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The Communists in America

Robert H. Jackson

On May 8, 1950, the Supreme Court handed down its opinions in the case of the American Communications Association vs. Douds. The question involved was the validity of the Taft-Hartley Act, which requires, as a condition of making use of its provisions, that officers of a labor union file an affidavit (1) that they are not members of the Communist party, and (2) that they do not believe in and are not members of any organization that supports the overthrow of the United States government by force. Four of the Justices wrote opinions; three took no part. Two dissented in part, but joined their colleagues in upholding the statute as far as the oath of non-membership in the Communist party was concerned. The opinion of Mr. Justice Jackson, concurring in part and dissenting in part, has already been published in condensed form in the New York Times Magazine and elsewhere, but is so clear and forceful a statement that we believe it merits thoughtful reading by a wide public in more complete form. The following text, somewhat abbreviated and divested of legal references, is taken from the "Advance Opinions" of the Supreme Court.—The Editors.

IF THE statute before us required labor union officers to forswear membership in the Republican party, the Democratic party, or the Socialist party, I suppose all agree that it would be unconstitutional. But why, if it is valid as to the Communist party?

The answer, for me, is in the decisive differences between the Communist party and every other party of any importance in the long experience of the United States with party government. . . .

To state controlling criteria definitively is both important and difficult, because those Communist party activities visible to the public closely resemble those of any other party. Parties, whether in office or out, are often irresponsible in their use and abuse of freedoms of speech and press. They all make scapegoats of unpopular persons or classes and make promises of dubious sincerity or feasibility in order to win votes. All parties, when in opposition, strive to discredit and

