lates constitutional limitations."[739] Similarly, in *Whitehill v. Elkins*,[740] an oath was voided because the Court thought it might include within its proscription innocent membership in an organization that advocated illegal overthrow of government.

More recent cases do not illuminate whether membership changes in the Court presage a change in view with regard to the loyalty-oath question. In *Connell v. Higginbotham*[741] an oath provision reading "that I do not believe in the overthrow of the Government of the United States or of the State of Florida by force or violence" was invalidated because the statute provided for summary dismissal of an employee refusing to take the oath, with no opportunity to explain that refusal. *Cole v. Richardson*[742] upheld a clause in an oath "that I will oppose the overthrow of the government of the United States of America or of this Commonwealth by force, violence, or by any illegal or unconstitutional method" upon the construction that this clause was mere "repetition, whether for emphasis or cadence," of the first part of the oath, which was a valid "uphold and defend" positive oath.

Legislative Investigations and the First Amendment.— The power of inquiry by congressional and state legislative committees in order to develop information as a basis for legislation[743] is subject to some uncertain limitation when the power as exercised results in deterrence or penalization of protected beliefs, associations, and conduct. Although the Court initially indicated that it would scrutinize closely such inquiries in order to curb First Amendment infringement,[744] later cases balanced the interests of the legislative bodies in inquiring about both protected and unprotected associations and conduct against what were perceived to be limited restraints upon the speech and association rights of witnesses, and upheld wide-ranging committee investigations.[745] Later, the Court placed the balance somewhat differently and required that the in-

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[739] 385 U.S. at 608. The statement here makes specific intent or active membership alternatives in addition to knowledge, whereas Elfbrandt v. Russell, 384 U.S. 11, 19 (1966), requires both in addition to knowledge.

[740] 389 U.S. 54 (1967). Justices Harlan, Stewart, and White dissented. Id. at 62.

[741] 403 U.S. 207 (1971).

[742] 405 U.S. 676, 683–84 (1972).

[743] *See* subtopics under "Investigations in Aid of Legislation," *supra*.

[744] *See* United States v. Rumely, 345 U.S. 41 (1953); Watkins v. United States, 354 U.S. 178, 197–98 (1957); Sweezy v. New Hampshire, 354 U.S. 234, 249–51 (1957). Concurring in the last case, Justices Frankfurter and Harlan would have ruled that the inquiry there was precluded by the First Amendment. Id. at 255.

[745] 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). Chief Justice Warren and Justices Black, Douglas, and Brennan dissented in each case.