

SUPREME COURT OF THE UNITED STATES

No. 8.—OCTOBER TERM, 1967.

United States, Appellant,	}	On Appeal From the United States District Court for the Western District of Washington.
v.		
Eugene Frank Robel.		

[December 11, 1967.]

MR. JUSTICE WHITE, with whom MR. JUSTICE HARLAN joins, dissenting.

The Court holds that because of the First Amendment a member of the Communist Party who knows that the Party has been held to be a Communist-action organization may not be barred from employment in defense establishments important to the security of the Nation. It therefore refuses to enforce the contrary judgments of the Legislative and Executive Branches of the Government. Respectfully disagreeing with this view, I dissent.

The constitutional right found to override the public interest in national security defined by Congress is the right of association, here the right of respondent Robel to remain a member of the Communist Party after being notified of its adjudication as a Communist-action organization. Nothing in the Constitution requires this result. The right of association is not mentioned in the Constitution. It is a judicial construct appended to the First Amendment rights to speak freely, to assemble, and to petition for redress of grievances.¹ While the right of

¹ If men may speak as individuals, they may speak in groups as well. If they may assemble and petition, they must have the right to associate to some extent. In this sense the right of association simply extends constitutional protection to First Amendment rights when exercised with others rather than by an individual alone. In *NAACP v. Alabama*, the Court said that the freedom to associate for the advancement of beliefs and ideas is constitutionally protected and that it is "immaterial whether the beliefs sought to be advanced