the Party. The Court is left with a vague and formless concept of associational rights and its own notions of what constitutes an unreasonable risk to defense facilities.

The Court says that mere membership in an association with knowledge that the association pursues unlawful aims cannot be the basis for criminal prosecution, *Scales* v. *United States,* 367 U. S. 203 (1961), or for denial of a passport, *Aptheker* v. *Secretary of State,* 378 U. S. 500 (1964). But denying the opportunity to be employed in some defense plants is a much smaller deterrent to the exercise of associational rights than denial of a passport or a criminal penalty attached solely to membership, and the Government's interest in keeping potential spies and saboteurs from defense plants is much greater than its interest in keeping disloyal Americans from traveling abroad or in committing all Party members to prison. The "delicate and difficult judgment" to which the Court refers should thus result in a different conclusion from that reached in the *Scales* and *Aptheker* cases.[2]

The Court's motives are worthy. It seeks the widest bounds for the exercise of individual liberty consistent with the security of the country. In so doing it arro-

[2] I cannot agree with my Brother BRENNAN that Congress delegated improperly when it authorized the Secretary of Defense to determine "with respect to the operation of which [defense facilities] . . . the security of the United States requires the application of the provisions of subsection (a) of this section." Rather I think this is precisely the sort of application of a legislative determination to specific facts within the administrator's expertise that today's complex governmental structure requires and that this Court has frequently upheld. *E. g., Yakus* v. *United States,* 321 U. S. 414 (1944). I would reject also appellee's contention that the statute is a bill of attainder. See *United States* v. *Brown,* 381 U. S. 437, 462 (1965) (WHITE, J., dissenting).