or in dismissal of charges.)

Indeed you will hear much evidence about my participation in other defense movements. The evidence will show that my political experiences include many different illustrations of my concern, compassion and solidarity with the plight of men and women in prison. The nature of my efforts to free George Jackson, that is to say my activities in the Soledad Brothers Defense Committee, is bound up with and is an extension of all my other political experiences. When you have heard all this evidence, when you are able to see in detail that my commitment to free George Jackson was fully and exhaustively expressed in this defense

movement I have described, it will become abundantly clear to you that the prosecution's contention that I participated in the commission of crimes on August 7th is utterly lacking in foundation.

The prosecutor has said that this trial has nothing to do with a political frameup. But, members of the jury, during the period of my active involvement with the Soledad Brothers, I was the object of an extensive spy campaign. The prosecutor is in possession of numerous reports to various police agencies about my activities in the movement to free the Soledad Brothers. He has police reports on rallies where I spoke, police tapes of speeches I made throughout the state of California, films of demonstrations and rallies where I and others proclaimed our support of the Soledad Brothers.

Members of the jury, the prosecutor contends that I was not interested in bringing about prison reform. But he has in his possession police reports made for the administration of Soledad Prison concerning my activities in this field.

The prosecutor contends that during the period prior to August 7, I was a mere creature of passion, and not one who was genuinely striving towards the elimination of political repression in the prisons.

Members of the jury, the prosecutor has evidence that will refute his own contentions—evidence gathered by a whole network of police spies and spies from the Department of Corrections on the content of my efforts to free George Jackson, Fleeta Drumgo and John Clutchette. But this is the evidence he will not present to you. He will not present this evidence to you, members of the jury, because it will show you the process whereby an innocent person can be set up and accused of outrageous crimes.

No, he will not bring this evidence before you; he will continue to tell you that I am not the person you see standing before you, but rather an evil, sinister creature pushed to the brink of disaster by ungovernable emotions and passions.

But let us now move on to another area.

WHAT MAY YOU EXPECT to hear with respect to my friendship and association with Jonathan Jackson? As the evidence is presented, you will learn about the source and context of my friendship with Jonathan. You will learn that as the Soledad Brothers Defense Committee was consolidated, the families of all the brothers participated in the discussions and projects.

The evidence will show that I became friends with members of Fleeta Drumgo's family, John Clutchette's family and George Jackson's family. As time progressed, I came to know Inez Williams, the mother of Fleeta Drumgo, Mrs. Doris Maxwell, the mother of John Clutchette, and Mrs. Georgia Jackson, the mother of George Jackson. At this moment, however, I will confine my remarks to the relationships which developed between me and the Jackson family.

The evidence will show that I became close friends with Mr. and Mrs. Jackson, their daughters, Penny and Frances and their son, Jonathan. You will learn that on many occasions, we attended rallies and demonstrations together. While sometimes we would appear all together, at other times I would be travelling with Mr. or Mrs. Jackson alone—or with Penny, Frances or Jonathan alone. The evidence will show that I spent much time visiting in the home of the Jackson family—and that members of the Jackson family visited in my home. You will see that we traveled together not only within the area surrounding Los Angeles, but on some occasions, we traveled by car to the Bay Area in order to

share our experiences with those of the Soledad Brothers Defense Committee which had been organized in this part of the state.

The evidence will show that because of the controversy surrounding my teaching post at UCLA—because there were constant threats on my life issuing from extremist elements in the community—it was not safe for me to travel any distance in Los Angeles outside the company of others. You will learn that wherever possible, I tried not to move from place to place alone. You will see that for this reason—and also because we became close friends—Jonathan Jackson and I were often together.

As time progressed, I became closer, not only to Jonathan, but to the entire Jackson family. My love and affection for George grew. However, it was not until I had been arrested and had become like him a political prisoner that my relationship with him grew stronger and my affection deeper.

