

F. A. S. NEWSLETTER

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JULY 11, 1958

HIGH COURT GRANTS DAYTON PASSPORT

The Supreme Court on June 16th, by a 5-4 decision, overturned State Department regulations denying passports to Communists and others of allegedly doubtful loyalty. Weldon Bruce Dayton, a cosmic-ray physicist, was one of the three individuals involved in the cases; the others being artist Rockwell Kent, and psychiatrist Walter Briehl. FAS gave legal and financial assistance to Dr. Dayton -- and according to the Passport Committee a total of 540 replies were received and \$4300 was raised in answer to the recent FAS request for aid in appealing to the High Court. Along with the American Jewish Congress, the FAS filed an *amicus curiae* brief. Dayton, who wanted a passport to take a job at the Tata Institute of Physics, Bombay, India, was accused of association with Communist espionage agents. He denied the charge under oath, but Sec. Dulles refused him a passport on the basis of confidential information.

NO AUTHORITY The Court held that Congress had not authorized the Secretary of State to withhold passports because of the "beliefs and associations" of the applicants. However it did not treat the Constitutional question of the power of Congress to do so. In effect, the Court told Congress that it would have to be much clearer and more specific if it intended to deny passports on the basis of associations.

Justice William O. Douglas, writing for the majority, said existing statutes authorized the Sec. of State to deny passports on only two broad grounds: that the applicant was not a citizen, or that he was "engaging in conduct which would violate the laws of the United States." It rested strongly on the finding that freedom to travel is an important aspect of a citizen's liberty, as guaranteed by the 5th Amendment.

Justice Tom C. Clark, writing for the four dissenters, said Congress had given the State Dept. ample authority to operate under its regulations. He said the decision was a "blow" against the national security, and urged Congress to act quickly.

Immediately following the release of the decision, the FAS Passport Committee issued a statement announcing that it was "extremely gratified" by the decision, and pointing out that the new ruling goes "a long way towards securing the fundamental human right" of the freedom of a citizen to travel. The Passport Committee urged Congress to clarify the passport situation when considering pending legislation on this subject, and to frame any new statute with regard for the principle that the "right to travel is guaranteed by the US Constitution."

NEW RESTRICTIONS? In an effort to nullify the High Court ruling, President Eisenhower on July 7 requested Congress to grant the Sec. of State power to deny passports on grounds of Communist sympathies. The President said "it is essential that the Govt. have power to deny passports where their possession would seriously impair the conduct of the foreign relations of the US or would be inimical to the security of the US." The next day the Administration proposed a passport law which Sen. Green (D, R.I.) and Rep. Keating (R, N.Y.) promptly introduced in Congress. Green, chairman of the Senate Foreign Relations Committee, said his action does not necessarily mean he supports the bill. Heart of the bill would give the Sec. of State authorization to consider: "whether the applicant . . . a member or former member of the Communist party, knowingly engages

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PRESIDENT SIGNS NUCLEAR SHARING BILL

A bill allowing the US to share nuclear weapons information with its allies was signed by the President July 3. Under terms of the law, the pact becomes effective automatically at the end of 30 days, unless vetoed or altered by Congress. The Administration's proposals in this field were first submitted to Congress last January by AEChairman Strauss and were developed as a result of the call for increased sharing of nuclear information by Pres. Eisenhower and Prime Minister MacMillan during their October '57 meeting.

The bill as finally passed is more restrictive than the originally proposed legislation. The FAS Executive Committee had expressed concern that the original bill would "jeopardize our long-range goal of true security" by potentially permitting "distribution of nuclear weapons to an increasing number of countries." The statement (June 23) pointed out that "the greater the number of nations coming into possession of atomic weapons the more precarious becomes the stalemate." FAS went on, however, to except the sharing of nuclear weapons information with the British as falling into a special category and regarded this limited objective as a reasonable one. Senator Anderson (D.N.M.), who shared these misgivings, introduced the FAS statement into the *Congressional Record* on the day which saw his safeguard amendments introduced. These amendments were subsequently accepted.

"SUBSTANTIAL PROGRESS" Key phrase in the bill as passed (S. 3912) were the two words "substantial progress." Transfer of non-nuclear weapons parts, or nuclear materials can only be shared with allies who have "made substantial progress in the development of atomic weapons." Debate on the Senate floor led to some clarification of intent, namely that only Great Britain would qualify at present. But it was objected that, in the future, decision on this matter might be loosely made without better definition. A second safeguard, one which insured the votes of a number of legislators otherwise opposed to the bill, is a provision that before any transfers of materials can be undertaken the Congress must be allowed 60 days to consider the supposed agreement. By a joint resolution the Congress could veto implementation of transfers under the Act. Senator Anderson's amendments extended the "substantial progress" condition to non-nuclear parts of atomic weapons to eliminate the passing around of what he called the "do-it-yourself" atomic bomb kit. The bill will also permit transfer of data and nuclear fuel for atomic submarines.

