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The Trial Must Be Fair

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states as follows: California 4,500, Kansas 335, Nebraska 260, Oregon 303, Wisconsin 144, Indiana 700, Michigan 100.

The other decision relates to the attitude of certain organizations towards established government. For years officials of such groups as the American Civil Liberties Union have openly preached that it was within the purview of the right to free speech for men to advocate murder, etc., so long as no overt act was committed by the speaker. Then followed the enactment of syndicalism laws, one of which, the California law, was involved in the recent case. This law makes it a crime "knowingly to be or to become a member of, or to assist in organizing an association to advocate, teach or aid and abet the commission of crimes or unlawful acts of force, violence or terrorism as a means of accomplishing industrial or political changes". Upon conviction of Charlotte Anita Whitney for violation of this law, appeal was taken to the U. S. Supreme Court, that Court—though not convinced that the policy of enacting such legislation is good—sustaining its constitutionality, and holding, "That a State, in the exercise of its police power, may punish those who abuse this freedom (of speech) by utterances inimical to the public welfare, tending to incite to crime, disturb the public peace, or endanger the foundations of organized government, and threaten its overthrow by unlawful means"; and that such association as the law aims to prohibit "involves even greater danger to the public peace and security than the isolated utterances and acts of individuals."

It is the last phrase quoted which appeals to us and to many others as complete justification for the enactment of such legislation. If organized society were to be compelled to wait until after its enemies had attempted specific overt acts to accomplish their purpose, and were to be denied the right to defend itself against the "greater danger" of organized, destructive conspiracies, constitutional government might soon find itself in a precarious position. The warning against intolerant use of such legislative weapons is timely and very much in order, however.

THE TRIAL MUST BE FAIR

The Supreme Court of the United States, in the case of *Tumey vs. Ohio, 37 Supreme Court Reports* 437, has once again made clear the fundamental principle that a person charged with crime in an American Court is entitled to a fair and impartial hearing.

Under an Ohio statute empowering city and village councils to use fines imposed in convictions for violations of the prohibition act the Village of North College Hill passed an ordinance extending judicial powers to the mayor and allowing him to retain costs assessed in such cases, in addition to his regular salary as mayor. The defendant, Tumey, raised the objection that such proceedings were in violation of the Fourteenth Amendment, and this objection the Supreme Court sustained.

The Court pointed out that the result of the normal operation of this law and ordinance brought every defendant before a judicial officer who had a direct pecuniary interest in a conviction, otherwise there would be no fee; and that, although the cost impositions were small in the individual case, the fact that the emoluments of the mayor were increased to the extent of $100 per month indicated that the prospect of loss of such additional sums might readily prove a temptation to the

average man so as to cause him to forget the burden of proof required to convict.

"The requirement of due process of law", said the Court, "is not satisfied by the argument that men of the highest honor and the greatest self-sacrifice could carry it on without danger of injustice." Due process of law is denied when the procedure offers a possible temptation to the average man "not to hold the balance nice, clear and true between the State and the accused."

And thus, once again, ranters against American government are effectively contradicted by concrete evidence that the quality of American justice is guaranteed by the Constitution which they assail and deride.

CODE OF PROFESSIONAL ETHICS

A special committee of the American Bar Association will present a divided report to the annual meeting in August, covering additional canons and a summary of professional ideals. The summary submitted by the majority of the committee appears unnecessarily long and detailed, and the following substitute by Mr. F. W. Grinnell all-sufficient and preferable:

"The specification in the foregoing canons of certain conduct as unprofessional is not to be interpreted as an implied approval of conduct not specifically described. The purpose of the canons is to assist lawyers by stimulating their imagination as to sound professional behavior. That purpose is indicated by the statement in the 'preamble' to the canons that the stability of courts and of all departments of the government rests upon the approval of the people and that it is, therefore, essential that the agencies in the administration of justice be so developed and maintained that the public shall have confidence in the integrity and impartiality of its administration.

"The reason that the profession is recognized and set apart by law as a body of sworn public officers is the public need of a body of trained, reliable men to whom individual citizens may trust their private affairs in order to secure justice. If the Bar is thus set apart as a profession it must preserve such sound traditions and standards as have contributed to the public confidence that has given it its position and which is essential to its freedom of action in future.

"The canons simply reflect the better standards of practice, the history of which is not always conveniently available. Their expression in this form was the result of a growing need of counteracting practices which contribute to the gradual loss of public confidence in the profession.

"Violation of the seasoned professional standards of conduct thus reflected and suggested may merit or result in different degrees of disapproval ranging from disbarment, suspension, or censure, to lessening of respect for the character or taste or general reputation of the individual lawyer. No lawyer can justify his conduct merely because he does not find it specified in the canons as unprofessional. He must do his own thinking as a trusted representative and advisor and take the consequences."

NEW - LAW - ITIS

The 1927 sessions of the various legislatures witnessed the introduction of 42,000 bills, 11,500 of which became the victims of majority