Jonathan, as well as other members of George Jackson's family, played a vital role in the activities of the Soledad Brothers Defense Committees. Jonathan was a unique part of our group for he brought with him the angry frustrations and concerns of a young man who had no memories of his older brother except those which were obscured by prison bars. Young Jonathan was a child of 7 when his brother was first taken to jail. For ten long years, he had accompanied various members of his family to prisons across the state to visit his brother. These visits must have left an indelible impression on him of what a prisoner's life was like. Even though he was only 17 years old, Jonathan must have been extremely and intimately sensitive to the plight, the frustrations, the feelings of desperation and futility that men like James McClain, Ruchell Magee and William Christmas must have felt.

In retrospect, I now understand the very deep frustrations, the very deep desperation that Jonathan must have been experiencing.

My friendship with Jonathan is absolutely no basis whatever for contending that I played some role in the events of August 7, 1970. And members of the jury, we expect that the evidence of my association with Jonathan will make it readily apparent how he might have come to acquire weapons which were registered in my name, books allegedly bearing my name, as well as other personal property of mine.

ASIDE FROM THE MATTERS of which we have already spoken, there are yet other aspects of the prosecutor's non-case against me—aspects with which he attempts to draw me into the events of August 7. The prosecutor also plans to offer what in legal terminology is called "eye-witness testimony" of a circumstantial nature. He contends that sometime prior to August 7, I was present in the vicinity of certain areas involved in the case. He contends that I was present on three occasions at San Quentin Prison and on one occasion near the Marin County Civic Center.

He also contends that the purchase of weapons by me is some evidence of my guilt and that further evidence of my guilt lies in my departure from the Bay Area and my subsequent unavailability to the authorities. What about this so-called proof of my guilt?

Let us first consider the purchase of the guns. The prosecutor has informed you that he will present evidence to prove that I purchased a number of weapons over a certain period of time. Testimony and exhibits will purport that some of

the guns claimed to have been found on the scene at the Marin County Civic Center are the same guns that I purchased. Out of this network of facts, he says, evidence will emerge to support his contention that I am guilty of the crimes as charged.

We say to you that quite to the contrary, the evidence will prove that while I did purchase guns, I did nothing to furnish Jonathan Jackson or anyone with the weapons which were utilized during the action of August 7.

There are very good reasons why I saw fit to purchase guns—reasons which are wholly unrelated to any criminal activities. You will become aware, as the trial progresses, that my experience with guns dates far back into my childhood. You will learn why the neighborhood in which we lived—where my parents still live—came to be called Dynamite Hill (our house being built on the very top of the hill).

Because of the constant threats and actual incidents of violence, my father had to keep guns in the house. We will tell you in testimony about our fears and apprehensions that we might be the next victims of a racist assault. We will tell you about our close friends, including the four young girls killed in church bombings—who were struck down at the hands of racist bombers. You will understand that for a Black person who had grown up in the South—and particularly during that period—guns had to be a normal fact of life.

As you will see, when I left Birmingham, it was impossible to leave behind fears which had accumulated over all the early years of my life. When I came to California, my fears and apprehensions were, in fact, confirmed. As I became involved in radical movements calling for social change, I learned that some of the people who disagreed with the goals we were seeking to achieve might express their disagreements in violent ways. The evidence will show that we who were working towards radical social transformations felt that it would be necessary for us to obtain means to protect ourselves.

The evidence will show that this was true when I worked in the liberation movement in San Diego, California. It was true when I worked with the Student Non-Violent Coordinating Committee in Los Angeles. And it was true as I worked with the Black Panther Party. During all the time I have been a member of the Communist Party—and have worked with the Che-Lumumba Club in Los Angeles—it has been necessary for us to be in possession of means to defend ourselves from potential attacks by extremists in the community.

The evidence will demonstrate that the situation in this regard became particularly tense after my position in the Department of Philosophy at the University of California at Los Angeles was threatened by the Regents of the university system. Their attempts to fire me because of my membership in the Communist Party made me a public figure, subject to myriad forms of harrassment—both by those who merely misunderstood the nature of the Communist Party and those who were consciously determined to attack Communism and Communists in whatever way they could.

There will be testimony regarding the hundreds and thousands of threats on my life during the period of my contract with UCLA. During some periods, hardly a day would pass when I would not receive a threat of some sort.

