

Mr. TUCK. For instance, you could call in Gus Hall. You may not be able to prosecute him as a Communist, but you could prosecute him for refusing to answer questions; couldn't you?

Mr. YEAGLEY. Yes, we could.

Mr. WATSON. The act signed by the President early this year for you to file these petitions and prove your case before the SACB, does it not actually make it easier?

Mr. YEAGLEY. I am not so sure, but I would like to comment on this.

We have been talking to our lawyers about this and we have worked on what the immunity provision offers. Our experience has been that the person will refuse to become a witness—our experience with Communist Party members, when we have given them immunity in the past under other laws is that they have not testified.

Mr. TUCK. We have asked you a lot of questions here this morning. I know that you have a formal statement and I think the time has come probably for us to permit you to make that formal statement.

We will recognize you for that purpose.

Mr. YEAGLEY. I am here today in response to the request of the chairman for the views of the Justice Department with respect to H.R. 15626.

Generally speaking, we are in agreement with the bill's objective to provide a statutory basis for the safeguarding of classified information that must be released to industry, even though we do not suggest there is a compelling need for such legislation in view of the satisfactory operation of the present industrial personnel security program under Executive Order 10865.

In the *United States v. Robel*, 389 U.S. 258, the Court said that the Government has the power to safeguard its vital interests and that Congress has the power under narrowly drawn legislation to keep subversives from sensitive positions in defense facilities.

We do not believe, however, that the programs authorized here should be made a part of the Subversive Activities Control Act. That law is limited to the activities of the Soviet-controlled Communist movement in the United States. As the bill recognizes, in proposed section 5A(d), not all subversives are Communists, nor do they all have Communist ties or affiliations. As you well know, Peking Communists and Castro Communists do not come within the act, nor do the various Communist splinter groups still active on the American scene. And, of course, other non-Communist subversives such as anarchists do not come under the act. We believe that amendments to the Subversive Activities Control Act should be limited to the purposes originally contemplated by that act and that legislation such as this should be kept separate from it.

H.R. 15626 is drafted in terms of barring subversives from all employment in defense facilities, even if they are privately owned. The Court in *Robel* struck down legislation which imposed a criminal penalty on Communists employed in defense facilities, but that law was not specifically restricted to employees in sensitive positions.

This bill would authorize the President to deny employment in any defense facility to any person who has the opportunity, by reason of his employment in or access to such facility, to commit subversive acts such as sabotage or espionage. Since the Government is not the employer I have some reservation about an authorization which gives the