HEARING RELATING TO H.R. 9753, TO AMEND SECTIONS 3(7) AND 5(b) OF THE INTERNAL SECURITY ACT OF 1950, AS AMENDED, RELATING TO EMPLOYMENT OF MEMBERS OF COMMUNIST ORGANIZATIONS IN CERTAIN DEFENSE FACILITIES

HEARING

BEFORE THE

COMMITTEE ON UN-AMERICAN ACTIVITIES

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH CONGRESS

SECOND SESSION

FEBRUARY 7, 1962

INCLUDING INDEX

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COMMITTEE ON UN-AMERICAN ACTIVITIES

UNITED STATES HOUSE OF REPRESENTATIVES

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GWENN LEWIS, *Administrative Assistant*

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PUBLIC LAW 601, 79TH CONGRESS

The legislation under which the House Committee on Un-American Activities operates is Public Law 601, 79th Congress [1946]; 60 Stat. 812, which provides:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, * * *

PART 2—RULES OF THE HOUSE OF REPRESENTATIVES

RULE X

SEC. 121. STANDING COMMITTEES

* * * * * * *

17. Committee on Un-American Activities, to consist of nine Members.

RULE XI

POWERS AND DUTIES OF COMMITTEES

* * * * * * *

(q)(1) Committee on Un-American Activities.

(A) Un-American activities.

(2) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (i) the extent, character, and objects of un-American propaganda activities in the United States, (ii) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (iii) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

For the purpose of any such investigation, the Committee on Un-American Activities, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

* * * * * * *

RULE XII

LEGISLATIVE OVERSIGHT BY STANDING COMMITTEES

SEC. 136. To assist the Congress in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, each standing committee of the Senate and the House of Representatives shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee; and, for that purpose, shall study all pertinent reports and data submitted to the Congress by the agencies in the executive branch of the Government.

RULES ADOPTED BY THE 87TH CONGRESS

House Resolution 8, January 3, 1961

* * * * * * *

RULE X

STANDING COMMITTEES

1. There shall be elected by the House, at the commencement of each Congress,

* * * * * * *

(r) Committee on Un-American Activities, to consist of nine Members.

* * * * * * *

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POWERS AND DUTIES OF COMMITTEES

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The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

For the purpose of any such investigation, the Committee on Un-American Activities, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

* * * * * * *

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▼

HEARING RELATING TO H.R. 9753, TO AMEND SECTIONS 3(7) AND 5(b) OF THE INTERNAL SECURITY ACT OF 1950, AS AMENDED, RELATING TO EMPLOYMENT OF MEMBERS OF COMMUNIST ORGANIZATIONS IN CERTAIN DEFENSE FACILITIES

WEDNESDAY, FEBRUARY 7, 1962

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON UN-AMERICAN ACTIVITIES,
Washington, D.C.

The Committee on Un-American Activities met, pursuant to call, at 10:10 a.m., in room 346, House Office Building, Washington, D.C., Hon. Francis E. Walter (chairman of the committee) presiding.

Committee members present: Representatives Francis E. Walter of Pennsylvania; Clyde Doyle of California; Gordon H. Scherer of Ohio; Donald C. Bruce of Indiana; and Henry C. Schadeberg of Wisconsin.

Staff members present: Frank S. Tavenner, Jr., director; Alfred M. Nittle, counsel; and John C. Walsh, co-counsel.

The CHAIRMAN. The committee will come to order.

Let the record show that a quorum is present for the consideration of H.R. 9753.

This is a bill to amend the Internal Security Act relating to the employment of members of Communist organizations in certain defense facilities.

(The bill H.R. 9753 follows:)

[H.R. 9753, 87th Cong., 2d sess.]

A BILL To amend sections 3(7) and 5(b) of the Internal Security Act of 1950, relating to employment of members of Communist organizations in certain defense facilities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Internal Security Act of 1950 is amended—

(1) by amending the second sentence of section 3(7) (50 U.S.C. 782(7)) to read as follows: "The term 'defense facility' means any facility designated by the Secretary of Defense pursuant to section 5(b) of this title and which is in compliance with the provisions of such subsection respecting the posting of notice of such designation."; and

(2) by amending section 5(b) (50 U.S.C. 784(b)) to read as follows:

"The Secretary of Defense is authorized and directed to designate facilities, as defined in paragraph (7) of section 3 of this title, with respect to the operation of which he finds and determines that the security of the United States requires the application of the provisions of subsection (a) of this section. The Secretary shall promptly notify the management of any facility so designated, whereupon such management shall immediately post conspicuously, and thereafter while so designated keep posted, notice of such designation in such form and in such place or places as to give notice thereof to all employees of, and to all applicants for employment in, such facility. Such posting shall be sufficient to give notice of such designation to any person subject thereto or affected thereby. Upon the request of the Secretary, the management of any facility so designated shall

require each employee of the facility, or any part thereof, to sign a statement that he knows that the facility has, for the purposes of this Act, been designated by the Secretary under this subsection."

