

Calif. Smith Act Dismissals Sap Thought Control

By SIMON W. GERSON

LAST WEEK the government moved to dismiss the cases of nine California Communists convicted five years ago under the Smith (Thought Control) Act. This action, coupled with a similar dismissal motion of the case of Emanuel Blum, Indiana Communist leader, are the latest steps in the pattern of the collapse of this once principal instrument of repression.

It follows Department of Justice surrenders this fall in Pittsburgh and Boston and acquittals by the Court of Appeals in the Connecticut and Philadelphia cases.

A REVIEW of all the Smith Act cases, including the first Foley Square case (known in the lawbooks as the Dennis case) is perhaps in order.

It will be recalled that the first indictments against Communist leaders were brought in 1948. The other indictments followed after a split Supreme Court in June, 1951 affirmed the conviction of Eugene Dennis and ten other Communist Party national committeemen:

The current status:

1. **First Foley Square**—Eight defendants served full 5-year terms; one defendant (Robert Thompson) who received a 3-year sentence, served this in full and part of his 4-year contempt term for failing to appear for sentence. He is out on bail pending an appeal on his contempt case.

Two defendants, Gil Green and Henry Winston, are still in prison, serving 8-year terms, five on the original Smith Act sentence and three for contempt of court. (They did not appear for sentence in June, 1951, but surrendered voluntarily early in 1956. They were promptly slapped with three-year additional sentences on a contempt charge.)

The eleventh, Irving Potash, former fur union leader, served his full sentence. Under deportation charges, he left voluntarily for Poland but returned to the U. S. in January, 1957, hoping to rejoin his family. He was charged with illegal re-entry, submitted a guilty plea, and is now serving a two-year sentence—the maximum for this charge.

2. **Second Foley Square**—Elizabeth Gurley Flynn, C.P. national committee member, and ten other defendants served sentences and two (George B. Charney and Alexander Trachtenberg) won re-trial and were convicted again. The latter two cases are on appeal.

3. **Third Foley Square**—Six

defendants including Charney and Trachtenberg, convicted. Case now before Court of Appeals.

4. **California**—Fourteen defendants convicted; four acquitted by Supreme Court on June 17, 1957 and nine others sent back for re-trial. The government, as noted above, threw in the towel on the nine last week.

5. **Maryland**—Six defendants convicted. All served sentences.

6. **Pittsburgh**—Five convicted; appealed to Supreme Court; sent back in October, 1956, for new trials; indictments dismissed on motion of government, Sept. 1957.

7. **Seattle**—Five defendants convicted. On appeal. No decision yet.

8. **Detroit**—Six defendants convicted. Appealed up to the Supreme Court. Sent back to Court of Appeals for re-hearing.

9. **St. Louis**—Five convicted; on appeal to the Court of Appeals, which held one re-hearing after the Supreme Court's California decision. No decision yet.

10. **Denver**—Seven convicted; appeal heard in Court of Appeals; after re-hearing cases were sent back for new trial.

11. **Cleveland**—Six convicted. (This was the first trial where the jury handed down acquittals.) Case on appeal.

12. **Philadelphia**—Nine convicted; convictions affirmed by split Court of Appeals; reargued after the California decision. Appeals Court freed four; sent back rest for re-trials.

13. **Connecticut**—Six defendants convicted; all acquitted by Court of Appeals in October, 1957.

14. **Boston**—Seven indicted. Case dropped on government motion, October, 1957.

15. **Hawaii**—Seven convicted. Appeal heard by Court of Appeals. No decision.

16. **Puerto Rico**—Eleven indicted. No trial yet. Motions to dismiss now before district court.

17. **Membership cases**—Eighteen persons have been indicted under the so-called individual membership clause of the Smith Act. This includes the original first Foley Square eleven defendants. Four individual membership cases—Claude Lightfoot, Junius Scales, Albert Blumberg and John Noto—were tried and convictions ensued. The Lightfoot and Scales' cases were reversed by the Supreme Court; Blumberg is still awaiting sentence on his case; the Noto case is on appeal. Emanuel Blum's case was dismissed by the action of the government.

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THIS IS THE sorry record. Two things emerge clearly:

First, that the Smith Act has virtually collapsed. N.Y. Times Washington Correspondent, E. W. Kenworth, was substantially correct when he wrote (6/23/57):

"The court's ruling last week (the California decision—Ed.) was one of those decisions which takes a very narrow and tortuous road to a very large prospect. And the prospect, in the view of many lawyers here, is that the Smith Act for all immediate practical purposes is dead."

Second, that there are still casualties of the Smith Act, as

Cleveland T-H Victim to Speak In Chicago

CHICAGO. — Eric Reinthaler of Cleveland, one of three unionists indicted in the Cleveland Taft-Hartley "conspiracy" case, will speak at the Washington Park Forum in Chicago on Sunday afternoon, Dec. 15.

Reinthaler has served as a steward, executive board members, legislative secretary and editorial writer for Local 735 of UE and its successor, Local Lodge 2155 of the International Association of Machinists. He is on tour in the midwest to bring the issues in the Taft-Hartley "conspiracy" indictment before labor and community groups. The forum meets at 306 E. 43 St.