When you have heard all this, there will be no doubt in your mind that I was convinced with good reason that I needed some sort of protection if I intended to live out my years. There will be no doubt in your mind that my reason for

purchasing those weapons was related to my fears for my own life and for the lives of those around me.

The evidence will demonstrate to you that I not only purchased weapons for my own personal protection—but also for the protection of others with whom I worked and lived. As you can probably surmise, few individuals who have devoted their lives to the struggle against oppression—their entire lives—are financially well-off. During the time I taught at the University of California, I was receiving far more in terms of my salary than most of my friends in the movement. As we all share whatever we had, it was often I who paid for weapons which were used by others—as I often paid rent, medical costs, and other necessary expenses for them.

The evidence will show that my purchase of weapons was totally unrelated to any illegal activities. Further, each time I purchased a weapon, I did it in my own name and provided evidence as to my identity—my name, address, and place of my birth. Does this sound like the kind of evidence which could be invoked in order to prove my guilt?

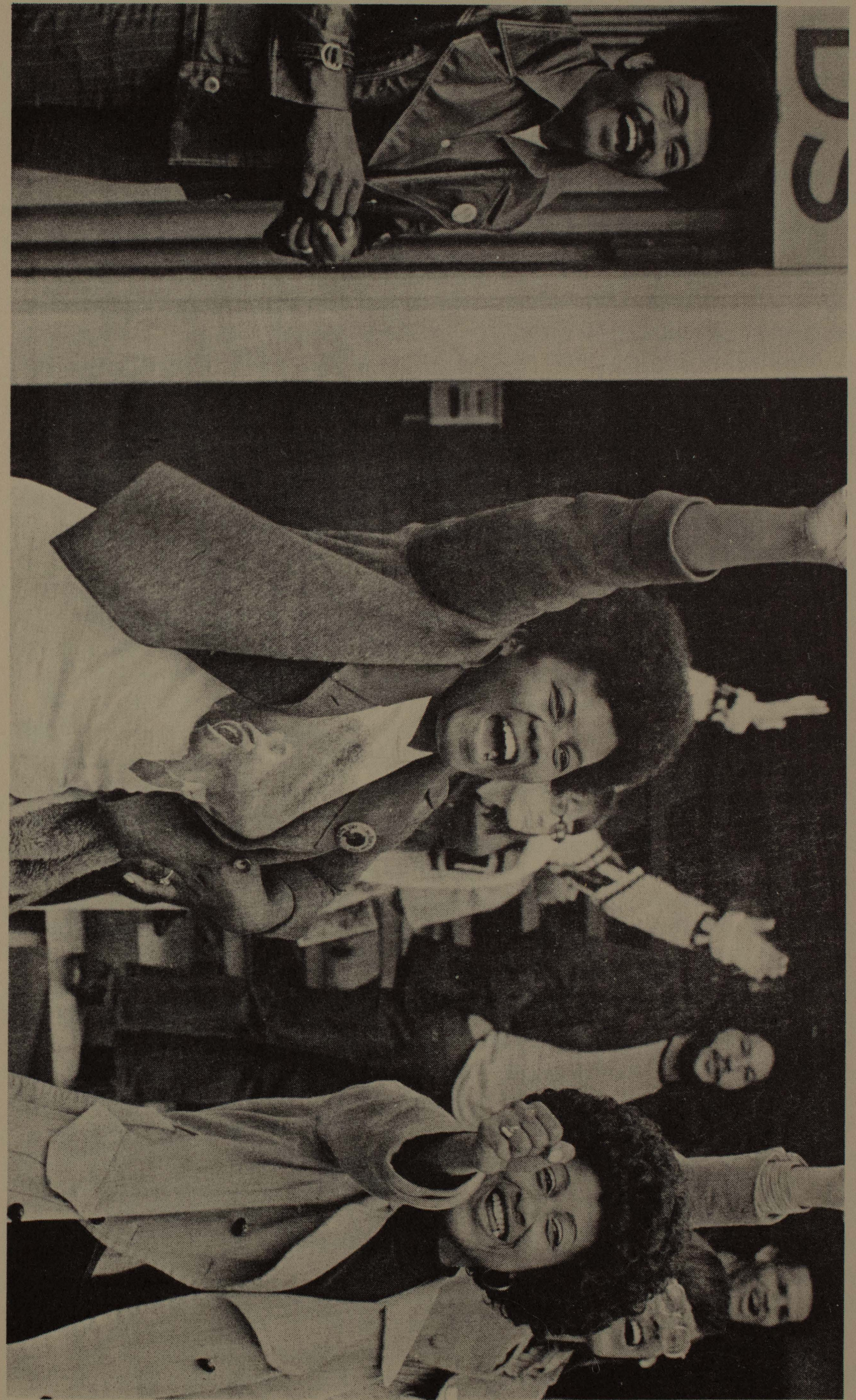
It was no secret that I was the owner of the weapons. And because my feelings about weapons reflect what one of you said during the voir dire, I felt that I should learn how to handle them. Indeed the evidence will show that as soon as I bought my first gun, I immediately proceeded to go target practising at various ranges in Southern California. You will learn that, aside from using weapons as a potential means of self-protection, I developed an interest in shooting as a sport. Consequently, I spent some of my spare time engaging in target practising at ranges and in areas of the county where shooting was legally permitted.

