

AMENDING SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950 1395



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WASHINGTON, D. C. 20301

29 April 1968

Honorable Edwin E. Willis
Chairman
Committee on Un-American Activities
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Reference is made to your request for the views of the Department of Defense with respect to H.R. 15018, 90th Congress, a bill "To amend the Subversive Activities Control Act of 1950 to authorize the Federal Government to bar the employment in defense facilities of individuals believed disposed to commit acts of sabotage, espionage, or other subversion."

The Department of Defense is deeply concerned with the security of facilities determined to be essential to the national defense and generally supports the broad objective of H.R. 15018. Certain of its provisions, including those regarding the effect to be afforded mere membership and beliefs in Communist organizations, may raise constitutional questions and we would defer to the Department of Justice in this regard. However, the following technical comments are offered concerning Section 1 of the bill.

We welcome the additional criteria to define the term "defense facility." The criteria are essentially the same as the Department has been using administratively. In view of recent court decisions, we consider it important that these or similar criteria be adopted by the Congress.

Paragraph (2) would repeal Section 5(a)(1)(D) of the Subversive Activities Control Act. We are of the opinion that many of the individual situations are subject to being handled on a case by case basis under criminal sanctions. Therefore, the Department of Defense considers that it would be desirable to retain criminal sanctions, but under more narrowly drawn legislation in line with the guidance furnished in the Robel case.

We are in agreement with paragraph (3), which authorizes the Secretary of Defense to engage in rule-making for the designation of defense facilities.