

The Viereck Decision

The Supreme Court decision freeing George Sylvester Viereck, Nazi propagandist, from a two-to-six-year prison term, probably will be unpalatable to many. That would be the natural, human reaction when this Nation is engaged in a death struggle with the forces for whom the German-born publicist, a naturalized American, was accused of being an advocate. If, however, the case is considered in the light of the calm, objective approach taken by Chief Justice Stone, who read the five-to-two decision, any lack of satisfaction at the outcome must be tempered by the realization that the American ideal of "equal justice under law" must prevail despite the passions engendered by war.

Viereck was convicted of failing to expand on the nature of his operations after registering as an agent of a Munich newspaper and the German Library of Information, under the provision of the Foreign Agents Registration Act. The Government contended that regulations promulgated by the Secretary of State required him to detail activities which included the publication and dissemination of anti-British isolationist propaganda—prior to Pearl Harbor—and that he had wilfully omitted this information from supplemental registration statements. The names of several members of Congress were linked in the charges.

The court, with Justices Black and Douglas dissenting, held that the propagandizing cited by the Government was undertaken by the defendant in his own behalf rather than as a part of his work for those he represented as an agent, and that there was nothing in the law at that time (it has since been amended) requiring the disclosure of these activities.

"While Congress undoubtedly had a general purpose to regulate agents of foreign principals in the public interest by directing them to register and furnish such information as the act prescribed," the court said, "we cannot add to its provisions other requirements merely because we think they might more successfully have effectuated that purpose. And we find nothing in the legislative history of the act to indicate that any one concerned in its adoption had any thought of requiring, or authorizing the Secretary to require, more than a statement of registrants' activities in behalf of their foreign principals."

That the court was mindful of the background against which the case was being decided was evidenced in biting criticism of the closing statement by the Government prosecutor when urging the District Court jury to convict Viereck.

"At a time when passion and prejudice are heightened by emotions stirred by our participation in a great war, we do not doubt that these remarks addressed to the jury were highly prejudicial," Justice Stone said.