Contrary to the speculations and conjectures of the prosecution, my purchase of ammunition is attributable to the fact that I engaged in this target practice. In fact, the evidence will show that for a few years prior to August 7, 1970, I frequently bought large quantities of ammunition—that is, whenever I was target practising on a frequent basis. The prosecutor made a considerable point of the fact that I purchased a banana clip. As evidence can show, contrary to Mr. Harris' contrivances, if you are target practising it is much more convenient to use a clip which holds thirty rounds than one which holds five. Furthermore, Mr. Harris made repeated references to a carbine. Although he insists that he can find no words to describe this gun, it may easily be described as a carbine with a collapsible stock. It is a common type of gun, it is easily accessible in gun shops all over the country, and it is used for a wide variety of sports and hunting activities.

This is not evidence of participation in a crime.

The prosecutor has placed heavy emphasis on the fact that the shotgun registered in my name, allegedly used during the August 7 events, was purchased on the very eve of the incident. During the course of the trial, the purchase of the shotgun by me on August 5 will be fully accounted for by the evidence. You may be sure, however, that there will be no evidence that this gun was bought in connection with any criminal intent or purpose.

Judicial history is replete with instances where innocent people like me have been convicted on the basis of mistaken identifications. This is particularly true when it is a question of white people identifying Black people. We ask you to examine this testimony cautiously and critically.



Howard Harrison

The evidence will further show that the procedures used in connection with these identifications were tainted. The identifications were made through unduly suggestive procedures.

The evidence will show that these identifications stand completely alone and isolated and are uncorroborated by any other evidence.

WHAT ABOUT THE SO-CALLED FLIGHT from the Bay Area? The evidence will show conclusively that I did not flee from the Bay Area August 7, 1970. I did make PSA flight 422 from San Francisco to Los Angeles. It will become abundantly clear that I bought a ticket with my own check and conducted myself at that time in the same manner as any other person who would have been catching that flight at that time.

Members of the jury, this evidence reveals the absurdity of the prosecution's entire case. By this evidence, Mr. Harris attempts to transmute normal, every-day human conduct—namely, being rushed to catch a plane—into evidence of guilt. I repeat, there will be no evidence that my trip from San Francisco to Los Angeles on August 7, 1970 constituted flight from the Bay Area. Indeed, you will hear no evidence whatever which can establish the fact that at that time I was even aware of the events which had taken place. The prosecutor will attempt to show that I dropped out of sight immediately following the events of August 7. But there is no evidence to this effect.

The evidence will, however, show that I eventually became the target of a state-wide search and investigation in connection with the events at the Marin Civic Center. It was only after my safety was thereby placed in danger that I departed from the state of California.