The CHAIRMAN. Mr. Tavenner, your witness?

Mr. TAVENNER. Yes; we have asked Mr. Bartimo to be the first witness.

STATEMENT OF FRANK A. BARTIMO, ASSISTANT GENERAL COUNSEL (MANPOWER), DEPARTMENT OF DEFENSE, ACCOMPANIED BY KEVIN T. MARONEY, CHIEF, APPEALS AND RESEARCH SECTION, INTERNAL SECURITY DIVISION, DEPARTMENT OF JUSTICE, AND MAJ. BRUCE F. MEYERS, ASSISTANT TO THE SECRETARY OF DEFENSE

The CHAIRMAN. Mr. Bartimo, will you state your full name for the record, please?

Mr. BARTIMO. Thank you, Mr. Chairman, and members of the committee. My name is Frank A. Bartimo. I am the Assistant General Counsel of Defense for Manpower.

Mr. WALSH. Mr. Bartimo, before you continue, may I state for the record certain background information necessary to have before us in considering your views.

Mr. Maroney, would you also state your full name.

Mr. MARONEY. Kevin T. Maroney, Chief of the Appeals and Research Section, Internal Security Division, Department of Justice.

Mr. WALSH. I will call you later on, sir.

H.R. 9753 is an amendment to sections 3(7) and 5(b) of the Internal Security Act of 1950, relating to employment of members of Communist organizations in certain defense facilities. This committee included among the provisions of the Internal Security Act of 1950 the principal provisions of the Wood bill which relates to employment of members of Communist organizations in defense facilities. This appears as section 5 of the Internal Security Act of 1950; the pertinent portion of section 5(a) is as follows:

When a Communist organization, as defined in paragraph (5) of section 3 of this title, is registered or there is in effect a final order of the Board requiring such organization to register, it shall be unlawful—

(1) For any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final—

and I skip now to (C)—

(C) in seeking, accepting, or holding employment in any defense facility, to conceal or fail to disclose the fact that he is a member of such organization; or

(D) if such organization is a Communist-action organization, to engage in any employment in any defense facility.

Now the definitions of "facility" and "defense facility" appear in section 3, subsection 7 of the act, and it states as follows:

(7) The term "facility" means any plant, factory or other manufacturing, producing or service establishment, airport, airport facility, vessel, pier, water-front facility, mine, railroad, public utility, laboratory, station, or other establishment or facility, or any part, division, or department of any of the foregoing. The

term "defense facility" means any facility designated and proclaimed by the Secretary of Defense pursuant to section 5(b) of this title and included on the list published and currently in effect under such subsection, and which is in compliance with the provisions of such subsection respecting the posting of notice of such designation.

Subsection (b) of section 5 provides that—

> The Secretary of Defense is authorized and directed to designate and proclaim, and from time to time revise, a list of facilities, as defined in paragraph (7) of section 3 of this title, with respect to the operation of which he finds and determines that the security of the United States requires the application of the provisions of subsection (a) of this section. The Secretary shall cause such list as designated and proclaimed, or any revision thereof, to be promptly published in the Federal Register, and shall promptly notify the management of any facility so listed; whereupon such management shall immediately post conspicuously, and thereafter while so listed keep posted, notice of such designation in such form and in such place or places as to give reasonable notice thereof to all employees of, and to all applicants for employment in, such facility.

The CHAIRMAN. Mr. Bartimo, make your statement, please.

Mr. BARTIMO. It is a privilege for me, Mr. Chairman and members of the committee, to appear before you this morning, and to present the views of the Department of Defense with respect to H.R. 9753.

The Department of Defense strongly endorses the enactment of this bill, which amends sections 3(7) and 5(b) of the Internal Security Act of 1950.

