

UNITED STATES v. ROBEL.

subversion of one of those liberties—the freedom of association—which makes the defense of the Nation worthwhile.

When Congress' exercise of one of its enumerated powers clashes with those individual liberties protected by the Bill of Rights, it is our "delicate and difficult task" to determine whether the resulting restriction on freedom can be tolerated. See *Schneider v. State*, 308 U. S. 147, 161. The Government emphasizes that the purpose of §5 (a)(1)(D) is to reduce the threat of sabotage and espionage in the Nation's defense plants. The Government's interest in such a prophylactic measure is not insubstantial. But it cannot be doubted that the means chosen to implement that governmental purpose in this instance cuts deeply into the right of association. Section 5 (a)(1)(D) put appellee to the choice of surrendering his organizational affiliation, regardless of whether his membership threatened the security of a defense facility,¹⁰ or giving up his job.¹¹ When appellee refused to make that choice, he became subject to a possible criminal penalty of five years' imprisonment and a \$10,000 fine.¹² The statute quite literally establishes guilt by association alone, without any need to establish

¹⁰ The appellee has worked at the shipyard, apparently without incident and apparently without concealing his Communist Party membership, for more than 10 years. And we are told that, following appellee's indictment and arrest, "he was released on his own recognition and immediately returned to his job as a machinist at the Todd Shipyards, where he has worked ever since." Brief for Appellee, p. 6, n. 8. As far as we can determine, appellee is the only individual the Government has attempted to prosecute under § 5 (a)(1)(D).

¹¹ We recognized in *Greene v. McElroy*, 360 U. S., at 492, that "the right to hold specific private employment and to follow a chosen profession free from unreasonable governmental interference comes within the 'liberty' and 'property' concepts of the Fifth Amendment."

¹² 50 U. S. C. § 794 (c).