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Osman Vs. Douds

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Court : US Supreme Court

Decided On : Jun-05-1950

Appeal No. : 339 U.S. 846

Appellant : Osman

Respondent : Douds

Judgement :

Osman v. Douds - 339 U.S. 846 (1950)
U.S. Supreme Court Osman v. Douds, 339 U.S. 846 (1950)

Osman v. Douds

No. 12

Decided June 5, 1950

339 U.S. 846

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

SYLLABUS

Section 9(h) of the National Labor Relations Act, as amended, 61 Stat. 146, 29 U.S.C. 159(h), pertaining to "non-Communist" affidavits, is valid under the Federal Constitution. *American Communications Assn. v. Douds,* 339 U. S. 382 . Pp. 339 U. S. 848 -847.

Affirmed.

In a suit brought by the appellants to enjoin the appellee from enforcing the provisions of 9(h) of the National Labor Relations Act, as amended, 61 Stat. 146, 29 U.S.C. 159(h), a three-judge District Court dismissed the complaint on the merits. On direct appeal to this Court, *affirmed,* p. 339 U. S. 848 .

PER CURIAM.

This case was heretofore held for, and presents the same issues involved in, *American Communications Association v. Douds* and *United Steelworkers of America v. Labor Board,* 339 U. S. 382 (1950). In these cases, the Court upheld the constitutionality of 9(h) of the National Labor Relations Act, as amended by the Labor Management Relations Act of 1947, 61 Stat. 136, 146, 29 U.S.C.Supp. III, 141, 159(h), which provides:

"No investigation shall be made by the [National Labor Relations] Board of any question affecting

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commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, no petition under subsection (e)(1) of this section shall be entertained, and no complaint shall be issued pursuant to a charge made by a labor organization under subsection (b) of section 160 of this title, unless there is on file with the Board an affidavit executed contemporaneously or within the preceding twelve-month period by each officer of such labor organization and the officers of any national or international labor organization of which it is an affiliate or constituent unit that he is not a member of the Communist Party or affiliated with such party, and that he does not believe in,

and is not a member of or supports any organization that believes in or teaches, the overthrow of the United States Government by force or by any illegal or unconstitutional methods."

With regard to that part of the section which is concerned with membership in, or affiliation with, the Communist Party, the Court holds the requirement to be constitutional. MR. JUSTICE BLACK dissents for reasons stated in his dissent in *American Communications Association CIO v. Douds, supra.*

With regard to the constitutionality of other relevant parts of the section, the Court is equally divided. MR. JUSTICE MINTON joins in the views expressed by THE CHIEF JUSTICE, who was joined by MR. JUSTICE REED and MR. JUSTICE BURTON in the cases above cited. MR. JUSTICE BLACK, MR. JUSTICE FRANKFURTER, and MR. JUSTICE JACKSON adhere to their opinions in those cases. MR. JUSTICE DOUGLAS joins the dissenting opinions of MR. JUSTICE BLACK, MR. JUSTICE FRANKFURTER, and MR. JUSTICE JACKSON insofar as they hold unconstitutional the

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portion of the oath dealing with beliefs, and, being of the view that provisions of the oath are not separable, votes to reverse. He therefore does not find it necessary to reach the question of the constitutionality of the other part of the oath. The judgment of the District Court is therefore

Affirmed.

MR. JUSTICE CLARK took no part in the consideration or decision of this case.

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