H.R. 9753 would eliminate the requirement that the list of defense facilities so designated by the Secretary of Defense be published in the Federal Register. This list is made up of facilities which are so essential to the interests of national security as to require the exclusion of members of Communist organizations required to register under the act. The requirement that the management of each facility designated by the Secretary of Defense as a "defense facility" be notified in writing and required to post notice of such designation would be retained. Further, this bill requires management, if requested by the Secretary of Defense, to obtain a signed statement from each of his employees certifying that he knows that the facility has, for purposes of the act, been designated by the Secretary of Defense.

Under the present provisions of the Internal Security Act it is understood that the Secretary of Defense may exercise broad discretion in selecting industrial facilities to be designated as "defense facilities." It is also understood that a member of a Communist organization cannot be charged with unlawful conduct under section 5(a) of the act, unless the Secretary of Defense includes the facility, where he seeks, accepts, or holds employment, in a list designated, proclaimed, and published in the Federal Register.

A tentative list of facilities, deemed so vital as to require the application of the provision of the act barring members of Communist organizations has been prepared and includes facilities engaged in the following:

(1) Top-secret projects——

The CHAIRMAN. May I interrupt at that point?

Mr. BARTIMO. Yes, sir.

The CHAIRMAN. Does that have a technical meaning, "top-secret projects"? Is that defined as a particular type of project?

Mr. BARTIMO. Mr. Chairman, I believe that in response to your question I might state that by a "top-secret project" we mean a project which because of its security aspects has been classified with a

top-secret stamp, under the classification system promulgated in the executive branch, which as you know runs from top secret, secret, and confidential.

The CHAIRMAN. Yes. That is an answer, but what I wanted the record to show was that "top secret" has a very technical meaning, sir. They are words of art.

Mr. BARTIMO. Yes, sir, Mr. Chairman.

The CHAIRMAN. All right.

Mr. BARTIMO (continuing). (2) Production of the most essential weapons systems and most critical military end items and components; (3) production of essential common components, intermediates, and basic and raw materials; and (4) important utility and service facilities and other industrial and research installations whose operations and contributions to the national defense effort are of utmost importance.

Facilities and installations of interest to the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, and certain other departments and agencies are also included in this list.

Enactment of H.R. 9753 will eliminate the requirement that a consolidated, unclassified list of defense facilities, such as those described above, be published. Such publication as is now required by the Internal Security Act of 1950 would in the opinion of the military intelligence experts materially aid the intelligence efforts of any foreign government hostile to the United States. Publication would—

(1) Aid in planning intelligence penetration and hostile espionage;

(2) Provide a target list for potential sabotage operations and for target intelligence purposes; and

(3) Confirm and establish the accuracy of existing intelligence documentation.

For these reasons, Mr. Chairman, the publication of a consolidated master list of our strategic and vital facilities is not deemed to be in the national interest.

It is important to note that section 5, as amended by this bill, contains provisions which will assure that the persons subject to this act will know what conduct on their part renders them liable to penalties. Each facility designated by the Secretary of Defense would be required to display prominently notice of such designation. In appropriate instances, the Secretary of Defense may require that each employee of a facility be personally notified that continued employment by members of Communist organizations is unlawful.

I urge strongly that the committee report favorably on H.R. 9753.

And I might add a footnote to that, Mr. Chairman; on behalf of the Department of Defense, I want, in all humility, to congratulate your committee for the expeditious action which you have taken to bring this bill to a hearing.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Well, you take my breath. This is something I am entirely unaccustomed to, and I find myself in much the position that a friend of mine who owned a string of racehorses found himself. This man had a restaurant, and back during the days of limited availability of steaks, I was impressed one night and I remarked on the excellence of his steak, and he said "Well, that is the first nice thing anybody has ever said about my horses."

Well, this is a difficult problem, and we are all very happy that you could see what we were trying to do, and cooperate. This is a strange experience, because we find other agencies are a little bit slow in taking the action that is so important to be taken if we are going to protect our security.

Mr. SCHERER. You wouldn't be referring to the State Department, would you?

The CHAIRMAN. Well, yes, I would be referring to the State Department.

You may proceed now, Mr. Walsh.

Mr. WALSH. Now Mr. Maroney, you are from the Department of Justice?

Mr. MARONEY. Yes, sir.

Mr. WALSH. And have you a statement which you wish to read for the record, sir?

The CHAIRMAN. Wait a minute. Have you any questions for Mr. Bartimo?

