

be made only by the head of the Department based upon his personal review of the case.

I believe subsection (1) of proposed section 5A should be changed to empower the head of a Department, rather than the President, to personally make the determinations required by the subsection when, in the interests of national security, employment or access is to be summarily denied. A Department head must personally make these determinations now pursuant to section 9 of Executive Order No. 10865, and I see no reason why this procedure should be altered.

Section 2 of the bill, in amending the Magnuson Act, appears to provide the type of authorization found lacking by the Supreme Court in the case of *Schneider v. Smith* in striking down the then Merchant Seamen's screening program conducted by the Coast Guard.¹ Of course, to the extent that amended section 5A would be incorporated into this program we would reiterate our previous comments on that part of the bill.

Mr. TUCK. We thank you very much for coming here today and for your statement. You have made some very pertinent suggestions. I know our able counsel will be glad to discuss these proposals with you with a view to incorporating as many of them as may be practical.

I may say that the distinguished chairman of this committee, Representative Willis, who unfortunately could not be here with us today, is as concerned as are some other members of the committee, including myself, about the failure of the Justice Department to proceed in these cases.

We just do not understand why they have not.

Mr. Yeagley, I want the record to show that close to 4 months have already passed since the enactment of P.L. 90-237, approved by the President of the United States on January 2, 1968.

By its terms, that law imposes a positive duty upon the Attorney General to initiate proceedings before the SACB for the identification and determination of Communist organizations and members of Communist-action organizations.

In adopting P.L. 90-237, it was undoubtedly the intent and expectation of the Congress that this law would be duly—and, I might add, vigorously enforced.

It is clear from official pronouncements emanating from responsible sources, including the Department of Justice, that there is reason to believe that there are a number of organizations against which the Attorney General may proceed as required by the provisions of the act.

It also appears clear that there presently exist within the United States in excess of 10,000 members of the Moscow-controlled Communist Party—an organization which in 1961, following a decision of the United States Supreme Court, was finally determined to be a Communist-action organization.

Nevertheless, and despite the law and the evidence, not one single proceeding has been instituted by the Attorney General under the act.

While we recognize that proceedings against organizations may require some greater degree of preparation, the proceedings against individuals for determination of membership in the Communist Party

¹ "Security of Vessels and Waterfront Facilities," Mar. 1, 1967. See appendix, part 2, pp. 1739-1806.