

## Supreme Court Orders New Trial for U.S. Commie Chiefs

WASHINGTON, Oct. 10 (AP)—The Supreme Court today ordered a new trial for Steve Nelson and four other Communist party leaders convicted under the Smith Act. The government had suggested a hearing on the truthfulness of one of its witnesses but had opposed a new trial.

Warren said that the government's motion was denied and that the case was remanded to the District Court at Pittsburgh with directions to grant a new trial.

He further said that Justices Frankfurter, Harlan and Burton thought the government motion should be granted and reserved the right to file written opinion.

In an unusual motion, the government had asked the court to order a hearing by the District Court on the veracity of Joseph D. Mazzei who testified at the 1953

trial of the defendants. The Justice Department said it believes Mazzei's Pittsburgh testimony was truthful but that in other proceedings Mazzei gave testimony which the government "now has serious reason to doubt."

Pennsylvania Leader Nelson, Communist leader in western Pennsylvania, and his defendants were convicted of conspiracy to advocate the overthrow of the government by force and violence.

Each was sentenced to five years in prison. They appealed to the Supreme Court.

What the government had asked was that the case be returned to the trial judge so he could, after a hearing, decide about the truthfulness of the Mazzei testimony and consider its weight against

the defendants. Order New Trial. Attorneys for the defendants asked that court dismiss the case against two defendants "vitaly affected" by the testimony and order a new trial for the other three.

J. Lee Rankin, U.S. solicitor general, presented the government case.

Frank J. Donner, attorney for the defendants, disputed a Rankin contention that the Mazzei testimony vitaly affected only two of the defendants—Benjamin Lowell Careathers and James Hulse Dolsen.

Donner declared that Mazzei "made the case" for the prosecution and that he testified about "force and violence in such a way that it couldn't help but impress the judge and jury."

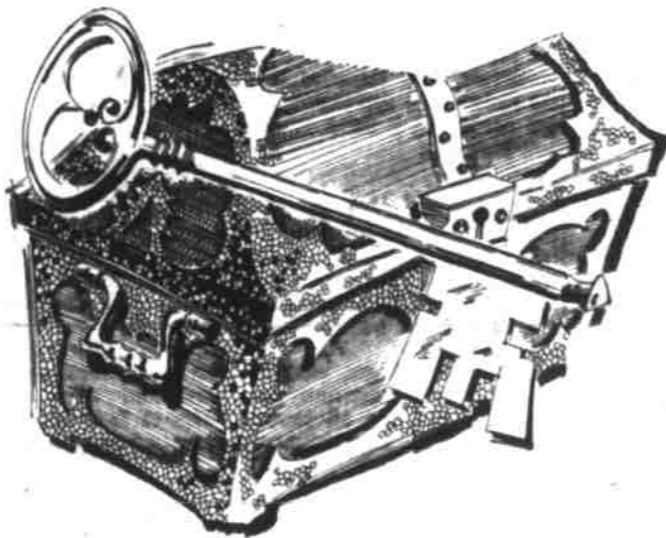
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