bership in organizations which advocate unpopular ideas. However, these elements are insufficient to legitimize this enactment, for the very crucial first element—that the organization must have goals which are illegal and which Congress can constitutionally proscribe—is not present here.

An examination of the cases which have involved enactments placing disabilities on members of organizations advocating unpopular ideas, reveals that this is only permissible where supported by substantial findings that the aims or purposes of such organization and of ideas advocated thereby are themselves unlawful and pose a clear and present danger to an overriding interest of the Government. See, e.g., *Communist Party* v. *Subversive Activities Control Board,* 367 U.S. 1 (1961) ; and, *N.A.A.C.P.* v. *Alabama,* 357 U.S. 449 (1958). In the *Communist Party* case, where the Court upheld the registration provisions of the Subversive Activities Control Act of 1950, there were substantial legislative findings regarding the nature of the threat posed by the "Communist movement". Reference was repeatedly made to those findings, and to whether registration was a proper means to deal with the threat posed. The Court specifically stated,

"In light of its legislative findings . . . we cannot say that the danger is chimerical, or that the registration requirement of § 7 is an ill adjusted means of dealing with it."

No such findings have been or most likely could be made with regard to the organizations and associations designated in this legislation. Moreover, the findings in that case were legislative ones. Under this Bill, note that the Director the Federal Bureau of Investigation would be empowered to make such designations—a power that the present Director of the FBI has long protested the Bureau does not have nor should have. Also each Federal agency, whether it be H.E.W. or the Small Business Administration, would be empowered to determine which organizations are "totalitarian, Fascist, Communist, or subversive." There is no provision for hearing or any kind of procedure before any designation is made. See *Joint Anti-Fascist Committee* v. *McGrath,* 341 U.S. 123.

It is far from clear that an individual's membership in an organization counseling violation of a Federal law, such as the Selective Service Act, makes it likely that his employment in a defense facility is inconsistent with the national interest. More importantly, it is far from clear that many of the activities which this legislation would make suspect are unlawful or could be constitutionally proscribed.

Clearly the new section of the Internal Security Act proposed by section (4) of H.R. 15626 suffers from the constitutional vices of vagueness and overbreadth. It "sweep indiscriminately" across association with all types of groups. The description of the groups included is so broad and open ended that individuals affected cannot forecast whether the statute will apply to them. Individuals who sincerely believe their behavior is innocent may be punished; others may be deterred from lawful activities by the fear that such activity may result in a substantial disability. In addition, as the vagueness increases, so does the discretion given to officials who enforce the act. It becomes easy and tempting for authorities to "punish" conduct which offends them.

These vices are compounded by the broad category of facilities which according to section (3) of H.R. 15626 may be designated as defense facilities and the absence of any limitation of the ban to "sensitive" positions. For example, a university in which research is being conducted on a specific disease or public health problem might be "engaged in laboratory research significant to the national defense." The Secretary of Defense could reasonably find that the public health problem or disease affected significant numbers of military personnel so that disruption of that university "by an act of sabotage, espionage or other act of subversion would directly impair the military effectiveness of the United States." Accordingly the university could be designated as a defense facility. As there is no requirement in the Bill that only those engaged in work directly related to the threat to our military effectiveness be barred from employment in the facility any employee of the university who had been a member of the organizations described in § (4), or had associations of the kind described therein—from porter to professor to the President—might thus be barred on the pretext of a threat to the national security.

Before turning to the third major provision of H.R. 15626, there are three other provisions in section (4) which should be briefly touched upon, because of their particularly improper nature. The first of these is § (h) which provides: