lieve that one possessed of "a belief, firm enough to be carried over into advocacy, in the use of illegal means to change the form" of government did not meet the standard of fitness.[518] On the other hand, the First Amendment interest was limited because there was "minimal effect upon free association occasioned by compulsory disclosure" under the circumstances. "There is here no likelihood that deterrence of association may result from foreseeable private action . . . for bar committee interrogations such as this are conducted in private. . . . Nor is there the possibility that the State may be afforded the opportunity for imposing undetectable arbitrary consequences upon protected association . . . for a bar applicant's exclusion by reason of Communist Party membership is subject to judicial review, including ultimate review by this Court, should it appear that such exclusion has rested on substantive or procedural factors that do not comport with the Federal Constitution." [519]

Balancing was used to sustain congressional and state inquiries into the associations and activities of individuals in connection with allegations of subversion [520] and to sustain proceedings against the Communist Party and its members.[521] In certain other cases, involving state attempts to compel the production of membership lists of the National Association for the Advancement of Colored People and to investigate that organization, use of the balancing test resulted in a finding that speech and associational rights outweighed the governmental interest claimed.[522] The Court used a balancing test in the late 1960s to protect the speech rights of a public employee who had criticized his employers.[523] Balancing, however, was not used when the Court struck down restrictions on receipt of materials mailed from Communist countries,[524] and it was not used in cases involving picketing, pamphleteering, and demonstrating in pub-

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[518] 366 U.S. at 52.

[519] 366 U.S. at 52–53. *See also In re* Anastaplo, 366 U.S. 82 (1961). The status of these two cases is in doubt after Baird v. State Bar, 401 U.S. 1 (1971), and *In re* Stolar, 401 U.S. 23 (1971), in which neither the plurality nor the concurring Justice making up the majority used a balancing test.

[520] Barenblatt v. United States, 360 U.S. 109 (1959); Uphaus v. Wyman, 360 U.S. 72 (1959); Wilkinson v. United States, 365 U.S. 399 (1961); Braden v. United States, 365 U.S. 431 (1961).

[521] Communist Party v. Subversive Activities Control Board, 367 U.S. 1 (1961); Scales v. United States, 367 U.S. 203 (1961).

[522] NAACP v. Alabama ex rel. Patterson, 357 U.S. 449 (1958); NAACP v. Alabama ex rel. Flowers, 377 U.S. 288 (1964); Gibson v. Florida Legislative Investigation Committee, 372 U.S. 539 (1963).

[523] Pickering v. Board of Education, 391 U.S. 563 (1968).

[524] Lamont v. Postmaster General, 381 U.S. 301 (1965).