Mr. WALSH. I thought the two statements would be read, and then we will ask the questions of the two of them together.

The CHAIRMAN. All right. Is that satisfactory with the committee?

Mr. SCHERER. Do you have a copy of the next witness' statement, or doesn't he have a statement?

Mr. MARONEY. I have no prepared statement.

However, as stated in the report of the Department on this bill to the committee, in the letter dated February 2, 1962, the Department of Justice wholeheartedly endorses this bill, and urges its immediate consideration and enactment.

For the reasons enumerated by Mr. Bartimo in his statement, the present requirement of section 5(b) that a list of defense facilities be published in the Federal Register creates a situation dangerous to the national defense, and jeopardizes the national security, since that list could be used as a guidebook for sabotage and for the selection of military targets by any potential enemy.

It is obvious, therefore, in our view, that it is inadvisable to require publication of such a list in the Federal Register. Since this bill would eliminate the requirement of publication of a list, and still would retain the present essential requirements and purposes of section 5 of the Internal Security Act of 1950, the Department of Justice favors this amendment to the Internal Security Act.

Specifically with respect to the last sentence of H.R. 9753, which would require the management of any defense facility so designated by the Secretary to require from his employees written acknowledgment of his awareness that the facility has been designated as a defense facility, the Department of Justice also favors that specific requirement, since it would facilitate proof in a given case to show actual notice rather than implied notice.

In view of the fact that there may be certain situations where the proof of implied notice from the posting would create doubt as to whether or not the employee did in fact have notice, this additional provision would give the Defense Department the opportunity to insure that actual notice was brought home to each employee affected by the provisions of this bill.

Mr. WALSH. And do both of you gentlemen agree that this provision where notice, actual notice, will be brought home to each em-

ployee strengthens the bill, and also would be conducive to more successful prosecution?

Mr. MARONEY. That is our view; yes, sir.

Mr. BARTIMO. I would like to make a comment on that. I think it might be important for the legislative history.

The committee in its wisdom has provided in law what is termed in the art "constructive notice" by the sentence which reads "Such posting shall be sufficient to give notice of such designation to any person subject thereto or affected thereby."

With respect to the sentence which immediately follows that, which reads "Upon the request of the Secretary, the management of any facility so designated shall require each employee of the facility or any part thereof to sign a statement that he knows that the facility has, for the purposes of this act, been designated by the Secretary under this subsection," I think that Mr. Maroney has made a very significant statement so far as possible prosecution under this section is concerned.

I believe the fact that a posting, together with your statement that this constitutes sufficient notice, would be given great weight by a court. However, as Mr. Maroney pointed out, in cases where there is some doubt—and I am thinking of this type of an example: In a utility plant, where linesmen are on the road for months, and do not get back to the main plant—in that type of case, the Secretary may feel, to implement the intent of this committee and the Congress, should this bill become law, that he would require a personal certificate of these individuals. But what I want to pin home is—and I am sure the committee feels this way—that it would be a burden to get everyone employed to sign a personal notice. It would be expensive and burdensome on the part of the entrepreneur, and in my judgment is not necessary in all cases. But there will be cases, out of an abundance of great caution, where we should adhere to the procedure which you prescribe in the last sentence of the bill.

The CHAIRMAN. When you mention the utility company, you are thinking of the list of facilities, "important utilities and service facilities." Do you think "important utilities" is broad enough to cover any type of a public utility?

Mr. BARTIMO. I do, Mr. Chairman, and I was using that merely as an example.

The CHAIRMAN. Yes, I understand, but I am just wondering whether when you say "important utility" if you don't leave the door open in a trial to the question of whether or not this is actually an "important utility," and that becomes a question of fact, to go to the jury. I was just wondering if "utility" wouldn't be better.

Mr. BARTIMO. I believe, Mr. Chairman, that it is safe to say that if the Secretary of Defense, under the authority given him by the Congress, designates a utility or a group of utilities——

The CHAIRMAN. As "important."

Mr. BARTIMO. I would believe that that would be prima facie evidence that the Secretary is fulfilling his function under the law, which you have required him to implement.

I would ask Mr. Maroney if he had any comment on that from the Department of Justice point of view.

Mr. WALSH. That utility, of course, would have a vital contract from one agency, have top secret or some other work that they are doing which is vital to the internal security of this country.

