

## On the Civil Liberties Front: The Real Issue in the Lightfoot "Membership" Decision

### Ex-Communist Screen Writer Gets Passport Without "Naming Names"

The backdown of the State Department in the Carl Foreman case was a defeat not only for the Department but for the Senate Internal Security Committee. The rule applied by the Department in the past to passport applicants who claim to be ex-Communists is that set forth by the Eastland committee in its latest report on the Communist party. "A test of the individual's sincerity," the report says, "is his willingness to expose his associates in the ranks of the Communist conspiracy."\* Foreman, the screen writer who produced "High Noon" and "Home of the Brave" (and has been living in the home of the braver British), was refused renewal of his passport when he declined to "prove his sincerity" by naming others. Suit was brought on his behalf by Sidney E. Cohn and Eugene Gressman but the Department cabled our Embassy in London to issue a passport for Foreman and his wife just as the case was about to be tried. No doubt it feared another adverse decision like that in the Leonard Boudin passport case in which the Court of Appeals has already ruled that the Department in denying passports must produce its evidence and cannot rely on faceless informers.

The conviction of Claude Mack Lightfoot under the membership clause of the Smith Act was unanimously upheld by the U.S. Court of Appeals in Chicago last week. This was the second ruling of its kind, the first being that in the case of Junius Irving Scales whose conviction was upheld last Fall by the Court of Appeals in Baltimore (see the *Weekly* last November 17 for comment). Lightfoot like Scales was not only a member but an official of the Communist party and the Court stressed the fact that he was "not a mine-run member . . . nor was he an innocent worker . . . Lightfoot was an intelligent, crusading Communist. . . ." We hope the Supreme Court will pass upon these membership cases. All the earlier convictions were for *conspiracy* to advocate at some future date; Scales and Lightfoot were convicted for *membership* in a party which is presumed (on the basis largely of books written by Marx, Engels, Lenin and Stalin) to teach and advocate. Nobody has yet been prosecuted for actually himself

\* In this, as in other respects, the current inquisition recalls its older ecclesiastical counterpart. "The accused," the Encyclopaedia Britannica says of the Inquisition, "was bound to denounce all those who were partners of his heresy, or whom he suspected or knew to be heretics. If he confessed, and denounced his accomplices, relatives or friends, he was 'reconciled' with the Church."

#### Why the New H-Bomb Blast

Washington—That flood of stories about the new H-bomb explosions being for defensive purposes is based on off the record not-for-attribution interviews with favored reporters designed to allay public misgivings about further tests. The real reason for the tests (and the smaller size) H-bomb to be used seems to be that we have not yet tested an H-bomb by dropping one from a plane as the Russians did. Our last H-bomb blast was of a monster so huge and cumbersome that it had to be set up on the ground for detonation. It could be used in war if the enemy kindly consented to let us put it up alongside the target and granted visas to the technicians required to set it off.

advocating revolutionary doctrine. No matter how you slice it, whether by conspiracy or membership, this is a long way from the traditional idea that a man may advocate what he pleases, so long as he does not by overt act commit or attempt to commit a crime against public order.

There was further evidence last week of an improving climate in the courts. The Supreme Court granted a hearing to Oleta O'Connor Yates, one of the California Smith Act victims, from a one year sentence for contempt; Mrs. Yates was in and out of jail for months as she steadily refused while herself on trial to identify others as Communists. The Court last week, speaking through Mr. Justice Frankfurter, held that a naturalized citizen could not be required under the McCarran-Walter Act to appear as a witness in a proceeding which might lead to his own denaturalization. A 5-4 decision in another case indicated the lineaments of a new moderately liberal majority and of a rightist minority. Harlan (with Reed, Burton and Minton) dissented from an opinion by Douglas strictly construing the search and seizure safeguards of the Constitution against the prosecution and in favor of the accused in a marihuana case. The immediate issue was highly technical, but the Court's lineup pretty accurately reflected the sympathies of the Judges. The new Justice, Harlan, gravitates naturally to the right, as we predicted he would when he was appointed. . . . In another encouraging ruling here last week, the U.S. Court of Appeals reversed the contempt conviction of Saul Grossman, an official of the Michigan Committee for the Protection of the Foreign Born.

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