

AMENDING SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950 1415

defense facility (lines 12-15 at page 2). H.R. 15828, on the other hand, applies only to "active members" who have "subscribed or assented to any unlawful objective of such organization" (page 8 beginning at line 13). The application to all members as is done in H.R. 15626 is of questionable legality under the Supreme Court's decision in the *Robel* case and cases like *Dombrowski*. We recommend consideration of modifying the H.R. 15626 provision along the lines of the provision in H.R. 15828.

The procedures, standards, criteria and guidelines set forth in the bill seem to take care of the points covered by the various, applicable court decisions. While some are perhaps rather broad, we do not have any informed basis for suggesting changes.

The Bureau of the Budget has advised by telephone that there is no objection to the submission of these views.

Sincerely,

JOHN W. MAHAN, *Chairman*.

STATEMENT OF DANIEL J. O'CONNOR, CHAIRMAN, NATIONAL AMERICANISM COMMISSION OF THE AMERICAN LEGION, ON H.R. 15626 (A BILL TO AMEND THE SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950 TO AUTHORIZE THE FEDERAL GOVERNMENT TO DENY EMPLOYMENT IN DEFENSE FACILITIES TO CERTAIN INDIVIDUALS, TO PROTECT CLASSIFIED INFORMATION RELEASED TO UNITED STATES INDUSTRY)

Mr. Chairman and Members of the Committee, The American Legion appreciates the opportunity to testify in support of H.R. 15626, a bill which would authorize the Federal Government to deny employment to certain subversive individuals in defense facilities of the United States. Certain provisions of the Subversive Activities Control Act of 1950 which made it unlawful for members of Communist-action organizations to engage in employment in a defense industry were nullified by the Supreme Court in *United States v. Robel*, decided December 11, 1967. The Supreme Court held that those provisions were void for "overbreadth," unconstitutionally abridging the "right of association," protected by the first amendment to the Constitution.

In order to protect the internal security of the United States, the Congress must adopt legislation which will meet the Supreme Court's objection or take the drastic position of preempting the authority of the United States Supreme Court to rule on any legislation related to the national security. Today, we recommend enactment of new law to meet the Court's fiat on overbreadth, its references to limitations on executive or legislative authority and, specifically, its invalidation of United States Coast Guard regulations on permits to merchant seamen. H.R. 15626 will accomplish these objectives.

Personnel engaged in security work find it most difficult to protect the United States because of the infiltration and subversive tactics of world communism. It is especially discouraging to law enforcement officials and others charged with preserving our internal security to see their efforts vitiated by Court decisions of this nature. Reasonable men find the burden placed on them so intolerable they are tempted to abandon the battle against subversion and simply go through the motions because their efforts are stymied repeatedly by Court decisions which have overstretched reasonable bounds in an effort to make the individual's rights the "sacred cow" of liberal interpretation at the expense of the Nation as a whole. The American Legion cannot agree with certain decisions of the Court, such as this one, which allows Communists to remain employed in defense plants. Nowhere in these decisions do we find an expression of confidence, faith, and trust in public and private officials to evaluate the evidence and make findings based thereon which are fair, equitable, and consonant with the national interest.

Mr. Chairman, who and what is a passive Communist? What man or woman joins the Communist Party for the sake of joining? Who joins the Communist Party and then states he disagrees with the aims and objectives of the Communist Party? The Court majority has proclaimed that guilt by association is an infringement of the first amendment and proceeds to protect the rights of the so-called passive Communist, the commie who joins the party, but perhaps disagrees with its aims and purposes.

Mr. Chairman, we commend you and the committee for providing specific authority for the President to institute a personnel screening program to secure the objectives of the Magnuson Act even though we believe sound reason would