Mr. BARTIMO. I believe that it is not necessary, under the definitions of this particular bill, that a prerequisite would be a contract from the Department of Defense or any other Government agency. I believe the thrust of this bill is as follows: Where the Secretary of Defense in his judgment feels that a particular utility or a particular manufacturing plant, even though they do not have a contact, is of such vital necessity to our national security, he could designate that installation as a defense facility.

That is my interpretation of the bill.

The CHAIRMAN. Well, it gives him very wide discretionary powers, but I would hope that this language was sufficiently strong so that there could be no attack on his conclusion, unless, of course, it was capricious and arbitrary.

Mr. BARTIMO. I would agree, Mr. Chairman, with your statement.

Mr. WALSH. I think that is covered in the bill at line 16 of page 2:

> Upon the request of the Secretary, the management of any facility so designated shall require each employee of the facility or any part thereof to sign a statement that he knows that the facility has, for the purposes of this Act, been designated by the Secretary under this subsection.

Therefore, any utility or any other defense facility which has a contract could, under certain circumstances in the discretion of the Secretary, be notified to have each employee sign that this is a defense facility.

Mr. SCHERER. Counsel, the witness has just said that the facility would not necessarily have to have a defense contract.

The CHAIRMAN. As long as it was vital.

Mr. BARTIMO. I believe, Mr. Chairman, to be sure that our legislative history is clear, that we should emphasize Mr. Scherer's point, and that is, that in my judgment—and I believe the Department of Justice concurs—it is not necessary that the Department of Defense or any other Government agency have a contract with a particular facility for the Secretary of Defense to properly implement the spirit and intent of this statute.

As we all know, the defense of our country involves many individuals and plants and facilities. A power station might be of great significance, in spite of the fact that that power station doesn't have a direct contract with the Government. It might be so vital, however, in the manufacturing and the supplying of power to facilities having a defense contract that the Secretary of Defense might feel it necessary, in order to implement the spirit of this statute, to declare that power station a defense facility.

Mr. SCHERER. Even if it were not furnishing power to a defense facility, a utility which might merely furnish the ordinary power to a municipality, in time of internal upheaval, could be so designated under this bill.

Mr. BARTIMO. I agree, Mr. Scherer.

Mr. SCHERER. I remember some years ago, when I was with city government, Army Intelligence told us that a few men, properly placed in the utilities and communications, could disrupt the operation of a municipality in a few minutes.

Mr. WALSH. Have you anything further to say, Mr. Bartimo?

Mr. BARTIMO. No, sir; if you have more questions, I would be delighted to attempt to answer them.

Mr. WALSH. Mr. Maroney, have you anything further to say?

Mr. MARONEY. No, sir; nothing else unless there are some questions.

The CHAIRMAN. I would like to direct your attention to the language on page 2, line 10, concerning the notice.

It provides that it be posted conspicuously, and "thereafter, while so designated, keep posted, notice of such designation"; by adding the language on line 10 and line 11, from the comma on line 10 to the comma in line 11, isn't there a proposed duty which can't possibly be complied with? And failure to prove that the notice was posted continuously might leave the avenue open to get away from the provisions of this act.

Mr. SCHERER. I think the chairman has something there. I just agree with him.

The CHAIRMAN. After the notice is posted, it may be destroyed, or the elements destroy it, or in some manner it may come down——

Mr. SCHERER. Or somebody removes it purposely.

The CHAIRMAN. Purposely, that is right. Don't you think that mere proof it was posted would be enough? Should we impose a greater duty than that?

Mr. MARONEY. You mean, Mr. Chairman——

The CHAIRMAN. The man posts the notice, and then don't you think that should be the end of the responsibilities, so far as the management is concerned?

Mr. MARONEY. I would interpret this requirement that he insure that the notice be continuously posted. That is, that if it were destroyed by the elements so that it was unreadable, for example, that he would have to replace it, so that someone coming upon it at that point would be able to——

Mr. SCHERER. Yes, but what the chairman points out, and I think properly so, is that it would be most difficult to prove in a prosecution of an individual who was a Communist, and stayed at the plant, to prove that the notice was posted continuously. That is what this means; doesn't it?

Mr. MARONEY. Yes, sir.

Mr. SCHERER. Suppose it was down for just 1 day? This makes it more difficult for the Attorney General to prosecute under this section.

