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NONDIPLOMATIC ACTIVITIES OF REPRESENTATIVES OF FOREIGN GOVERNMENTS

A PRELIMINARY STUDY
PREPARED BY THE STAFF
OF THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE



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FOREWORD

In recent years there has been an increasing number of incidents involving attempts by foreign governments or their agents, to influence the conduct of American foreign policy by techniques outside normal diplomatic channels. Such activity is the subject of increasing concern to the Executive, to Congress, and to the American people generally.

Though foreign government lobbies operating in the United States are frequently mentioned in the press, little if any precise information is given on what they actually do, or how they actually do it. Some outlines of their actions, however, can be seen. Nationalities groups have been organized in the United States, some at the behest of foreign governments or their agents. Often these groups concentrate on influencing U.S. foreign policy in directions designed primarily to promote the interests of foreign organizers or supporters. Many foreign governments with diplomatic representation in Washington retain public relations counselors, law firms, or private individuals to assist in bringing particular foreign policy points of view to the attention of the U.S. Government, sometimes directly, sometimes through the Congress, and sometimes through the public at large. There are also those few known occasions when foreign government representatives have engaged in various covert activities within the United States and elsewhere for the purpose of influencing U.S. policy.

The purpose of examining foreign government lobbying is not to show that these activities are necessarily wrong. In many instances, State Department officials themselves agree that legitimate representation by U.S. citizens on behalf of certain foreign governments is necessary due to the complexities of current international problems. However, it is believed that this committee has a responsibility to obtain for itself, for the Senate, and for the American people a full and accurate picture of activity of this kind, particularly since the tempo of such activity has increased in almost direct proportion to our Government's growing military and economic commitments abroad.

Three months ago, I asked the staff of the Committee on Foreign Relations to conduct a preliminary study, designed to answer a few of the basic questions surrounding foreign government lobbying. The results of this study are contained in this report.

J. W. FULBRIGHT, *Chairman.*

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NONDIPLOMATIC ACTIVITIES OF REPRESENTATIVES OF FOREIGN GOVERNMENTS

PART I: THE FOREIGN AGENT REGISTRATION ACT

"Registration under the act," says the introductory statement to the Justice Department booklet on rules and regulations governing foreign agent activity, "in no way places any limitation on the activities which may be engaged in by an agent of a foreign principal and places no stigma on any person registering. * * * It may be assumed," the statement concludes, "that persons who are legitimately engaged as agents of foreign principals have nothing to fear from public disclosure of their activities." It is from that point of view that the Committee on Foreign Relations staff has studied the history and present enforcement of this act.

A. HISTORY OF THE ACT

In 1934, the first Un-American Activities Committee was established by special resolution of the House of Representatives to investigate Nazi and other subversive propaganda then being circulated in the United States.

Chaired by John W. McCormack of Massachusetts, the committee set out to study the postdepression rise of propaganda activity by European Fascists and Communist governments. Its object was to determine if some new means were needed to protect U.S. citizens from "vicious propaganda of foreign origin aimed at the subversion of those fundamental principles upon which our Constitution rests." The seven-member committee conducted an 11-month cross-country inquiry that included 7 public and 24 executive hearings in Washington, New York, Chicago, Los Angeles, Asheville, N.C., and Newark, N.J. Hundreds of witnesses were heard and a 4,320-page record was compiled.

In its final report, the committee noted that "strenuous efforts" were being made by the Nazi government to enlist the 20 million or more Americans of German descent into their movement.

Of prime importance to this study was the McCormack committee disclosure that an extensive underground propaganda apparatus had been established by the German Government using American firms and citizens. For example, the committee discovered—

A leading U.S. public relations firm, ostensibly hired by a German chemical corporation for trade promotion activity, was really working on public and political questions, supplying information to be passed on to the German Government, and receiving its \$25,000 fee in cash;

The public relations counsel employed by the German Tourist Bureau was rendering services "largely of a propaganda nature";

German steamship lines were carrying certain U.S. citizens, including a well-known travel lecturer and film producer, back and forth from Europe without cost "for the purpose of having them write and speak favorably of the German nation."