SAFE ENOUGH? The bill as finally passed can hardly be tagged a nuclear weapons "give-away". The wording limits its application at the moment at least to Great Britain, and by interpretation this may be as far as things can go for some time. The Congressional veto provision, in a sense, gives all the members a second chance to vote "no" if they so choose. On the positive side it seems that all would agree that greater sharing with Great Britain is desirable, although there were some misgivings in Congress about the effectiveness of Great Britain's security procedures. On the negative side the law opens the door at least a crack toward wholesale arming of our allies, large and small, with nuclear weapons.

HOUSE-SENATE DIFFER ON SPACE AGENCY

The House and the Senate have expressed differing views about the organization of a National Aeronautics and Space Agency, in separate bills that each passed last month. The differences between the bills center on two significant matters: 1. the methods by which the policies and program of the organization are to be determined and 2. the manner in which military space projects are to be coordinated with civilian efforts. The House bill very closely parallels the bill originally submitted by the President last April, whereas that of the Senate introduces some major changes.

Although worded somewhat differently, both bills agree that "activities in space should be devoted to peaceful purposes for the benefit of all mankind" and list among the objectives of such activities: 1. "the expansion of human knowledge of phenomena in the atmosphere and space" 2. the improvement of aircraft and the development of space vehicles 3. long range studies of the potential benefits of space flight and 4. cooperation with other nations in the peaceful aspects of space research. Both bills provide that NASA will supplant the presently existing National Advisory Committee on Aeronautics and extend the range of activities of that organization to include the problems associated with the exploration of space.

17-MEMBER GROUP

Policy-making powers for NASA are vested by the House bill in the agency's director, who will be appointed by the President with the approval of the Senate. However, he is required to consult with a 17-member Aeronautics and Space Advisory Committee which must meet at least four times a year to advise the President and the Director on policies and programs of the Agency. Nine of the members of the committee are to be from government, including three from the Defense Dept., while the rest are to be selected on the basis of records of distinguished achievement. Military space research is to be coordinated by NASA through a Military Liaison Committee through which projects of specific military interest will be delegated to the Defense agencies and through which the military may make its interests in space development projects known. A similar liaison committee is established with the AEC.

SENATE VERSION

The Senate version of the bill vests policy making powers in a National Aeronautics and Space Policy Board composed of the Secretaries of State and Defense, the Director of NASA, the Chairman of the AEC and three other representatives from governmental agencies that may have an interest in aeronautical and space activities. Of the latter three, only one may be from the Dept. of Defense. Under this bill, NASA will not be the sole governmental agency conducting space research and one of the duties of the Space Policy Board will be to designate which agencies will conduct what projects. The division between civilian and military projects will take place at this level and the bill provides that the Sec. of Defense may appeal any decision that he believes will "adversely affect the national security" directly to the President.

DAYTON GETS PASSPORT (Cont. from page 1).

or has engaged within 10 years prior to filing the passport application in activities in furtherance of the international Communist movement." The person to whom a passport has been refused would bear the burden of proof that he was entitled to it. The New York Times stated editorially (July 9) that "the terms of the bill would permit . . . a restoration of what we have repeatedly denounced as the "political means test" that the State Dept. has insisted on applying to Americans desiring to travel abroad." The Washington Post (July 10) said "the bill provides no protection, moreover, against arbitrary or capricious decisions by State Department officials" and "it would countenance the odious practice of denying passports on the basis of whispered accusations by faceless informers."

WALTER BILL

Further legislation to overcome the Court's decision has already been introduced by Sen. James Eastland (D, Miss.) and by Rep. Francis Walter (D, Pa.). The Walter bill would give the Sec. of State broad discretion to deny passports to alleged Communist sympathizers and persons whose travel would "be prejudicial to the interests of the US." The Secretary could base his decision on confidential information.

McCONE SUCCEEDS STRAUSS AS AEC HEAD

Lewis L. Strauss withdrew from the AEC on June 30, the termination date of his five-year appointment. His proposed successor is Los Angeles industrialist John A. McCone, whose nomination was endorsed by the Senate July 9. Willard F. Libby was named acting chairman of the commission until McCone takes over.

