

UNITED STATES *v.* ROBEL.

employment of Party members at defense facilities, moreover, may well involve greater hazards to national security than those created by allowing Party members to travel abroad. We may assume, too, that Congress may have been justified in its conclusion that alternatives to § 5 (a)(1)(D) were inadequate.³ For these reasons, I am not persuaded to the Court's view that overbreadth is fatal to this statute, as I agreed it was in other contexts; see, *e. g.*, *Keyishian v. Board of Regents*, 385 U. S. 589; *Elfbrandt v. Russell*, 384 U. S. 11; *Aptheker v. Secretary of State*, 378 U. S. 500; *NAACP v. Button*, 371 U. S. 415.

However, acceptance of the validity of these distinctions and recognition of congressional power to utilize a prophylactic device such as § 5 (a)(1)(D) to safeguard against espionage and sabotage at essential defense facilities, would not end inquiry in this case. Even if the statute is not overbroad on its face—because there may be “defense facilities” so essential to our national

³ The choice of a prophylactic measure “must be viewed in the light of less drastic means for achieving the same basic purpose.” *Shelton v. Tucker*, 364 U. S. 479, 488. Since I would affirm on another ground, however, I put aside the question whether existing security programs were inadequate to prevent serious, possibly catastrophic consequences.

Congress rejected suggestions of the President and the Department of Justice that existing security programs were adequate with only slight modifications. See H. R. Doc. No. 679, 81st Cong., 2d Sess., 5 (1950); Hearings on Legislation to Outlaw Certain Un-American and Subversive Activities before the House Un-American Activities Committee, 81st Cong., 2d Sess., 2122–2125 (1950). Those programs cover most of the facilities within the reach of § 5 (a)(1)(D) and make Party membership an important factor governing access. 32 CFR § 155.5. They provide measures to prevent and punish subversive acts. The Department of Defense, moreover, had screened some 3,000,000 defense contractor employees under these procedures by 1956, Brown, *Loyalty and Security* 179–180 (1958), thereby providing at least some evidence of its capacity to handle this problem in a more discriminating manner.