The evidence will show that there was good reason for me to make myself unavailable at that time. The evidence will show that I had good reason to fear police violence should I voluntarily submit to the authorities at that time. The evidence will show that on many occasions in the past, Black and Chicano people—particularly political activists—have been victims of police violence. The evidence will show that I had ample reason to fear unjust treatment by the Courts of California, that I had reason to fear the prospect of many months of incarceration without bail, an eventual trial before an all-white jury, therefore a jury not composed of my peers, and many other obstacles to my efforts to protect my innocence.

You will hear testimony that many other people, when faced with similar situations, also reacted in similar ways. The evidence will demonstrate that particularly in the Black and Chicano communities, there are great fears that once one is accused of a crime, one may find it extremely difficult to overcome the many obstacles which stand in the way of protecting one's innocence.

Members of the jury, the evidence will conclusively show that my unavailability to the authorities in Marin County cannot be interpreted as a basis for contending that I am guilty. On the contrary, the evidence will show that it was my innocence which motivated me to leave the state of California at that time.

It is a sick kind of game which the prosecutor is playing; he has invented a scheme, a diagram, a conspiracy. Now he must fit his conspirator, his criminal into the picture. He has a crime scheme, a plan; how can he pull me into it so that it still appears plausible? Since I committed no crimes, since all my activity

was open and above board, the prosecutor is left with only one alternative; he must shape his circumstantial case out of the ordinary activity into criminal activity. Guess and speculation will help you find that link; you don't find it in Mr. Harris' evidence. And he makes no bones about asking you to draw the inferences.

Take for example the simple fact that I moved from one apartment to another around the beginning of July. Can you fathom what this has to do with any conspiracy? The prosecutor never did tell you on Monday; you are left to wonder, to guess, to speculate. She moved—it must have been in connection with some conspiracy, he asks you to think. He tells you that Jonathan Jackson lived for some three weeks in my apartment. The evidence will demonstrate that he did not live in my apartment. Clearly the prosecutor has said this because he wants you to speculate that we were living together in that apartment in order to participate together in a conspiracy.

And what about the \$100 check that he says I cashed on August 4. He tells you about the \$100 then in the very next breath, he says: Jonathan Jackson rented a van on August 6 and paid the rental fee with two \$20 bills. You are to put these two facts together—facts totally unrelated to each other—and then guess that I had something to do with the rental of a van. I cashed a check in Oakland for \$100; two days later someone rented a van in San Francisco for \$40; ergo, I rented the van. Is there any way you can hook up these two facts—the cashing of a check by me and the rental of a van by another two days later—and find criminal intent without making a wild guess? There will be no evidence that I gave Jonathan Jackson \$40 to rent the van.

AND THAT IS NOT THE WILDEST of the guesses that prosecutor is asking you to make. Again, what about the inference that I supplied weapons to Jonathan Jackson to use on August 7? What is there to help one to arrive at that inference? Is there a single piece of evidence to show that Jonathan Jackson took my guns with my knowledge and consent? Only guess, speculation and conjecture can lead one to that unnatural inference. Indeed all the evidence points on only to the contrary inference for I did not knowingly supply Jonathan with any guns for use on August 7.

Mr. Harris not only asks you to guess in order to get you to the inference that weapons used on August 7 were knowingly supplied to Jonathan Jackson by me, but he carries it even a step further. He asks you to draw, out of thin air, the conclusion that the shotgun purchase of August 5 and the carbine purchase of July 25 were made specifically for use on August 7. Not a shred of evidence supports this inference; you must reach it by the same road you traveled to conclude that I was the supplier of the guns. You must guess, you must speculate, you must surmise, that I had crime and conspiracy in my mind when I bought those guns. You must guess that I bought them intending their use in a conspiracy despite the fact that I identified myself upon making the purchases and am the registered owner of the guns. You are asked to draw the conclusion that I purchased the shotgun for a crime even though Mr. Harris' own witness will tell you that I signed my name at the time of the purchase. Only guess, speculation and conjecture will take you down the path on which the prosecutor seeks to lead you.