Little is known of McCone's views on current issues of nuclear policy. He has been in public service before, having served as deputy to Defense Secretary James A. Forrestal in 1948 and as Under Secretary of the Air Force under Thomas K. Finletter in 1950 and 1951. While in the latter position he is reported by the Washington Post to have "displayed unusual foresight and grasp of the challenge facing the country in missile development."

FAVORABLE COMMENTS Most comments on the proposed appointment of McCone have been favorable. A Washington Post editorial (June 7) declares he "has qualities that should benefit the commission . . . We applaud the President on this choice." Rep. Chet Holifield (D, Calif.), noted that "Mr. McCone has a pretty impressive background."

In a farewell news conference (N.Y. Times June 30), Mr. Strauss said that he had not changed his mind about his vote to withdraw security clearance from J. Robert Oppenheimer and also defended his support of the Dixon-Yates contract. On the question of cessation of weapons testing he continued to insist that halting nuclear tests would be to the disadvantage of the US. However he was optimistic about the prospects of the East-West talks on nuclear explosion currently being held in Geneva. Strauss will remain active as Special Advisor to the President.

LAST FT. MONMOUTH WORKERS RETURN

The ruling by the US Court of Appeals on June 19, which entitled six Ft. Monmouth employees to return to their jobs, brought to a close another chapter of the McCarthy era. The six were fired after the late Senator's sensational investigation in 1953. All of the 33 persons fired have thus been reinstated, 25 by the Army itself, two after they had filed suit, and now the last six by order of a panel of three judges. Since the case was decided on procedural grounds, a ruling on the Constitutionality of the Government's security program was not involved. Army regulations require that an employee adjudged a security risk be presented with the findings of the hearing board in order that it may be used in preparing an appeal. The judges found that the Army had not complied with this regulation by denying the employees access to such information.

MISSILE DAMAGE

While the ruling represents no new departure from the prior Supreme Court decisions on the Peters and Service cases, it nevertheless serves to strengthen the protection afforded individuals against such political attacks as McCarthy's. Comments the Washington Post (June 21), "there is no way to measure the damage done by McCarthy . . . not only to the hapless individuals involved but to the national security as well," since the "Signal Corps was engaged in important aspects of missile research at Fort Monmouth, and a number of the suspended employees were top experts in the research program."

COURT CURBS

Meanwhile, the courts in attempting to protect the rights and freedoms of the individual under the Constitution, have stirred up a hornets' nest in Congress. The final report of the Senate Internal Security Subcommittee is composed of a strong indictment of the Supreme Court's rulings on loyalty-security during 1957. The cases cited in the report were the Watkins ruling, which left to the courts decisions on the "pertinency" of questions asked by Congressional committees; the ruling in the Yates case, which stated that abstract teaching of violent overthrow of the Government did not violate the Smith Act; the decision setting aside the conviction of Steve Nelson by the State of Penna. on the grounds that the Federal Govt. has sole jurisdiction in subversion cases; and the ruling that past Communist Party membership is not enough to exclude a lawyer from admission to the bar.

(Continued on Page 3, end of Column 1)

GENEVA A-BAN TALKS CONTINUE

A significant step forward in banning atomic weapons tests began with the opening of talks in Geneva between scientists of the East and West on the feasibility of an inspection system for detecting nuclear explosions. The conference convened as scheduled on July 1, with the Western delegation headed by James B. Fisk (Exec. Vice-Pres. of Bell Telephone Laboratories) and the Communist delegation chaired by Dr. Yevgeni K. Fedorov. (Eleventh hour maneuvering by the Soviet Union left some doubt that its delegation would attend, but the Western Powers had planned to hold discussions even in their absence.)

After the chief Soviet delegate had dispelled fears that his government would insist on a pre-arranged test ban agreement as a condition to Soviet participation in the conference, the delegates sat down to business and rapidly disposed of a number of procedural matters. By July 4, the agenda was drawn up and agreed upon and technical talks began. The main task of the experts--from the US, Canada, Britain, France, the USSR, Czechoslovakia, Poland and Roumania---is to "study possible detections of a possible agreement to end nuclear tests."

"VERY FINE" Although the delegates to the conference pledged themselves to strict secrecy concerning the progress of the talks, several have made very optimistic general comments. Dr. Hans Bethe, ex-Vice Chairman of FAS, who is now one of the chief scientific advisors to the Western delegation, said that he had learned new information with both sides presenting "very profound papers which get right into the middle of the problem."

Thus far, discussions have centered around evidences of atomic explosions detonated above or near the earth's surface. This is generally conceded to be one of the less thorny problems to be discussed.

