

FOREIGN AGENTS REGISTRATION ACT

SEPTEMBER 15, 1961.—Ordered to be printed

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

REPORT

[To accompany H.R. 470]

The Committee on the Judiciary, to which 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, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

AMENDMENT

On page 2, in line 12, strike out the word "any".

PURPOSE

The purpose of the bill, as amended, 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 proposed legislation 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.

STATEMENT

The Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.), requires inter alia the registration of agents of a foreign principal as defined in the act and imposes criminal penalties for willful violation of its provisions. The proposed legislation would amend various provisions of the act to require, among other things, the registration of certain additional persons.

Section 1 of the bill would enlarge the present definition in section 1(b) of the act (22 U.S.C. 611(b)) of the term "foreign principal," while section 2 of the bill would modify the language of section 3(d) of the act (22 U.S.C. 613(d)) the so-called commercial exemptions from registration provisions.

As defined in section 1 of the act, a "foreign principal" includes a domestic organization which is "subsidized" by a foreign government or a foreign political party.

During the 86th Congress a similar measure, H.R. 6817, was favorably acted upon by the House of Representatives. At hearings held on H.R. 6817, a representative of the Department of Justice stated that experience in the administration of the Foreign Agents Registration 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.

Because of the definition of the term "foreign principal," as presently used in the act, agents of a domestic organization need not register even though their organizations are financed, controlled, supervised, or directed by a foreign government or political party. Section 1 of H.R. 470 defines "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 a 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 H.R. 470 would amend section 3(d) of the Foreign Agents Registration Act by exempting agents from the registration requirement 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.

The so-called commercial exemption has proved to be ambiguous. During hearings held on H.R. 6817 in the 86th Congress, a bill identical to H.R. 470, a representative of the Department of Justice testified that the language contained in the exemption 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 makes 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. They must be private and nonpolitical and financial, or private and nonpolitical and mercantile. If any one of these characteristics is lacking, the agent cannot qualify for exemption and therefore must register under the act.

On June 12, 1961, in a letter to the chairman of the Senate Committee on the Judiciary, Deputy Attorney General White urged the enactment of H.R. 470. The letter was in response to a request for the views of the Justice Department on S. 1508, a related bill. The following is what the Justice Department had to say on H.R. 470:

These amendments are similar in purpose to the proposals contained in the Department's letter of April 26, 1961, to the Vice President. In addition H.R. 470, containing language identical to the Department's proposal was referred to the House Judiciary Committee, reported out favorably and passed the House on May 1, 1961. The Department favors the enactment of H.R. 470, the provisions of which are technically preferable to the language contained in S. 1508.

The following are the views of the Justice Department and the Post Office Department during the 86th Congress on H.R. 6817, a bill identical to H.R. 470:

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,

HERBERT B. WARBURTON, *General Counsel.*

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

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. 8), and such rules and regulations as may be prescribed thereunder;

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