

Civil Liberties and the Smith Act

IMAGINE that the Soviet Government had uncovered a widely ramified party of *petit bourgeois*, dreaming of a revolutionary overthrow of the Soviet government and communism. Imagine that this party had organized an educational system to train neophytes in methods of fomenting labor troubles and of planning acts of sabotage, in the hope that the resultant disorders might open a path to the seizure of power.

Of course these leaders would be brought to trial. A bloody minded prosecutor would take the case in hand. Sardonic respect for the opinion of mankind would assign counsel to the defense, counsel skilled in the art of giving away a case. The trial would be dragged on until every scrap of information on accessories could be screwed out of the defendants, plus false information against political rivals in the Government camp. Then the defendants would issue an eloquent confession, acknowledging the criminal folly of their undertaking and praying to be executed.

But our democracy hesitates, investigates for years before bringing the Politburo to trial, wears out judge and jury through nine months of defiant propagandist speech, but finally convicts. A term in prison impends, unless the Supreme Court finds metaphysical support for the view that the activity of the defendants does not represent a "clear and present danger."

Yet the conscience of many good citizens is disturbed. Does not the conviction of the Politburo open the way to the suppression of some of our most cherished American liberties? And will not the Communist movement be forced underground?

As to the second point, we can be easy. The movement is now and always has been underground. It cannot go deeper, for the temperature rises with depth. Perhaps the movement will be forced to come above ground, like any other American movement, however absurd.

But the problem of our civil liberties is not so easily disposed of. The Smith Act, under which the Politburo is convicted, appears to offer loopholes for persecution of dissident opinion that is not in itself revolutionary.

We are Americans. In our unexcited moments we agree,—Better let seditious talk than stop the mouths of good men and true. But this is not a real alternative. There is ingenuity enough in our lawyers to devise laws that will block the activities of alien-financed conspiracies of Left or Right, without compelling loyal citizens to breathe the stench of oppression.

ALVIN JOHNSON

New School for Social Research