"It is not for us to decide how we would adjust the clash of interests which this case presents were the primary responsibility for reconciling it ours. Congress has determined that the danger created by advocacy of overthrow justifies the ensuing restriction on freedom of speech. The determination was made after due deliberation, and the seriousness of the congressional purpose is attested by the volume of legislation passed to effectuate the same ends." [513] Only if the balance struck by the legislature is "outside the pale of fair judgment" [514] could the Court hold that Congress was deprived by the Constitution of the power it had exercised.[515]

Thereafter, during the 1950s and the early 1960s, the Court used the balancing test in a series of decisions in which the issues were not, as they were not in *Douds* and *Dennis*, matters of expression or advocacy as a threat but rather were governmental inquiries into associations and beliefs of persons or governmental regulation of associations of persons, based on the idea that beliefs and associations provided adequate standards for predicting future or intended conduct that was within the power of government to regulate or to prohibit. Thus, in the leading case on balancing, *Konigsberg v. State Bar of California*,[516] the Court upheld the refusal of the state to certify an applicant for admission to the bar. Required to satisfy the Committee of Bar Examiners that he was of "good moral character," Konigsberg testified that he did not believe in the violent overthrow of the government and that he had never knowingly been a member of any organization that advocated such action, but he declined to answer any question pertaining to membership in the Communist Party.

For the Court, Justice Harlan began by asserting that freedom of speech and association were not absolutes but were subject to various limitations. Among the limitations, "general regulatory statutes, not intended to control the content of speech but incidentally limiting its unfettered exercise, have not been regarded as the type of law the First or Fourteenth Amendment forbade Congress or the States to pass, when they have been found justified by subordinating valid governmental interests, a prerequisite to constitutionality which has necessarily involved a weighing of the governmental interest involved." [517] The governmental interest involved was the assurance that those admitted to the practice of law were committed to lawful change in society and it was proper for the state to be-

[513] 341 U.S. at 550–51.
[514] 341 U.S. at 540.
[515] 341 U.S. at 551.
[516] 366 U.S. 36 (1961).
[517] 366 U.S. at 50–51.