

Boston Smith Act Defendants Freed

BOSTON, Nov. 10.—The Department of Justice on Friday dropped its Smith Act case against five New England Communist Party leaders. The indictment charging conspiracy under thought-control provisions of the statute was dismissed by Judge Bailey Aldrich in U.S. District Court on motion of U.S. Attorney Anthony Julian.

In a formal notice to the court, Julian said the government's evidence "is now deemed insufficient to prove the charges contained in the indictment in view of the construction placed on the Smith Act" by the Supreme Court last June in the California Yates case.

Defendants under indictment

since May, 1956, were Otis Archer Hood, Daniel Boone Schirmer, Mrs. Anne Burlak Timpson, Michael A. Russo and Sidney S. Lipshires. They were scheduled to go on trial Nov. 26.

Victor C. Woerheidte, of the Justice Department, declared in open court that the government had "reluctantly concluded" it could not "successfully prosecute this case" in

view of the new requirements laid down by the Supreme Court.

In the Yates case, which involved 14 Californians, the High Court ordered the freeing of five and new trials for nine. It barred the court here from proceeding against the defendants here on that part of the indictment charging conspiracy to organize the Communist Party.

The decision also placed restrictions on the prosecution which would have the effect of throwing out much evidence intended to bolster remaining portions of the indictment.

"This is another sign that America is back on the road to sanity and away from McCarthyism," declared Hood.

Russo said: "It was a very significant victory for all of the American people. It is a reaffirmation of the meaningfulness of the Bill of Rights."

Mrs. Timpson: "This is what should have happened. There never should have been an arrest."

Schirmer: "It was a very good thing for American democracy and civil liberties."

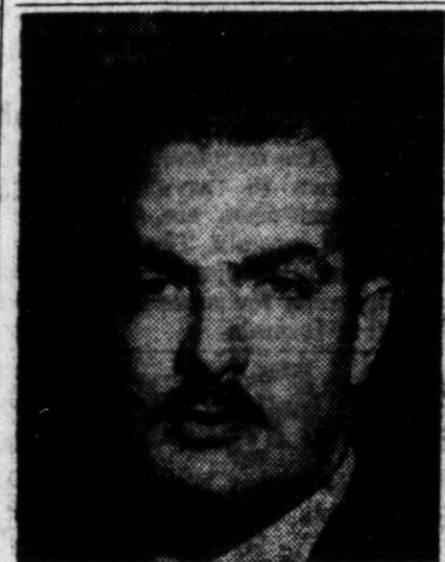
Lipshires: "I hope to see the release of such political prisoners as Gus Hall and Gil Green in the USA, Milovan Djilas in Yugoslavia, Wolfgang Harridge in East Germany and Imre Nagy in Hungary."

Judge Aldrich lauded defense attorneys Alfred A. Albert, John R. Hally, John J. O'Neill and Max Kabatznick whom he appointed to represent four defendants.

Judge Aldrich noted that a committee of the Boston Bar Association had discussed the case but offered "no assistance" in supplying defense counsel.

Assenting to the government's dismissal of the case, the judge said: "I am quite familiar with the Yates decision, and I realize the extent of the proof that it requires of the government. If the United States attorney tells me, after the investigation and study I am sure he has made, that the government cannot present such proof, I accept his statement. I will consent to the dismissal."

Seven defendants were named in the original indictment. One of them, the Negro Communist leader Eugene E. Strong, died last April, and the indictment against Geoffrey W. White was dismissed last summer as a result of the Yates decision.



OTIS HOOD



MRS. A. B. TIMPSON

Person Denied Passport

of the latest that of Dr. Corliss Lamont, author. Two other cases which challenge the constitutionality of the regulations are before the U. S. Supreme Court—those of Rockwell Kent, artist and Dr. Walter Briehl, Los Angeles psychiatrist.

Testifying before the Senate Committee on Foreign Relations last April 11 Gerson told how the Daily Worker "has suffered acutely" at the hands of the Passport Division.

Joseph North of the DW staff, was denied a passport to China in 1951, and Lester Rodney, sports editor, was denied a passport to cover the Olympics in Helsinki in 1952, Gerson told the committee. In 1955 Joseph Clark, then foreign editor, was first denied a passport, and then given a rigidly limited one to cover the Geneva conference, Gerson said. In January, 1956, Rodney was given a limited passport to cover the winter Olympics in Italy. However, in 1956 Alan Max,

then managing editor, was denied a passport to cover the Soviet Union.

The State Department ban on travel for William Worthy, Baltimore Afro-American correspondent goes before the board of passport appeals Nov. 20 in Washington. He will be represented by William Kunstler, counsel supplied by the American Civil Liberties Union.

Donald Ogden Stewart, writer, who since 1950 resided in England, last Thursday won a five-year fight to force the State Department to give him a passport valid for travel in other European countries. Counsel for Stewart in Washington said a passport had been issued to him in London.

Stewart at first refused to submit a sworn statement as to whether he ever was a Communist. Later he said he had not been a member or affiliated for 15 years. This was deemed insufficient by the State Department, but a Court of Appeals 5-4 decision overruled the department.