

FOREIGN AGENTS REGISTRATION ACT

APRIL 18, 1961.—Referred to the House Calendar and ordered to be printed

Mr. WILLIS, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 470]

The Committee on the Judiciary, to whom was referred the bill (H.R. 470) to amend sections 1 and 3 of the Foreign Agents Registration Act of 1938, as amended, having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

PURPOSE

The purpose of the bill is to amend the Foreign Agents Registration Act so as to include within the definition of a "foreign principal," as that term is used in the act, domestic organizations which are substantially "supervised, directed, controlled, or financed" by a foreign government or foreign political party.

In addition the bill seeks to clarify the so-called commercial exemptions of the Foreign Agents Registration Act by providing that a foreign principal, in order for its agents to be eligible for exemption from registering under the act, must be engaged in activities which are either private and nonpolitical and financial or private and nonpolitical and mercantile.

LEGISLATIVE HISTORY

An identical bill, H.R. 6817, passed the House in the 86th Congress on the Unanimous Consent Calendar. The legislation was referred to the Senate Internal Security Subcommittee which took no action. This legislation has the approval of the Department of Justice and the Post Office Department.

There follows in part a report of this committee in the 86th Congress, setting forth the purpose and reasons underlying this bill.

[H. Rept. 949, 86th Cong.]

The Foreign Agents Registration Act, among other things, requires the registration of persons employed by certain foreign principals which disseminate propaganda in the United States. Section 1 of that act contains a definition of terms. Among those definitions is "foreign principal" and it is defined to include a domestic organization which is "subsidized" by a foreign government or a foreign political party. At the hearings a representative from the Department of Justice stated that experience in the administration of this act shows a need for the inclusion within the term "foreign principal" domestic organizations which are not only subsidized by a foreign government or political party but also those which are substantially controlled, directed, or financed by a foreign government or foreign political party.

In other words, because of the existing definition of the term "foreign principal" agents of a domestic organization today need not register even though their organizations are financed, controlled, supervised, or directed by a foreign government or political party, unless the Department of Justice can establish that such domestic organization is "subsidized" by a foreign government or political party. The instant bill in section 1 will define foreign principal so as to bring domestic organizations within the purview of the registration requirements of the act, irrespective of whether they are "subsidized," if a foreign government or foreign political party supervises, directs, controls, or finances them in such a manner as to exercise substantial control over their policies and activities.

Section 2 of the bill amends another provision of the act, namely section 3(d). Section 3 relates to the so-called commercial exemption and exempts agents from the obligation of registering if their foreign principals are engaged "only in private, nonpolitical, financial, mercantile, or other activities in furtherance of the bona fide trade or commerce of such foreign principal."

This exemption has proved to be ambiguous. A Department of Justice's representative testified at the hearings that the language has led to confusion and unnecessarily difficult problems in the administration of the law. Argument has been made that if an agent of a foreign principal meets any one of the above-quoted conditions, as distinguished from meeting several or all of the requirements, it need not register. As rewritten the section with its proposed changes and sentence structure will make it clear that for an agent to qualify for exemption from the obligation of registering, it must be engaged in activities which meet either of two sets of three requirements: The activities must be private and nonpolitical and financial, or private and nonpolitical and mercantile. If any one of these requirements is lacking, the agent cannot qualify for exemption and therefore must register under the act.

DEPARTMENTAL REPORTS

This legislation is sponsored by the Department of Justice and has the approval of the Post Office Department. Their communications follow:

APRIL 20, 1959.

The SPEAKER,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: In administering the Foreign Agents Registration Act of 1938 the Department of Justice has become aware of a number of deficiencies which, if eliminated, would materially strengthen the act. Accordingly, I am attaching a draft of proposed legislation which will amend the act in several respects so as to accomplish this desirable purpose.

Section 1 of the act contains a definition of terms. In defining "foreign principal" the section provides that the term shall include "a domestic partnership, association, corporation, organization, or other combination of individuals, subsidized directly or indirectly, in whole or in part, by any foreign principal defined * * *." By reason of this limited definition agents of a domestic organization which is financed, controlled, supervised, or directed by a foreign government or foreign political party, are not required to register unless it can be established that such domestic organization is "subsidized" by a foreign principal. The proposal will additionally define "foreign principal" so as to bring agents of domestic corporations within the purview of the registration requirements of the act, irrespective of whether their organizations are "subsidized," if a foreign government or a foreign political party supervises, directs, controls, or finances them to such a degree as to exercise substantial control over their policies and activities.

Section 3 of the act sets forth exemptions from the registration requirements. Subsection (d) exempts agents "engaging or agreeing to engage only in private, nonpolitical, financial, mercantile, or other activities in furtherance of the bona fide trade or commerce of such foreign principal * * *." This exemption has proved to be ambiguous. The words "or other activities" are, as experience has shown, without effective purpose, and should be deleted. Likewise, the remainder of the quoted language has led to confusion and in turn unnecessarily difficult problems of administration. The proposed changes in punctuation and sentence structure will make it clear that to qualify for exemption under the subsection an agent must be engaging in activities which meet either of two sets of three requirements. They must be private *and* nonpolitical *and* financial, or private *and* nonpolitical *and* mercantile. If any one of these characteristics is lacking, he cannot qualify for exemption from registration under the subsection.

Your good offices toward securing the enactment of the proposed legislation will be appreciated.

The Bureau of the Budget has advised that there is no objection to the submission of this recommendation.

Sincerely,

Attorney General.

POST OFFICE DEPARTMENT,
BUREAU OF THE GENERAL COUNSEL,
Washington, D.C., August 11, 1959.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: The Postmaster General has asked me to respond to your letter of July 31, 1959, in which you advise that Subcommittee No. 3 will hold hearings on August 13, 1959, on H.R. 6817, which amends sections 1 and 3 of the Foreign Agents Registration Act of 1938.

The Post Office Department does not contemplate having a representative appear at these hearings. However, as we review the bill, we believe that it should be approved by your committee and enacted by the Congress. The addition of paragraph 6 to section 1(b) of the act will, we believe, assist the Department of Justice in the enforcement of this law by clearly providing that domestic organizations which are directed, supervised, controlled, or financed by any foreign government or any foreign political party will come within the term "foreign principal."

Sincerely yours,

(Signed) HERBERT B. WARBURTON,
General Counsel.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the House of Representatives, there is printed below in roman existing law in which no change is proposed, with matter proposed to be stricken out enclosed in black brackets, and new matter proposed to be added shown in italic:

FOREIGN AGENTS REGISTRATION ACT (56 STAT. 248)

* * * * *

DEFINITIONS

SECTION 1. As used in and for the purposes of this Act—

* * * * *

(b) The term "foreign principal" includes—

* * * * *

(6) *A domestic partnership, association, corporation, organization, or other combination of individuals, supervised, directed, controlled, or financed, in whole or in substantial part, by any foreign government or foreign political party;*

* * * * *

EXEMPTIONS

SEC. 3. The requirements of section 2(a) hereof shall not apply to the following agents of foreign principals:

* * * * * * *

(d) Any person engaging or agreeing to engage only in private [] and nonpolitical [] financial [] or mercantile [] or other [] activities in furtherance of the bona fide trade or commerce of such foreign principal or in the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and clothing to relieve human suffering, if such solicitation or collection of funds and contributions is in accordance with and subject to the provisions of the Act of November 4, 1939, as amended (54 Stat. 48), and *any* such rules and regulations as may be prescribed thereunder;

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Caplin &
Drysdale,
Chartered