

anti Commun.

ANALYSIS OF INTERNAL SECURITY BILL

The attached bill has been prepared to meet the internal security need of the United States as outlined by the President in his message of August 8. It recognizes the unusual threats that exist to our security from world totalitarian movements including those individuals and associations in the United States which support those movements.

This bill takes a rational approach to these problems. It recognizes that it is unnecessary to pass a new law if there is an existing statute in force which will meet a specific need. It recognizes in addition that our laws must be strengthened in those areas where there is now no law or the existing law is inadequate to meet a specific security need.

This bill, therefore, reaffirms the intent of Congress as embodied in certain existing laws and urges their vigorous enforcement. Among these are:

1. The Smith Act

Under this statute any person active in the communist movement or a member of the Communist Party can be prosecuted. The decision of the Court of Appeals, Second Circuit, has cleared the way for the successful enforcement of this Act.

2. The Nationality Act

Under this Act any person can today be denied citizenship who at any time within 10 years has advocated the revolutionary doctrines of the communist movement. It is the view of the Immigration and Naturalization Service that this law is adequate to meet our security needs.

3. The Immigration Act

Under this law any undesirable alien can today be excluded from the United States. The deportation provisions of this Act need improvement and this bill will attain that result.

4. The Foreign Agents Registration Act

Under this act any person or organization acting as an agent of a foreign government must register with the Attorney General. This law would also be broadened by this bill.

In addition to these there are the following acts which Congress would reaffirm under this bill and require a vigorous enforcement:

1. The Treason Statute
2. The Peacetime Espionage Laws
3. Law Relating to Sabotage of utilities and premises relating to the National Defense.
4. The Loyalty Program

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This bill also recognizes certain existing administrative practices including the denial of passports to communists and others in the interest of national security; the practices of the Bureau of Internal Revenue in denying exemptions from taxation to certain organizations determined by the Attorney General to be subversive and the denial of income deductions for contributors to such organizations and the prosecutions for perjury under the United States Code.

This bill then proceeds to amend existing laws in order to strengthen the internal security of the United States.

ANALYSIS OF ATTACHED BILL, AND COMPARISON WITH PRESIDENT'S MESSAGE

The President in his message stated:

"First, I recommend that the Congress remedy certain defects in the present law concerning espionage, the registration of foreign agents, and the security of national defense installations, by clarifying and making more definite certain language in the espionage laws, by providing an extended statute of limitations - for peacetime espionage, by requiring persons who have received instructions from a foreign government or political party in espionage or subversive tactics to register under the Foreign Agents' Registration Act, and by giving broader authority than now exists for the President to establish security regulations concerning the protection of military bases and other national defense installations."

These recommendations are all carried out in Sections 3 through 6 of the attached bill. An analysis of these sections follows:

In general, these sections of the bill amend our existing laws in the following respects:

(1) A person unlawfully in possession of vital information, can be prosecuted, although the Government has not made a demand upon him for the information. Under our present laws, a demand must first be made before such a person can be prosecuted for wilfully retaining such information;

(2) A person entrusted with vital information can now be prosecuted if, through gross negligence, he permits such information to be removed from its proper place of custody, or be delivered to anyone, in violation of his trust. This provision is retained but in addition, a person would also be liable for punishment under this bill if he has knowledge that such information has been illegally removed from its proper place of custody, or delivered to anyone, in violation of his trust, and fails to report promptly this fact to his superior officer;

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(3) The statute of limitations on all acts of espionage and acts of unlawful negligence endangering our security would be increased from 3 to 10 years;

(4) Persons who have knowledge of, or have received instruction in, the espionage, counter-espionage, or sabotage tactics of a foreign country, or of a foreign political party, subject to certain exceptions, would be required to register under the Foreign Agents' Registration Act. (The exceptions cover innocent knowledge.) Under existing law, a person trained by a foreign government for the purpose of espionage or sabotage is immune from prosecution, unless there is substantial evidence of overt acts violating our espionage laws. This provision would enable the Government to prosecute potential saboteurs before they commit any acts of espionage or sabotage;

(5) Penalties of \$5,000 and imprisonment for not more than 1 year are provided in cases where persons wilfully violate regulations of the Secretary of Defense designed for the security of our military facilities. Such regulations must be approved by the President. A similar law formerly in effect expired on June 30, 1947. In time of national emergency the President, under this proposed bill could extend the protection of this section to non-military facilities and property.

