tion of access to NLRB processes by any union that each of its officers must file affidavits that he was not a member of the Communist Party or affiliated with it.[707] The Court has sustained state bar associations in their efforts to probe into applicants' membership in the Communist Party in order to determine whether there was knowing membership on the part of one sharing a specific intent to further the illegal goals of the organization.[708] A section of the Communist Control Act of 1954 was designed to keep the Communist Party off the ballot in all elections.[709] The most recent interpretation of this type of disability is *United States v. Robel*,[710] in which the Court held unconstitutional under the First Amendment a section of the Internal Security Act that made it unlawful for any member of an organization compelled to register as a "Communist-action" or "Communist-front" organization to work in any defense facility. For the Court, Chief Justice Warren wrote that a statute that so infringed upon freedom of association must be much more narrowly drawn to take precise account of the evils at which it permissibly could be aimed. One could be disqualified from holding sensitive positions on the basis of active, knowing membership with a specific intent to further the unlawful goals of an organization, but that membership that was passive or inactive, or by a person unaware of the organization's unlawful aims, or by one who disagreed with those aims, could not be grounds for disqualification, certainly not for a non-sensitive position.[711]

A somewhat different matter is disqualifying a person for public benefits of some sort because of membership in a proscribed organization or because of some other basis ascribable to doubts about his loyalty. The First Amendment was raised only in dissent when in *Flemming v. Nestor*[712] the Court sustained a statute that required the termination of Social Security old-age benefits to an alien who was deported on grounds of membership in the Communist Party. Proceeding on the basis that no one was "entitled" to Social Secu-

---

[707] This part of the oath was sustained in American Communications Ass'n v. Douds, 339 U.S. 382 (1950), and Osman v. Douds, 339 U.S. 846 (1950).

[708] Konigsberg v. State Bar of California, 366 U.S. 36 (1961); *In re* Anastaplo, 366 U.S. 82 (1961); Law Students Civil Rights Research Council v. Wadmond, 401 U.S. 154 (1971). Membership alone, however, appears to be an inadequate basis on which to deny admission. Id. at 165–66; Baird v. State Bar of Arizona, 401 U.S. 1 (1971); Schware v. Board of Bar Examiners, 353 U.S. 232 (1957).

[709] Ch. 886, § 3, 68 Stat. 775, 50 U.S.C. § 842. The section was at issue without a ruling on the merits in Mitchell v. Donovan, 290 F. Supp. 642 (D. Minn. 1968) (ordering names of Communist Party candidates put on ballot); 300 F. Supp. 1145 (D. Minn. 1969) (dismissing action as moot); 398 U.S. 427 (1970) (dismissing appeal for lack of jurisdiction).

[710] 389 U.S. 258 (1967).

[711] 389 U.S. at 265–66. *See also* Schneider v. Smith, 390 U.S. 17 (1968).

[712] 363 U.S. 603 (1960).