What else are you left to guess about? On Monday the prosecutor told you he will prove Jonathan Jackson registered in a hotel in San Francisco on the night of August 6. He said Jonathan Jackson was with another person. If, indeed he was with a second person, is there any evidence as to who the mystery man or woman was? Was it I? I don't know whether the prosecutor knows who the person was who accompanied Jonathan. I know and he knows that it was not I. He doesn't even suggest that it was I. But he leaves an inference hanging. You are to guess who was with Jonathan Jackson on that evening. You are to guess, based on no evidence, just Mr. Harris' statement that another person accompanied Jonathan Jackson.

When we get to August 7, you must make another guess about my purposes. I wasn't at the Marin County Civic Center, the scene of the crime. But I was at the San Francisco Airport at some time during that day. With his prosecutorial legerdemain, Mr. Harris widens the scene of the crime to include me where I was that afternoon—trying to catch a plane at the airport. Is there any evidence that my purpose for being at the airport was to participate in a conspiracy? Not a shred. You must guess that I was at the airport not to buy a ticket with my own check and to take a plane to Los Angeles, but to participate in a conspiracy—a conspiracy to do what, to fly where? My presence at the airport for a few moments before I took the plane to Los Angeles had absolutely nothing to do with a conspiracy.

And what of the oblique suggestion that I had some connection with a Volkswagen allegedly borrowed by Jonathan Jackson—which apparently turned up at the San Francisco Airport some two weeks after the August 7 events?

And before I conclude this section, let me mention another guess the prosecutor is asking you to make without saying it straight forward. He says Jonathan Jackson had a slip of paper with the number of a telephone booth at the airport. Then he says dramatically, "You don't call a public telephone booth unless you expect someone to be there!" Well, who is Mr. Harris referring to? When was Jonathan to call that booth? Was he to stop the van on Route 101 and place a call to the airport? Was someone supposed to be waiting in the booth to receive the call? Who? Again, members of the jury, you must resort to guess and surmise. Only by highly imaginative speculation can a meaningless phone number become evidence of a criminal conspiracy.

Only your own guesses, members of the jury, can fill the gigantic gaps in the prosecution case.

Members of the jury, the charges against me are the logical extension of the unlawful attacks which began with the actions of the governor of this state and of the Regents of the University of California when they unlawfully dismissed me from my post at UCLA. Like the Regents, the prosecution has contended that I didn't live solely in the world of ideas, but that I was committed to action. Specifically, he referred to me as a "student of violence" and stated that behind my "cool academic veneer" was a woman capable of the crimes of murder, kidnapping and conspiracy. To give credence to this contention, Mr. Harris cites two books allegedly found in the possession of Jonathan Jackson, allegedly bearing my signature, entitled *Violence and Social Change*, and *The Politics of Violence: Revolution in the Modern World*.

The evidence will show that in the summer of 1970, I was engaged in research for my doctoral dissertation. The object of my study is the theory of force in