Mr. MARONEY. I would think that if you had a small or a very short lapse of time between taking down an old, worn poster and putting up a new one, unless the individual could only be shown at the plant at that particular time, when there was a hiatus between the posting, there wouldn't be any materiality as far as he is concerned in proving notice to him. The question would be, as far as he is concerned, whether or not he received implied, whether he received actual notice, which can be implied from the posting.

The CHAIRMAN. That would be true if this language were not here, because if you look at line 14, "Such posting shall be sufficient to give notice," there it applies to the posting, not any duty to preserve the condition of the notice, so I think that this weakens the bill. It is language I think ought to be omitted.

Mr. SCHERER. I think it would make it almost impossible to prove.

The CHAIRMAN. Very difficult.

Mr. SCHERER. Who would you get to testify that the notice was kept posted at all times?

Mr. TAVENNER. Doesn't it establish an additional element of proof as a basis for prosecution?

The CHAIRMAN. That is right. It just adds one more element.

Mr. DOYLE. Mr. Chairman.

The CHAIRMAN. Mr. Doyle.

Mr. DOYLE. May I bring this point? I think it is of equal importance, line 10, to provide that it be posted conspicuously. Now I think that is very important.

I know in the Industrial Accident Commission cases in California, sometimes in the early days, notices were posted way off in a corner someplace, where normally the employees would not be walking by or see.

I think that that word there requires a definite place where the notice should be posted. In other words, conspicuously. I think that means, as near as I read it, the intention is to make sure that the employees see it; therefore, it must be posted in a conspicuous place so far as all the employees are concerned.

The CHAIRMAN. I think if my distinguished friend would look at the words and phrases that are here in our library, you will find that there are a number of decisions construing what is a conspicuous notice posted, and I think that it is a word of art that is very easily understood, but this is a good point, and I think the report ought to show that it is our intention that this notice be posted in a place customarily frequented by all of the employees.

Mr. DOYLE. Yes, sir.

The CHAIRMAN. I think the record should show that.

Mr. SCHERER. Mr. Chairman, if it is in order, then I move we strike from lines 10 and 11, page 2, the words "and thereafter while so designated keep posted."

The CHAIRMAN. Any questions on the motion? Any objection?

Hearing none, the ayes have it. The amendment is agreed to.

Mr. TAVENNER. Mr. Bartimo may have had something else he wanted to say.

Mr. BARTIMO. Mr. Chairman, if I may comment on what I believe is a very important observation on your part, as we all know, a criminal statute is strictly construed, and we certainly want to build a legislative history here which will help a court if there is any doubt.

I don't see any harm in deleting the phrase, but I think the legislative history ought to show, Mr. Chairman, that the intent of the Congress and in spite of the deletion of that language was to post a notice conspicuously and to continue that notice there. That if a notice inadvertently or through the elements was eradicated for a short interval of time, this should not frustrate the spirit and the intent of the statute.

I think what we can do, Mr. Chairman, to help, if we delete the phrase, as has been indicated, we will urge the plants designated by the Secretary of Defense to continue to keep these notices up, in prominent places, where people frequent and have an opportunity to see them, until such time as the Secretary of Defense takes that plant off the list. We will do this as an administrative device, to be sure that people have sufficient notice.

Mr. SCHERER. I think the language of the next two lines by inference or implication indicates that the notice should be posted continuously, and which reads now as amended:

whereupon such management shall immediately post conspicuously notice of such designation in such form and in such place or places as to give notice thereof to all employees of * * *.

Now that to me would mean that is is a continuous notice.

The CHAIRMAN. That is why I was disturbed by the other language. What Mr. Scherer just read I think, corrects the problem.

Mr. WALSH. I think your next phrase, "and to all applicants for employment," connotes a continuous display of the notice, because as the applicants come in, the notice must be there.

The CHAIRMAN. Are there further questions?

Mr. TAVENNER. No, sir.

The CHAIRMAN. Gentlemen, we appreciate your cooperation very much, and we will try to get this on the calendar. Is there a motion to report the bill?

Mr. SCHERER. I move that the bill be reported.

Mr. DOYLE. Second.

Mr. SCHERER. And that the chairman be authorized to take such necessary steps as to bring it before the House.

The CHAIRMAN. It has been properly moved, and seconded by Mr. Doyle, and that course will be pursued.

Off the record.

(Discussion off the record.)

The CHAIRMAN. Thank you, gentlemen.

(Whereupon, at 10:45 a.m., Wednesday, February 7, 1962, the committee was adjourned, subject to call of the Chair.)

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