statute as merely expressing in shorthand the characteristics of those persons who were likely to utilize union responsibilities to accomplish harmful acts; Congress could validly conclude that all members of the Communist Party possessed those characteristics.[1802]

The majority's decision in *Brown* cast in doubt certain statutes and certain statutory formulations that had been held not to constitute bills of attainder. For example, a predecessor of the statute struck down in *Brown*, which had conditioned a union's access to the NLRB upon the filing of affidavits by all of the union's officers attesting that they were not members of or affiliated with the Communist Party, had been upheld,[1803] and although Chief Justice Warren distinguished the previous case from *Brown* on the basis that the Court in the previous decision had found the statute to be preventive rather than punitive,[1804] he then proceeded to reject the contention that the punishment necessary for a bill of attainder had to be punitive or retributive rather than preventive,[1805] thus undermining the prior decision. Of much greater significance was the effect of the *Brown* decision on "conflict-of-interest" legislation typified by that upheld in *Board of Governors v. Agnew*.[1806] The statute there forbade any partner or employee of a firm primarily engaged in underwriting securities from being a director of a national bank.[1807] Chief Justice Warren distinguished the prior decision and the statute on three grounds from the statute then under consideration. First, the union statute inflicted its deprivation upon the members of a suspect political group in typical bill-of-attainder fashion, unlike the statute in *Agnew*. Second, in the *Agnew* statute, Congress did not express a judgment upon certain men or members of a particular group; it rather concluded that any man placed in the two positions would suffer a temptation any man might yield to. Third, Congress established in the *Agnew* statute an objective standard of conduct expressed in shorthand which precluded persons from holding the two positions.

Apparently withdrawing from the *Brown* analysis in upholding a statute providing for governmental custody of documents and re-

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389 U.S. 258 (1967), a very similar statute making it unlawful for any member of a "Communist-action organization" to be employed in a defense facility was struck down on First Amendment grounds and the bill of attainder argument was ignored.

[1802] United States v. Brown, 381 U.S. 437, 462 (1965) (Justices White, Clark, Harlan, and Stewart dissenting).

[1803] American Communications Ass'n v. Douds, 339 U.S. 382 (1950).

[1804] *Douds*, 339 U.S. at 413, 414, cited in United States v. Brown, 381 U.S. 437, 457–458 (1965).

[1805] *Brown*, 381 U.S. at 458–61.

[1806] 329 U.S. 441 (1947).

[1807] 12 U.S.C. § 78.