CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – The "Contemplation of Justice"

United States v. Robel, 389 U.S. 258 (1967)

The statute quite literally establishes guilt by association alone, without any need to establish that an individual's association poses the threat feared by the Government in proscribing it. [Footnote 13] The inhibiting effect on the exercise of First Amendment rights is clear. It has become axiomatic that "[p]recision of regulation must be the touchstone in an area so closely touching our most precious freedoms." *NAACP v. Button,* 371 U. S. 415, 371 U. S. 438 (1963); *see Aptheker v. Secretary of State,* 378 U. S. 500, 378 U. S. 512-513; *Shelton v. Tucker,* 364 U. S. 479, 364 U. S. 488 (1960). The task of writing legislation which will stay within those bounds has been committed to Congress. Our decision today

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simply recognizes that, when legitimate legislative **concerns are expressed in a statute which imposes a substantial burden on protected First Amendment activities, Congress must achieve its goal by means which have a "less drastic" impact on the continued vitality of First Amendment freedoms.** [Footnote 20] *Shelton v. Tucker, supra; cf. United States v. Brown,* 381 U. S. 437, 381 U. S. 461 (1965). The Constitution and the basic position of First Amendment rights in our democratic fabric demand nothing less. *Emphasis added*

[Footnote 20]

We have ruled only that the Constitution requires that the conflict between congressional power and individual rights be accommodated by legislation drawn more narrowly to avoid the conflict. There is, of course, nothing novel in that analysis. Such a course of adjudication was enunciated by Chief Justice Marshall when he declared:

"Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional."

M'Culloch v. Maryland, 4 Wheat. 316, 17 U. S. 421 (1819) (emphasis added). In this case, the means chosen by Congress are contrary to the "letter and spirit" of the First Amendment.