under *Dennis*, and he could see no reason why membership that constituted a purposeful form of complicity in a group engaging in such advocacy should be a protected form of association. Of course, "[i]f there were a similar blanket prohibition of association with a group having both legal and illegal aims, there would indeed be a real danger that legitimate political expression or association would be impaired, but the membership clause . . . does not make criminal all association with an organization which has been shown to engage in illegal advocacy."[703] Only an "active" member of the Party—one who with knowledge of the proscribed advocacy intends to accomplish the aims of the organization—was to be punished, the Court said, not a "nominal, passive, inactive or purely technical" member.[704]

Disabilities Attaching to Membership in Proscribed Organizations.—The consequences of being or becoming a member of a proscribed organization can be severe. Aliens are subject to deportation for such membership.[705] Congress made it unlawful for any member of an organization required to register as a "Communist-action" or a "Communist-front" organization to apply for a passport or to use a passport.[706] A now-repealed statute required as a condi-

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[703] 367 U.S. at 229.

[704] 367 U.S. at 220. In Noto v. United States, 367 U.S. 290 (1961), the Court reversed a conviction under the membership clause because the evidence was insufficient to prove that the Party had engaged in unlawful advocacy. "[T]he mere abstract teaching of Communist theory, including the teaching of the moral propriety or even moral necessity for a resort to force and violence, is not the same as preparing a group for violent action and steeling it to such action. There must be some substantial direct or circumstantial evidence of a call to violence now or in the future which is both sufficiently strong and sufficiently pervasive to lend color to the otherwise ambiguous theoretical material regarding Communist Party teaching, and to justify the inference that such a call to violence may fairly be imputed to the Party as a whole, and not merely to some narrow segment of it." Id. at 297–98.

[705] *See* 66 Stat. 205 (1952), 8 U.S.C. § 1251(a)(6). "Innocent" membership in an organization that advocates violent overthrow of the government is apparently insufficient to save an alien from deportation. Galvan v. Press, 347 U.S. 522 (1954). Later cases, however, seem to impose a high standard of proof on the government to show a "meaningful association," as a matter of statutory interpretation. Rowoldt v. Perfetto, 355 U.S. 115 (1957); Gastelum-Quinones v. Kennedy, 374 U.S. 469 (1963).

[706] Subversive Activities Control Act of 1950, § 6, 64 Stat. 993, 50 U.S.C. § 785. The section was declared unconstitutional in Aptheker v. Secretary of State, 378 U.S. 500 (1964), as an infringement of the right to travel, a liberty protected by the Due Process Clause of the Fifth Amendment. But the Court considered the case as well in terms of its restrictions on "freedom of association," emphasizing that the statute reached membership whether it was with knowledge of the organization's illegal aims or not, whether it was active or not, and whether the member intended to further the organization's illegal aims. Id. at 507–14. *But see* Zemel v. Rusk, 381 U.S. 1, 16–17 (1965), in which the Court denied that State Department area restrictions in its passport policies violated the First Amendment, because the policy inhibited action rather than expression, a distinction the Court continued in Haig v. Agee, 453 U.S. 280, 304–10 (1981).