

UNITED STATES *v.* ROBEL.

that an individual's association poses the threat feared by the Government in proscribing it.¹³ The inhibiting effect on the exercise of First Amendment rights is clear.

It has become axiomatic that "[p]recision of regulation must be the touchstone in an area so closely touching our most precious freedoms." *NAACP v. Button*, 371 U. S. 415, 438; see *Aptheker v. Secretary of State*, 378 U. S. 500, 512-513; *Shelton v. Tucker*, 364 U. S. 479, 488. Such precision is notably lacking in § 5 (a)(1)(D). That statute casts its net across a broad range of associational activities, indiscriminately trapping membership which can be constitutionally punished¹⁴ and membership which cannot be so proscribed.¹⁵ It is made irrelevant to the statute's operation that an individual may be a passive or inactive member of a designated organization, that he may be unaware of the organization's unlawful aims, or that he may disagree with those unlawful aims.¹⁶ It is also made irrelevant that an individual who is subject to the penalties of § 5 (a)(1)(D) may occupy a nonsensitive position in a defense facility.¹⁷

¹³ The Government has insisted that Congress, in enacting § 5 (a)(1)(D), has not sought "to punish membership in 'Communist-action' . . . organizations." Brief for the Government, p. 53. Rather, the Government asserts, Congress has simply sought to regulate access to employment in defense facilities. But it is clear the employment disability is imposed only because of such membership.

¹⁴ See *Scales v. United States*, 367 U. S. 203.

¹⁵ See *Elfbrandt v. Russell*, 384 U. S. 11.

¹⁶ A number of complex motivations may impel an individual to align himself with a particular organization. See *Gibson v. Florida Legislative Investigation Committee*, 372 U. S. 539, 562-565 (concurring opinion). It is for that reason that the mere presence of an individual's name on an organization's membership rolls is insufficient to impute to him the organization's illegal goals.

¹⁷ See *Cole v. Young*, 351 U. S. 536, 546: "[I]t is difficult to justify summary suspensions and nonreviewable dismissals on loyalty grounds of employees who are not in 'sensitive' positions and who are thus not situated where they could bring about any discernible adverse effects on the Nation's security."