The opening statement of Dr. Fedorov essentially speaks the basic theme of the conference: attempts at solution of scientific problems divorced from efforts to solve political problems. Said Fedorov, "certainly we are not supposed to take up the solution of test cessation ... that is to be solved by governments."

FAS STATEMENT The Executive Committee of FAS, in a statement released June 26, urged, "the US Government to express its hope that the technical discussions will in fact make possible a test ban." The statement pointed out that "the cessation of nuclear testing could be a forceful first step toward greater world stability. The scientific discussions can be expected to help make possible a test ban, with subsequent broader agreements contributing further to increased world peacefulness."

One American scientist said he thought the conference could last up to two months, but Dr. Fedorov said, "we want it to end as soon as possible."

Just before leaving for Geneva, the US team of scientists were presented with copies of a 163-page study which included the replies of 31 earthquake specialists, to a questionnaire submitted by Sen. H. Humphrey (D, Minn.), chairman of the Senate's Special Subcommittee on Disarmament. The survey of experts, said Humphrey, confirms his opinion that a workable inspection system could be set up to safeguard a ban on nuclear weapons testing.

FT. MONMOUTH WORKERS RETURN (Cont. from page 2).

SMITH BILL As a direct result of these decisions, the Jenner-Butler bill (see NL 58-4) and the Smith bill were introduced in Congress. The Smith bill evolved from the Steve Nelson decision where the Court ruled that the Congress had pre-empted jurisdiction of Communist prosecutions. The Constitution provides that when State and Federal control conflict, Federal control shall prevail. The Smith bill provides that no act of Congress shall be construed as pre-empting a field unless it specifically so states. If the bill passes, it will lead to an incredible conflict between Federal and State legislation. Neither of the two restrictive court bills are expected to win approval.

ATTENTION: FAS MEMBERS

The FAS recruiting drive for new members is now beginning. The Washington Office has available for distribution in quantity a new information brochure describing FAS, current Newsletters, the FAS Radiation Hazards Report, and application cards. They will be sent free on request for recruiting purposes, and for distribution at local meetings of FAS chapters or branches.

HOPES FOR SUMMIT CONFERENCE FADE

The on-again, off-again negotiations for a summit conference continued unabated during June. Just what will happen is the object of much speculation and little actual knowledge at this time. On June 15, Roscoe Drummond in an article in the Washington Post, said that "events now point to a big four heads of government meeting, quite possibly in the fall." Among the reasons he listed for believing this to be so were: 1. the meeting of top scientists of both sides in Geneva, to work out an agreed program for inspecting a possible end of nuclear weapons testing; 2. the progress being made by the Big Four ambassadors to develop a summit agenda; 3. amendments to the Atomic Energy Act permitting fuller exchange of nuclear information with our allies; 4. the MacMillan-Eisenhower talks in Washington; and 5. the overwhelming force of world opinion.

SECRET DOCUMENTS However, within days, prospects for an early summit conference blew up in a barrage of charges and counter-charges in Washington and Moscow. The Russians made public hitherto secret documents bearing on summit preparations, accusing the Western press of distorting the Soviet position. This was accompanied by a letter from Krushchev challenging the West to prove it really wants a meeting. The State Dept. responded by handing out other formerly secret documents and accused Krushchev of seeking only to "publicize once again the standard positions taken by the Soviet Union" on possible summit topics.

The following day (June 17), Sec. Dulles in a news conference, expressed doubt about the possibility of a summit meeting. The effect of the state murder of Hungarian Premier Nagy and his compatriots, and the accompanying changed attitude of Moscow, also leaves the fate of a summit conference even more in doubt. Some Administration leaders seem to feel that Krushchev's failure to get a quick summit conference has caused him to turn to other and tougher means of achieving objectives. This may have had a bearing on his crackdown in the Communist satellite countries. Pres. Eisenhower has indicated however, that he will continue his exchange of letters on international affairs with Krushchev.

The FAS is a national organization of scientists and engineers concerned with the impact of science on national and world affairs. This issue of the Newsletter was prepared and edited by I. Shapiro of the Washington Office Staff, together with G. Picus and Mrs. L. Herzenberg, Washington area volunteers. Other member volunteers included D. Steinberg, E. Shelton, R. Hendler,

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NEW FAS OFFICERS: Augustus H. Fox, mathematics professor at Union College (Schenectady), was elected FAS Chairman for '58-'59, and took office at the spring Council meeting in Washington (Apr. 30 & May 3). New Vice-Chairman is Walter Selove, U. of Penna. physics professor. Both were elected by the membership in the spring balloting, together with 12 new delegates-at-large to the FAS Council.

