

tical, adverse effect on the overall administration of the Industrial Defense Program.

The existing clause D, declared unconstitutional in *Robel*, made it a crime for a member of a Communist-action organization to be employed in a defense facility. The bill substitutes for this invalid clause one which is almost identical except for added words requiring the individual to have knowledge that he was employed in a defense facility. If the new language is proposed to meet the objections by the Supreme Court to the present clause it may fall short of its objective. The *Robel* case appeared to suggest the need for three elements in new, more narrowly drawn legislation.

The CHAIRMAN. You say it may fall short. Why?

Mr. LIEBLING. I am covering that in my next sentence, Mr. Chairman, if I may.

The CHAIRMAN. All right.

Mr. LIEBLING. These are: active membership, the subscribing or assenting to some unlawful objective, and in an employment or position where the incumbent could affect the national security.

The CHAIRMAN. Well, let me ask you this, because I am very interested in drafting a bill which will comport with the decision.

Mr. LIEBLING. Yes.

The CHAIRMAN. Could you get together with our counsel and give them an idea of what language would satisfy you? I am not saying we will adopt it but we will certainly consider it.

Mr. LIEBLING. We could get together with counsel. We will discuss this with the Attorney General's people, too, if I may.

The CHAIRMAN. Now as I understand the Supreme Court said that that part of the act we are talking about overreached or there was an overbreadth in it.

Mr. LIEBLING. Yes.

The CHAIRMAN. And it therefore was unconstitutional under the so-called free association right in the first amendment.

Mr. LIEBLING. That is right.

The CHAIRMAN. Now let me say this, as a lawyer, and I have been a lawyer for 42 years, I agree that the first amendment protects the right of association, but there is another side to that coin. I happen to be a Catholic and have a pretty long history in that particular religion, and I remember when I was a schoolchild they used to tell me in my catechism class, tell me who your company is and I will tell you who you are.

So it is not as simple as that, saying that your right of association is complete and overreaching. Do you mean to say that if you associate with gangsters you are not going to be tainted?

Now I repeat that, as a lawyer, I respect the constitutional delicacy of the problems. I respect the decisions, I believe in them as a lawyer, but as a matter of philosophy it is quite another proposition because there is an old saying, and you can think of so many examples, that one bad apple would taint the whole barrel, and so very numerous other illustrations that association with evil is liable to taint you with evil.

I just want to expound a little bit on the philosophy of the thing, as distinguished from the constitutional aspect.