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Legion Renews Demand Isaacs Dismiss Gerson

Borough Head Still Refuses to Oust Communist Aid; Court Contest Is Forecast

The New York County Department of the American Legion renewed yesterday a campaign begun and abandoned in 1938 when it called upon Stanley M. Isaacs, Borough President of Manhattan, to dismiss his confidential examiner, Simon W. Gerson, a Communist, and threatened to bring legal action to force the ouster unless Mr. Isaacs complied.

Maurice Stember, department adjutant, who served notice by letter on Mr. Isaacs, charged that in supporting and paying dues to the Communist party in the United States Mr. Gerson violated the civil service laws, the New York city charter and the Martin-Devany bill, the so-called anti-Red bill which the Legion backed and which bars from teaching or civil service positions any persons who advocate the overthrow of the American form of government.

An hour after he received the Legion's letter Mr. Isaacs replied by letter, which said, in part: "I do not believe that the appointment of Mr. Gerson and his continuance in office involve a violation of the act or of the charter provision mentioned.

"If, however, you feel otherwise, you are at full liberty to institute any proceedings you desire. I have felt in the last two years that had there been any sincere desire to test this issue on the part of you, or any one else, proceedings would have been instituted long since."

Informed of this, Mr. Stember said the Legion would "accept the challenge" and "go right to work" to achieve the dismissal of Mr. Gerson. The probable device, he said, would be a taxpayer's suit against Mr. Isaacs filed by a Legion member.

In a statement supplementing the letter to Mr. Isaacs, Mr. Stember said, in behalf of the Legion:

"Gerson has even admitted under oath before the McNaboe Committee that part of his salary paid by New York taxes has been assessed by the Communist party for its subversive and wholly un-American program. Gerson confesses that he violated the city charter by this paying of part of his salary to the Communist party funds. He confesses that he knew it, and still submitted to that assessment.

"Borough President Isaacs knew Gerson's Communism was active Communism, dues-paying Communism, from the day he appointed Gerson and then fought to keep Gerson on the pay roll of a section of a government the Communists are working to destroy. The American Legion took no move in this matter at a time when it might have been used in any political campaign. Now the American Legion asks, 'Are you, Mr. Isaacs, going to obey the law?'"

Mr. Gerson, an avowed Communist, was a City Hall reporter for "The Daily Worker" when Mr. Isaacs appointed him soon after taking office on Jan. 1, 1938. Almost immediately the American Legion, supported by a number of patriotic and religious organizations, called for the dismissal of Mr. Gerson. Mr. Isaacs refused to dismiss him and appeals to Mayor F. H. LaGuardia and Governor Herbert H. Lehman failed to achieve anything.

The Legion attacked the appointment on technical grounds, carrying the fight to Supreme Court, again to no avail. One of the results of the controversy was the passage of a bill by the 1939 Legislature prohibiting Communists from holding, teaching or civil service jobs, but Governor Lehman vetoed it. The 1939 Legislature, however, passed the Martin-Devany bill and the Governor approved it.