

AMENDING SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950 1457

is it is imperative that the Congress of the United States or some agency of the Government take some steps that are necessary to keep these subversive elements out of our defense program.

Mr. GREEN. Yes, we concur completely, Mr. Chairman.

Mr. TUCK. I have here a letter in the nature of a memo from the agency which will be made a part of our record.

(The letter from the Office of the Secretary of Transportation follows:)

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C.

Hon. EDWIN E. WILLIS,
Chairman, Committee on Un-American Activities,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department 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, and for other purposes."

The proposed bill would amend the Subversive Activities Control Act of 1950 by changing the definition of "facility", by changing the provision relating to employment of members of Communist organizations, by changing the provisions relating to the designation of defense facilities, by adding a new section 5A to the Act relating generally to measures and procedures designed to protect and safeguard defense facilities and classified information including requirements for inquiries, investigations, proceeding and hearings to determine the fitness and qualifications for employment in or access to a defense facility or access to classified information, by changing the definition of "affiliate", and by changing the requirements for publication of final orders of the Subversive Activities Control Board.

Additionally, the bill would also amend the Act of June 15, 1917, (50 U.S.C. 191) by adding provisions to section 1 of title II of that Act which would specifically authorize a program to deny, revoke or suspend access to vessels, harbors, ports, and waterfront facilities making the procedures, standards, provisions, and regulations authorized by the proposed new section 5A apply to such program to the extent deemed applicable by the President. A new paragraph would also be added to the section dealing with jurisdiction of courts to issue restraining orders and temporary or permanent injunctions and requiring the exhaustion of administrative remedies in matters dealing with the denial, suspension, or revocation of employment on or access to vessels, harbors, ports and waterfront facilities.

With respect to the provisions contained in section 1 of H.R. 15626 dealing with defense facilities and the procedures of the proposed section 5A, the activities of this Department have not resulted in any accumulation of knowledge or expertise which would permit a meaningful comment. Accordingly, the Department would defer to the views of the Department of Defense and the Department of Justice with regard to these provisions of the bill.

The amendments proposed to be made to the Espionage Act would directly affect the activities of the Coast Guard in connection with its merchant vessel personnel screening program. On January 16, 1968, the Supreme Court held in *Schneider v. Smith*, that although the present Act authorized keeping the Merchant Marine free of saboteurs, it did not provide express authority for the personnel screening program which had been employed for some time by the Coast Guard. The Court indicated that the Act speaks only in terms of actions and not in terms of ideas, beliefs, reading habits, or social, educational, or political associations. Since this was so, a screening program involving inquiry into the latter areas was not authorized by the Act.

The amendments proposed in section 2 of H.R. 15626 appear to cure the deficiency found by the Supreme Court in *Schneider* and would furnish an adequate statutory basis for continuing the personnel screening program. The Coast Guard in the operation of the screening program in the recent past, has followed procedures paralleling those found in the proposed new section 5A of the Subversive Activities Control Act. As a result, there would be no great difficulty in accommodating the procedures of the program to those found in the proposal.