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SENATE

REPORT
No. 1227

AMENDMENTS TO THE ACT OF JUNE 8, 1938, AS AMENDED, REQUIRING THE REGISTRATION OF AGENTS OF FOREIGN PRINCIPALS

MARCH 26 (legislative day, MARCH 5), 1942.—Ordered to be printed

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

REPORT

[To accompany S. 2399]

The Committee on the Judiciary, to whom was referred the bill (S. 2399) to amend the act entitled "An act to require the registration of certain persons employed by agencies to disseminate propaganda in the United States, and for other purposes," approved June 8, 1938, as amended, having considered the same, report favorably thereon and recommend that the bill do pass.

Except for the addition of section 3 (f), which is new, the language of this bill is exactly the same as the language of H. R. 6269, which passed the Congress on January 28, 1942, but which was returned by the President on February 9, 1942, without his signature.

The following is the text of the President's message:

THE WHITE HOUSE,
February 9, 1942.

To the House of Representatives:

I return herewith, without my approval, H. R. 6269, to amend the act entitled "An act to require the registration of certain persons employed by agencies to disseminate propaganda in the United States, and for other purposes," approved June 8, 1938, as amended.

This bill was drafted in peacetime to protect a nation at peace. It was properly designed to force the disclosure of the activities of foreign agents who may abuse the hospitality of our country or weaken our national unity by fostering discord and distrust.

The bill, however, obviously was not drafted with a view to the situation created by the Axis assault upon our country and our entry into the war in fighting partnership with 25 United Nations and in active cooperation with other nations whose defense we deem vital to our own defense.

To achieve victory we must be certain that there is a minimum of interference with the strengthening and perfecting of joint action. Active collaboration of a military or economic nature with friendly countries requires the fullest and most constant exchange of representatives between us.

Just as we are anxious to see nothing interfere with the functioning of our representatives in friendly countries, so we must do everything we can to facilitate

their functioning with us in the common cause. It is far from clear that the requirements of this legislation would not in many instances be unnecessary, inappropriate, and onerous in respect to the representatives of friendly nations who are constantly coming to and from the United States to cooperate with us.

I recommend that this bill be adjusted to meet these changed conditions resulting from our entry into the war. Such adjustment might be achieved by granting broad discretionary powers to the Attorney General during the emergency, to enable him to administer the bill so as to meet these new conditions.

FRANKLIN D. ROOSEVELT.

The additional provision in section 3 (f) has been drafted in order to make the necessary adjustment in the bill in accordance with the President's suggestion.

Although the provision is in the form of a limited exemption, it, in effect, but substitutes an alternative and less onerous type of registration and disclosure of certain officially designated representatives of the governments of those countries whose defense is vital to our own, while these persons are working with us in the common cause. The limitation contained in this provision requires that the foreign government which such agent represents must furnish information concerning the identity and activities of the agent. The limitation also requires that each communication or expression which such an agent believes will be circulated among the public in the United States be properly identified and be believed to be truthful. In addition, the Attorney General is given the power to terminate this limited exemption as to any such person with the approval of the Secretary of State.

It is believed that these limitations furnish adequate safeguards against any possible abuse and assure that the fundamental purposes of the act are not altered or weakened, while at the same time carrying out the President's suggestion.

The purpose and effect of this additional provision, as well as its limitations and safeguards, are explained in detail in the following letter from the Attorney General, addressed to the chairman of the Committee on the Judiciary, which is hereby made a part of this report:

DEPARTMENT OF JUSTICE,
March 19, 1942.

HON. FREDERICK VAN NUYS,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I am transmitting herewith a suggestion as to the form of an amendment to section 3 of the amending portion of H. R. 6269, to amend the act entitled, "An act to require the registration of certain persons employed by agencies to disseminate propaganda in the United States and for other purposes," approved June 8, 1938, as amended. This bill was returned by the President to the House of Representatives on February 9, 1942, without his approval, and with the suggestion that it be adjusted to meet certain changed conditions resulting from our entry in the war.

As the President's message pointed out, we are now in fighting partnership with 25 United Nations and in active cooperation with a number of other nations whose defense is vital to our own. As a result, we are constantly sending our representatives to, as well as receiving representatives from, countries with which we are collaborating, and, in the interests of the war effort, there should be the minimum of interference with this exchange.

Accordingly, the suggested amendment has been designed to afford different treatment to official representatives of these countries than is accorded under the present bill to all other types of foreign agents. Thus, instead of requiring the detailed public registration and labeling, an alternative and less onerous type of registration and labeling has been provided, which it is believed will not alter or weaken the fundamental purposes of the act.

The class involved includes such persons as members of military and economic missions from those countries, persons in the armed forces of such countries, and

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persons engaged in supplying information to the extent that their activities are in furtherance of the joint interests and defense of both their country and ours and are not intended to conflict with the policies of our Government. It is thus limited to those persons who are officially designated agents of governments whose defense the President deems vital to our own and who are engaged in working actively and closely with us in the successful prosecution of the war.

With the shortness of time available and the strenuous demands upon individual efforts, it is neither practical nor desirable to require these representatives of friendly governments, frequently arriving and departing, to take time out to fill in detailed registration forms. Nor is it wise in many instances to disclose such information to our enemies. It is also important to realize that the United States is likewise sending representatives to many other countries, and it would be unwise to subject them to the risk of the imposition of similar requirements in the prosecution of their difficult tasks.

Although the proposed amendment is in the form of a limited exemption, it is believed that it also affords the necessary safeguards against possible abuse or violation of the fundamental purposes of the act. In effect, there is provided a less onerous alternative form of registration and disclosure. Thus, each government is required to furnish to the Attorney General such information as to the identity and activities of any persons coming within the exemption as the Attorney General may from time to time require. Whenever it is deemed in the public interest and not harmful to our war effort, the Attorney General can cause such information to be made a matter of public record.

Moreover, if any persons subject to this section make any public statements, they must, in addition, identify themselves as agents of a foreign government, must tell the truth, and such communications or expressions must be part of the activities permitted by the amendment. Thus, it is believed an opportunity is provided for an adequate appraisal of the statements and activities of such persons.

Finally, in case any abuse should occur, the Attorney General, with the approval of the Secretary of State, is empowered at any time to terminate the application of the section to any person covered thereby and thus render such person subject to all the provisions of the act. While this power has been given to the Attorney General in accordance with the suggestion of the President, it could be placed solely in the hands of the Secretary of State if it is desired to do so. In any event, the application of the section to the representatives of any particular country will be terminated whenever the President no longer finds its defense vital to our own.

The proposed amendment has been worked out after careful consultation with representatives of the Department of State, the Lend-Lease Administration, the Office of the Coordinator of Information, and other interested agencies and has received their approval. It is believed the proposed amendment will serve the twofold purpose intended: Agents of friendly governments engaged in the war effort will be freed from unnecessary requirements of registration and at times inadvisable disclosure and our agents abroad are likely to be afforded similar treatment; at the same time our Government as well as the public will be kept informed and protected against possible abuse.

I am informed by the Director of the Bureau of the Budget that the amendment is in accord with the program of the President.

Respectfully submitted.

FRANCIS BIDDLE,
Attorney General.

The remainder of this bill is identical in language with S. 2060 which has already received the full consideration of this body and on which the Committee on the Judiciary submitted a report on December 16, 1941 (Report No. 913). It is therefore not believed necessary to present a detailed discussion of these provisions. The previous report of the committee is incorporated herein by reference.

Caplin & Drysdale, Chartered