

UNITED STATES *v.* ROBEL.

security that Congress could constitutionally exclude all Party members from employment in them—the congressional delegation of authority to the Secretary of Defense to designate “defense facilities” creates the danger of overbroad, unauthorized, and arbitrary application of criminal sanctions in an area of protected freedoms and therefore, in my view, renders this statute invalid. Because the statute contains no meaningful standard by which the Secretary is to govern his designations, and no procedures to contest or review his designations, the “defense facility” formulation is constitutionally insufficient to mark “the field within which the [Secretary] is to act so that it may be known whether he has kept within it in compliance with the legislative will.” *Yakus v. United States*, 321 U. S. 414, 425.

The Secretary’s role in designating “defense facilities” is fundamental to the potential breadth of the statute, since the greater the number and types of facilities designated, the greater is the indiscriminate denial of job opportunities, under threat of criminal punishment, to Party members because of their political associations. A clear, manageable standard might have been a significant limitation upon the Secretary’s discretion. But the standard under which Congress delegated the designating power is so indefinite as to be meaningless. The statute defines “facility” broadly enough to include virtually every place of employment in the United States; the term includes “any plant, factory or other manufacturing, producing or servicing establishment, airport, airport facility, vessel, pier, waterfront-facility, mine, railroad, public utility, laboratory, station, or other establishment or facility, or any part, division or department of any of the foregoing.” And § 5 (b) grants the Secretary of Defense untrammelled discretion to designate as a “defense facility” any facility “with respect to the operation of which he finds and de-