2. Broadening the Deportation Laws

The President in his Message stated:

"Second, I recommend that Congress enact legislation permitting the Attorney General to exercise supervision over aliens subject to deportation and to require them, under the sanction of criminal penalties, to report their whereabouts and activities at regular intervals. In a number of cases, aliens under deportation orders cannot be deported because no other country will accept them. A bill pending before the Congress would permit the Attorney General in certain cases to detain such aliens in his custody for indefinite periods of time - not pursuant to a conviction for crime but on the basis of an administrative determination. Such action would be repugnant to our traditions, and it should not be authorized. Present law, however, is inadequate to permit the proper supervision of deportable aliens, and should be strengthened as I have indicated."

Section 5 of the attached bill carried out these recommendations of the President. This section includes all the provisions of H. R. 10 as originally introduced with the exception of those objected to by the President.

BACKGROUND AND ANALYSIS

Under the Immigration Act of 1917, the Attorney General is authorized to deport aliens who have violated the Immigration Laws of the United States. Deportation proceedings under the laws may be entered against aliens (1) who have engaged in subversive activities, (2) who have committed criminal offenses, (3) who have violated the narcotics laws, (4) who have committed immoral acts, (5) or who may prove to be public charges.

FACILITATING DEPORTATIONS:

Section 20 of the Immigration Act authorizes the Attorney General to deport an alien to the country from which he embarked for the United States, to the country of which he is a subject or a citizen, or to the country of his birth. This section has been interpreted as requiring the Attorney General to attempt deportation to the countries in the order of their listing in the Immigration Act. This has resulted in considerable unnecessary delay in those cases where arrangements might be made without difficulty with the last named country.

These difficulties in the way of deporting an alien would be corrected by a section of this bill which would amend Section 20 of the Immigration Act by authorizing the Attorney General to deport an alien, to the country specified by the alien. If that country is unwilling to accept him, the Attorney General may at his discretion and without priority of order deport the alien to the country where he embarked for the United States, or to the country in which he formerly resided, or to the countries of his citizenship or birth. If he cannot be sent to any of these places, then he may be sent to any country that will accept him, which is not permissible under existing law.

DETAINING AND SUPERVISING DEPORTABLE ALIENS

The Federal Courts are divided as to the right of the Attorney General to keep an alien in custody for the full period during which deportation proceedings are pending against him.

The latest court decisions support the view that the Attorney General may detain the alien during this period.

Upon the issuance of a warrant of deportation, the Attorney General has authority to place the alien in custody for deportation. However, in practice it frequently occurs that long delays in arranging with a foreign country to accept the alien ensues. It some times has taken as long as a year or even more to make the necessary arrangements with a foreign country. The Attorney General under existing laws has no express power either to detain the alien or to supervise his activities during this long period.

After the alien has been taken into custody following the warrant of deportation, he may resort to a federal court for a writ of habeas corpus asking that he be placed at liberty during the period prior to his actual deportation. The courts in some cases have held that the Attorney General can not hold the alien in custody for a period longer than two or three months after the issuance of the warrant of deportation. Other courts have held that the alien may be retained in custody for a longer period.

In all cases the courts have decided that the due process clause of the Constitution prevents indefinite custody of the alien by the Attorney General without express statutory authority.

There may be a constitutional question as to whether such a person could be indefinitely detained even with statutory authority, (under normal conditions). It was this point which the President raised in his Message when he opposed indefinite detention.

Section 7 of this bill carries out the President's recommendations by adding the following provisions to the Immigration Act.

The Attorney General is authorized to continue in custody, or release under bond, or on conditional parole any alien against whom deportation proceedings are pending. This provision in the bill clarifies the decisions of the courts which were split on the question of the Attorney General's right to detain aliens during this period.

The Attorney General is also authorized to either detain, release on conditional parole, or under bond any alien against whom a warrant of deportation has been issued, for a period of six months thereafter. This provision will have the effect of denying the alien the privilege of asking for liberty through a writ of habeas corpus during this six months' period as he might do under the present law.

The Attorney General is also authorized to supervise the activities of aliens indefinitely while they await deportation. This supervision consists of:

1. Appearing from time to time before an officer designated by the Attorney General for identification.
2. Submitting if necessary to medical and psychiatric examination
3. Giving information under oath as to his circumstances, habits, associations and activities and conforming to reasonable written restrictions prescribed by the Attorney General.

Any alien failing to comply with these requirements will be guilty of a criminal offense and may be imprisoned or fined.

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It is believed that the Attorney General should have clear authority under his supervisory powers in the case of aliens endangering our security.

A provision has been included expressly authorizing the Attorney General to exclude certain dangerous aliens from areas vital to our national security. It is believed that this provision will considerably strengthen the supervisory power of the Attorney General and at the same time meet the President's objection to indefinite detentions.

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