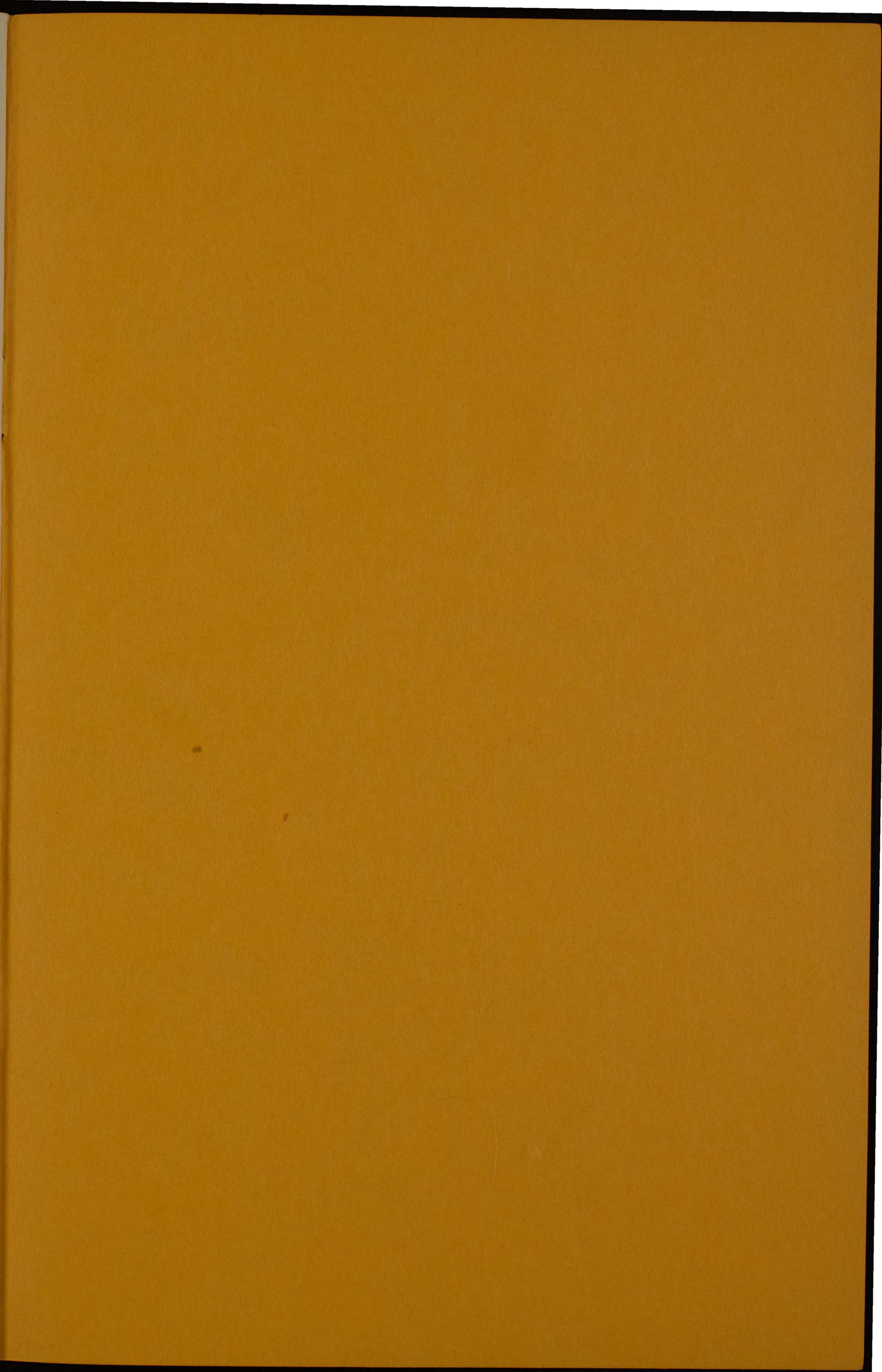
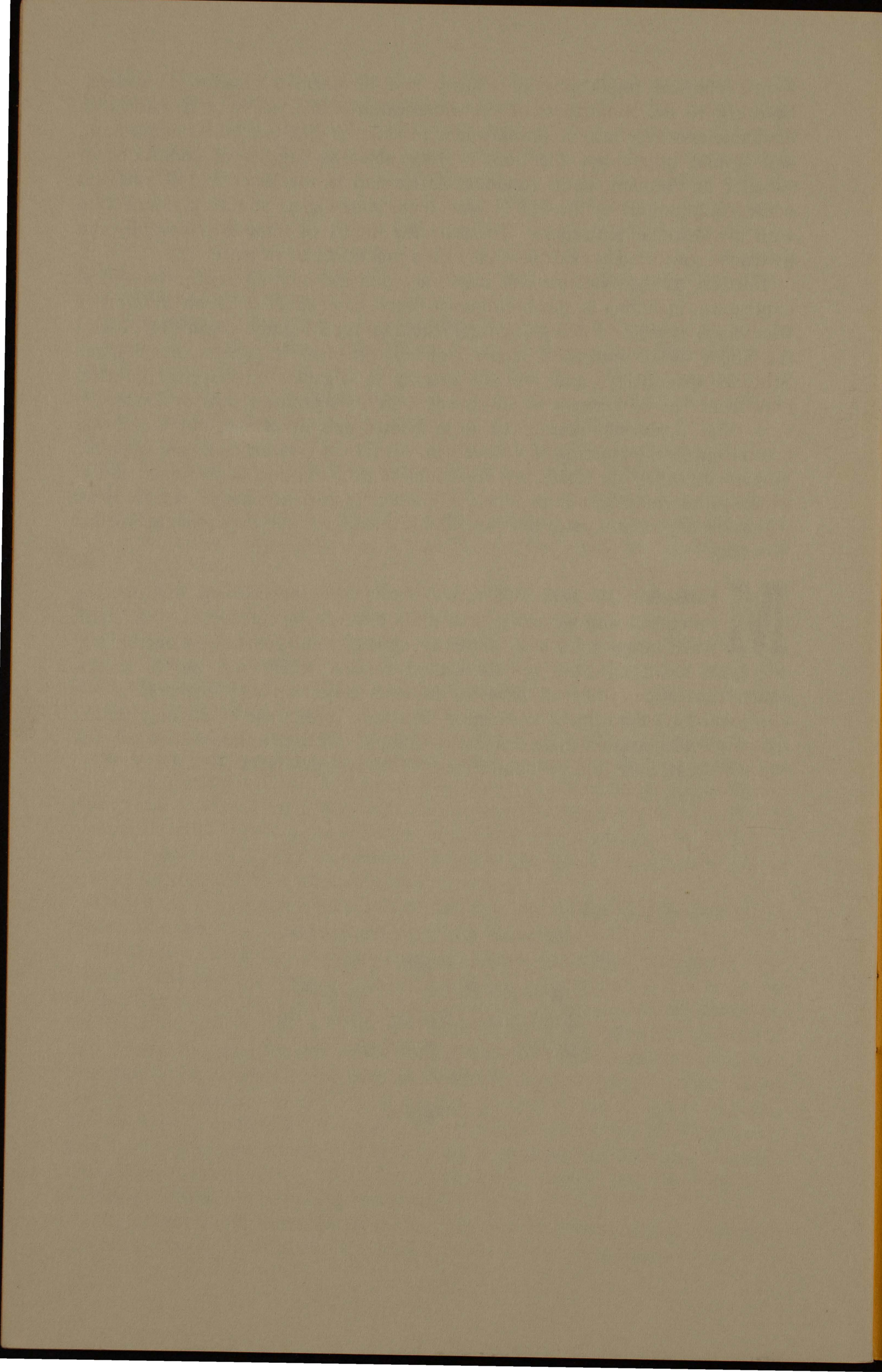
Kant's political philosophy of history and in German idealism in general. Contrary to the conjectures of the prosecution—which seeks to transform an academic endeavor into a commitment to violence—the two books in question, and several others not mentioned, were objective studies of conditions of violence in Vietnam, Latin America, Africa and in the Black and Brown and white communities in the U.S. I read these sociological studies in connection with my work in philosophy. To study the theory of force in philosophy can hardly be construed as evidence that I am a practitioner of violence.

Further, as the evidence will show, my political commitment, my political experience, including in the Communist Party, has manifested itself in terms of what I am capable of doing—writing, teaching, speaking and organizing around the plight of all oppressed people, political prisoners in general, the Soledad Brothers specifically, and thereby helping to organize an effective political movement for progressive social change. The prosecution's own evidence will show that I was not committed to individual acts of escape, but that I was committed to the building of a movement capable of creating a climate of public opinion in which the death penalty could be declared unconstitutional, and in which juries could acquit prisoners of politically-inspired charges—an event we witnessed day before yesterday with the acquittal of the two surviving Soledad Brothers.

MEMBERS OF THE JURY, we reach the conclusion of our opening statement, and we ask you to think towards the conclusion of this trial. When you will have sat patiently, almost to the point of exhaustion and will have heard all sides of the heated contest which will unfold in this courtroom—when you will have sat in calm reflection and deliberation—we know—we have the utmost confidence—that your verdict will be the only verdict that the evidence and justice demand in this case. We are confident that this case will terminate with your pronouncement of two words— **NOT GUILTY!!!**

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