

Schneider applied to the Commandant for a validation of a permit or license to act on board American-flag commercial vessels as a second assistant engineer. In connection with his application, he was asked to answer inquiries relating to his membership in various subversive organizations, together with the listing of names "of the political and social organizations" to which he belonged, including questions related to his membership and activities therein. He admitted membership in the Communist Party and other organizations on the Attorney General's list, but said that he had quit it and other organizations due to fundamental disagreement with Communist methods and techniques. He would not, he said, answer any other questions with respect thereto.

As a consequence the Commandant declined to process the application, relying upon the provisions of the Executive order authorizing him to hold the application in abeyance if an applicant fails or refuses to furnish the additional information sought. Schneider thereupon brought this action for declaratory relief, praying that the Commandant be directed to approve his application and that he be enjoined from interfering with Schneider's employment upon vessels flying the American flag. A three-judge court dismissed the complaint. The Supreme Court reversed.

The Court held that the Magnuson Act gave the President no *express* authority to set up a screening program for personnel on merchant vessels of the United States. Nor did the Court agree with the argument of the Solicitor General that such a power was clearly *implied* in other provisions of the act. Moreover, said the Court, even assuming *arguendo* that the act authorizes a type of screening program directed at "membership" or "sympathetic association," this would raise first amendment problems such as were presented in *Shelton v. Tucker*, 364 U.S. 479, which considered the validity of an Arkansas statute requiring a teacher, who was to be hired by a public school, to submit an affidavit "listing all organizations to which he at the time belongs and to which he has belonged during the past five years." If there is to be a congressional delegation of authority in the area of associational freedoms, said the Court, the delegation must be specific and narrowly drawn.

*Relevant provisions of H.R. 15626*

The bill expressly authorizes the President to institute a personnel screening program to secure the objectives of the Magnuson Act. To the extent the President deems applicable, he is authorized to extend and apply for such purposes the procedures, standards, provisions, and regulations authorized and provided by section 5A of the bill. With respect to the associational activities into which inquiries are made to determine eligibility and access clearance, the bill establishes specific standards and expressly provides that all inquiries shall be confined to those which are relevant or material to the determination to be made. (See subsection (d), page 5.) The bill also contains a provision regulating the jurisdiction of courts similar to that provided with respect to proceedings for access to classified information and defense facilities under section 5A.

The CHAIRMAN. Our first witness this morning is Mr. Liebling with the Department of Defense. Mr. Liebling, you, and if you have associates, your associates may proceed.

Now I will tell you what would be satisfactory, if agreeable to you. If you have a prepared statement, suppose we insert it at this point, then can you summarize it? It would be easier to follow it.

Could you do that?

Mr. LIEBLING. I would prefer to read it.

The CHAIRMAN. All right, you may read it. It is perfectly all right. And then if there are copies, we can follow.

Mr. LIEBLING. Oh, yes, we provided copies. I believe you have them. Yes, you have them, Mr. Chairman.

The CHAIRMAN. Well, for my part, I will listen to you. Go on. Proceed.