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Constitutional Law--Taft-Hartley Act--Prohibition of Political Contributions and Expenditures by Labor Unions (United States v. Congress of Industrial Organizations, 92 L. Ed. 1315 (1948))

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CONSTITUTIONAL LAW—TAFT-HARTLEY ACT—PROHIBITION OF POLITICAL CONTRIBUTIONS AND EXPENDITURES BY LABOR UNIONS. —The defendant, through its president, published an editorial in its official publication, the C.I.O. News, endorsing a candidate for a national elective office. In the editorial, it was clearly stated that the primary purpose of this endorsement was to violate a provision of the Taft-Hartley Act, whereby labor unions were brought within the prohibition, formerly applied only to corporations and federal banks, against using corporate or union funds to further the candidacy of any person seeking an elective post in the Federal Government.[1] The present action was brought before a federal district court, which dismissed the complaint on the grounds that the provision in question was unconstitutional,[2] and the complainant appealed. *Held,* the complaint should be dismissed. The alleged violation does not come within the statute. The statute refers to instances where funds, paid into the union treasury by its members for union activities, are used to further the candidacy of a person seeking office in the Federal Government. If the endorsement appears in a union newspaper, subscribed to voluntarily by the union members, and it was the latters' intent that their subscriptions should be used for the purpose of this publication, there has been no violation. Since it is a function of a newspaper to state its opinion on political issues, the court did not believe it was the intent of Congress to prohibit this constitutional right. Since the indictment failed to allege the source of funds for the publication in question, it was impossible for the court to say if there had been a violation and thus the question of constitutionality does not appear. Three justices concurred in the dismissal, but felt that the Act should be declared unconstitutional. *United States v. Congress of Industrial Organizations,* — U. S. —, 92 L. ed. 1315 (1948).

As early as 1882, the Supreme Court stated that the contribution of money as a means of political expression is subject to regulation.[3] The present statute is an amendment to the Federal Corrupt Practices Act,[4] and differs only in that it includes labor unions; and in that the expression "contributions" has been lengthened to read, "contributions and expenditures." The majority opinion in the instant case felt that the change in the phraseology was made for the purpose of clarification, while in a concurring opinion four justices felt that the additional words are expansive, and, being expansive,

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[1] 61 STAT. 159, 50 U. S. C. APP. § 1509 (Supp. 1947).

[2] United States v. Congress of Industrial Organizations, 77 F. Supp. 355 (D. D. C. 1948).

[3] *Ex parte* Curtis, 106 U. S. 371, 27 L. ed. 232 (1882).

[4] 43 STAT. 1074 (1925), 2 U. S. C. § 251 (1946). The first serious step toward regulation was taken in 1907, 34 STAT. 864 (1907); its immediate successor, 35 STAT. 1103 (1909), was upheld as constitutional in United States v. United States Brewers' Ass'n, 239 Fed. 163 (W. D. Pa. 1916). The act of 1925 is substantially the same as that of 1909.

cross the border of proper regulation into the field of free speech. While the right of free speech is not absolute, any restriction of the right must not be substantial,[5] and must be aimed at the correction of a definite evil which Congress believes to be imminent.[6] It is not for the court to say whether Congress acted wisely, but merely whether it has the power so to act.[7] Where a statute is reasonably susceptible of two interpretations, the court must adopt that construction which will save the statute from constitutional infirmity.[8] In determining the constitutionality of this statute when such issue is squarely presented, the questions to be decided will be: (1) is the new phraseology expansive, (2) does it substantially abridge freedom of speech, and (3) is it reasonable?

J. F. W.

EVIDENCE—CRIMINAL LAW—SEARCH AND SEIZURE NOT VALID WHERE SEARCH WARRANT COULD HAVE BEEN OBTAINED.—In January, 1946, agents of the Alcoholic Tax Unit of the Bureau of Internal Revenue were informed by one Kell that petitioners were seeking to lease a part of his farm with the intention of erecting a building thereon and that he suspected their purpose was to build and operate an illegal still. The federal agents instructed Kell to accept the proposition and assigned one of their men to work on the farm in the disguise of a farm hand. This agent kept the Government currently informed as to every detail of petitioners' activities during the month prior to the arrest. When federal agents approached the premises, they observed, through an open door, petitioner Antoniole apparently in the process of operating the still and immediately entered and arrested him. The agents then proceeded to seize the equipment and all other tangible evidence of the illegal distillery. The agents had neither a search warrant nor warrants of arrest. Petitioners were charged with various violations arising out of their ownership and operation of the distillery, but before being indicted made a motion to exclude and suppress the evidence secured by the agents, alleging that it had been obtained by an illegal seizure. The United States Circuit Court of Appeals for the Third District affirmed an order of the District Court of the United States for the District of New Jersey denying this motion. *Held,* reversed on the ground that since there was ample opportunity to obtain a search warrant and no need for summary seizure, the search was not jus-

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[5] Bowe v. Secretary of the Commonwealth, 320 Mass. 230, 69 N. E. 2d 115 (1946).

[6] Whitney v. California, 274 U. S. 357, 71 L. ed. 1095 (1927).

[7] United Public Workers of America v. Mitchell, 330 U. S. 75, 91 L. ed. 754 (1947).

[8] United States v. Delaware & H. Co., 213 U. S. 366, 407, 408, 53 L. ed. 836, 848, 849 (1909).