in an area so closely touching our most precious freedoms." *N.A.A.C.P.* v. *Button*, 371 U.S. 415, 438 (1963); see *Aptheker* v. *Secretary of State*, 378 U.S. 500, 512–13 (1964); *Shelton* v. *Tucker*, 364 U.S. 479, 488 (1960). Section 203 draws within its scope an overly broad range of associations, indiscriminately penalizing membership which can be constitutionally punished (see *Scales* v. *United States*, 367 U.S. 203 (1961)), and membership which cannot (see *Elfbrandt* v. *Russell*, 384 U.S. 11 (1966)). The Government cannot, even in the name of national defense, abuse so indiscriminately the right of individuals to become members of groups which espouse unpopular ideals or causes.

Finally, § 203 constitutes a clear violation of Article I, Section 9, cl. 3 of the United States Constitution which provides that "(n)o Bill of Attainder . . . shall be passed (by the Congress)." A Bill of Attainder is a legislative act, such as proposed § 203, which imposes disabilities upon named individuals or easily ascertainable groups without a judicial trial. *United States* v. *Brown*, 381 U.S. 437 (1965). By stating that members of Communist-action organizations who work in defense facilities present "*per se* a clear and present danger to the national security", § 203 creates a presumption of guilt which the individual affected cannot rebut. Such an individual is forever prevented from proving to a jury of peers that he did not have the requisite specific intent to further the organization's illegal goals, and performed no act which would in any way further those goals. Juries, not legislatures, must determine guilt and impose punishments. By punishing innocent and guilty association alike, § 203 constitutes a Bill of Attainder.

2. Section 204(c)—Communists Banned From Defense Facilities

Section 5(a) of the Internal Security Act of 1950, as amended January 2, 1968, (P.L. 90–237) reads as follows:

"(a) When there is in effect a final order of the Board determining any organization to be a Communist-action organization or a Communist-front organization, it shall be unlawful—

(1) For any member of such organization, with knowledge or notice of such final order of the Board—

(A) in seeking, accepting, or holding any nonelective office or employment under the United States, to conceal or fail to disclose the fact that he is a member of such organization; or

(B) to hold any nonelective office or employment under the United States; or

(C) in seeking, accepting, or holding employment in any defense facility, to conceal or fail to disclose the fact that he is a member of such organization; or

(D) if such organization is a Communist-action organization, to engage in any employment in any defense facility; or

(E) to hold office or employment with any labor organization, as that term is defined in section 2(5) of the National Labor Relations Act, as amended, or to represent any employer in any matter or proceeding arising or pending under that Act.

(2) For any officer or employee of the United States or of any defense facility, with knowledge or notice of such final order of the Board—

(A) to contribute funds or services to such organization; or

(B) to advise, counsel or urge any person, with knowledge or notice that such person is a member of such organization, to perform, or to omit to perform, any act if such act or omission would constitute a violation of any provision of paragraph (1) of this subsection."

When, on December 11, 1967, the United States Supreme Court struck down § 5(a)(1)(D), above, as an "unconstitutional abridgement of the right of association protected by the First Amendment," *United States* v. *Robel*, the constitutionality of subsections 5(a)(1)(C), 5(a)(1)(E) and 5(a)(2) was left in serious doubt.

Section 204(e) of H.R. 15828 is yet another attempt to evade the impact of the *Robel* decision and reinsert into the Internal Security Act of 1950 a provision similar to the one recently declared unconstitutional. This subterfuge, too, must fail. Section 204(e) is constitutionally defective, not merely under the holding of *Robel* itself, but under other numerous and well-established constitutional doctrines as well.