Serving on the 6-man Executive Committee with Fox and Selove are former Chairman Paul M. Doty (Prof. of Chemistry, Harvard), and 2 members elected by the Council in May: Harry Palevsky (Physicist, Brookhaven), and Judy Bregman (Physics Prof. at Brooklyn Polytechnic), Leonard Herzenberg (Biochemist, N.I.H.), was approved in June by the Executive Committee to serve as Treasurer. Palevsky was chosen as Secretary. At the end of August, Frank Ham, of the Mohawk Chapter, will replace Dr. Bregman on the Executive Committee. She is leaving to work in Israel for a year.

NEW ATOMIC POWER PLANT OPENS

On May 26, President Eisenhower formally opened the first atomic power plant in the US. The plant at Shippingport, Pa., while representing what is probably the first A-power plant designed solely for peaceful use, has been slow in coming. There are hopeful indications, however, that expansion of peaceful uses of atomic energy will proceed in the future at a faster pace. Along these lines, Congress has approved proposals to build three more atomic power plants to be installed in Ohio, South Carolina and Minnesota. As a part of Operation Plowshare, an investigation is underway to explore the feasibility of using A- or H-bombs to blast out harbors in the inaccessible Alaska coast. Four or five 10,000 ton bombs could create a small, safe landing place for fishing craft or ore boats. The present lack of harbors has hampered the development of the Alaskan mineral and fishing resources.

EURATOM At the same time that domestic peaceful development of atomic power is being stepped up, the US has increased its interest in international peaceful atomic power development. A boost for Euratom came recently when the Administration asked Congress to approve a program for US cooperation in atomic power development in six western European nations. The share-the-expenses program would provide for a European Atomic Energy Community which would develop a nuclear power capacity of 1,000,000 kilowatts of electricity in 1963. A joint research and development program aimed at improving reactor performance, lowering fuel costs and studying other problems will also be established. The US will buy back plutonium by-products from these reactors. The State Dept. recently shifted emphasis from insisting on unilateral US inspection of the plants to encouraging the international inspection proposed by Euratom. With this stumbling block removed, the main obstacle to a final contract is one of finance.

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Federation of American Scientists
1805 H Street, N. W.
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EDUCATION DRIVE LOSING ENERGY

The review and criticisms of American education which followed the launching of the first Sputnik, has not yet resulted in a concretely improved program -- and the drive in that direction seems to be losing energy. The Washington Post in an editorial (June 4) reviewed the eight months following Sputnik I with the conclusion that there has been no perceptible progress toward an enlightened and generous program of Federal aid to the shortage-ridden schools and colleges of the country. A report in May by the NEA and one in June by a panel of prominent Americans climaxing a two-year study under the auspices of the Rockefeller Brothers Fund, Inc. pointed out the critical shortcomings of our present program. Alarming statistics were presented on the number of grade-school children on half-day schedules, overcrowded classrooms, and impossibility of finding qualified teachers. Many of these problems could be met by increased funds, but the reports maintained that it is essential to modify our educational program rather than grudgingly and tardily patching to meet the needs of the moment.

NEW BILLS Two House Education Subcommittees approved two bills totalling \$500 million dollars to aid science and mathematics students in college. President Eisenhower's \$1.5 billion school construction bill was rejected in spite of a Democratic drive to get it before Congress in the current session. What is apparently lacking is the understanding of the general values of a strong basic education. The entire impetus for a review and overhaul of educational practices seems to have been motivated on the basis of keeping up with or ahead of Russia's material gains. Our future depends on the level of our educational efforts, and the defects of that effort have been made alarmingly apparent in the NEA and Rockefeller Reports.

SECRECY & WIRETAPS Chairman Moss (D. Calif.), of the House Information Subcommittee, has charged that the State Dept. is displaying an apparent disregard for the people's right to know what their Government is doing. The State Dept. has clamped down on news contacts between subordinates and reporters by requiring official memos on all such contacts and, if possible, the presence of Department of Public Affairs officials. Moss has also charged that the Pentagon's news policy is that of managing the information to make itself look good instead of protecting only true defense secrets (Washington Post, June 14).

An interesting situation has resulted from the disclosure by J. Edgar Hoover on a TV interview that the FBI was operating 90 telephone wire taps across the country. The Washington Post, in an editorial (May 24), charged that this was a public admission of 90 violations of the Federal Communications Act, section 605. Rep. Keating (R, N.Y.), stated that the act of tapping did not constitute a violation if there was no divulgence of information. This point was answered by the Post and also by Emanuel Celler, Chairman, House Committee on the Judiciary, who pointed out that unless the agents monitoring the lines revealed their information to superiors, it was ridiculous to maintain the taps.

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