As a result of their findings, the McCormack committee on February 15, 1935, reported a series of legislative recommendations to the House, the first of which was:

That the Congress shall enact a statute requiring all publicity, propaganda, or public relations agents or other agents who represent in this country any foreign government or a foreign political party, or a foreign industrial organization, to register with the Secretary of State of the United States, and to state name and location of such employer, the character of the service to be rendered and the amount of compensation paid or to be paid therefore.

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Little more than 2 years later the House Judiciary Committee reported out a bill—the Foreign Agents Registration Act—which, in the words of the committee report, aimed to throw the “spotlight of pitiless publicity” on American propaganda agents of foreign governments. “Such propaganda,” the committee wrote, “is not prohibited under the proposed bill.” Its purpose was to “make available to the American public the sources that promote and pay for the spread of such foreign propaganda.” In its report the committee indicated that the bill was expected to do in the field of political propaganda what the Food and Drug Labeling Act had done in the field of public health—it aimed at exposure of propaganda agents rather than their prohibition, although it was recognized that the two could go hand in hand.

Political propaganda efforts—

Said the committee report—

are usually conducted in secrecy, which is essential to the success of these activities. The passage of this bill will force propaganda agents representing foreign agencies to come out in the open in their activities, or to subject themselves to the penalties provided in said bill.

With little congressional debate, it was enacted into law in June 1938. Since passage the act has been amended twice, with Congress both times effectively extending rather than inhibiting its scope.

In 1939, the term “foreign principal” was broadened to include “a domestic organization subsidized directly or indirectly, in whole or in part, by a foreign country or its agents.” The term “agent of a foreign principal” was expanded to include “any person who receives compensation from or is under the direction of a foreign principal.” Both of these changes, somewhat technical, tended to bring a larger number of persons under the purview of the act.

It was in 1942, however, after the United States had entered the Second World War, that the major revisions were made. A preface to the act was written in, broadening its purpose to include protection of U.S. foreign policy along with national defense and internal security.

An important new provision was approved, to require labeling of all political propaganda disseminated in the United States by registered foreign agents. The term “political propaganda” was broadly defined as “communications or expressions by any person * * * [tending] to influence a recipient, or any section of the public within the United States with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party to the foreign policies of the United States.” Such propaganda, transmitted through the mails, or in interstate commerce was required to carry a statement “to the effect that it is sent by a registered foreign agent, his name and address, his foreign principal” and that his registration statement was filed with the Department of Justice, and that such registration did not indicate approval of propaganda by the U.S. Government. “With all this information at their disposal” the 1942 House Judiciary Committee report on the measure noted; “recipients of such propaganda can properly appraise its worth.”

A final provision of the 1942 amendment authorized the transfer of the responsibility for the act’s administration from the State Department to the Justice Department. From the first, the State Department had been uncomfortable acting as the registering unit for foreign agents, according to Assistant Secretary of State Adolf A. Berle, Jr. In testimony before the House Judiciary Committee, Berle said then Secretary of State Cordell Hull considered the act a policing rather than a foreign policy function, and since State had no investigative personnel of its own, enforcement responsibility inevitably had passed over to the Justice Department. The provision of the 1942 amendment not only formalized that transfer, it also provided that the Secretary of State would from then on receive a copy of each initial registration statement filed with the Attorney General, “for such comment, if any, as the Secretary of State may desire to make from the point of view of the foreign relations of the United States.”

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B. THE ACT

The Foreign Agents Registration Act as found in the statute books today comprises 14 sections, the first 8 of which deal specifically with the registrant and his activities. In brief, these are:

Section 1, which establishes definitions under the act, including those for "foreign principal" (usually a government of a foreign country or an organization subsidized by a foreign government); "agent of foreign principal" (any person who acts or agrees to act within the United States as representative for a foreign principal);

Section 2, which sets forth the requirements as to registration and information to be supplied on initial and supplemental statements;

Section 3, which lists those six classes of persons deemed exempt from registering (for example, accredited diplomatic and other foreign government officials already registered at the State Department, along with diplomatic staff employees not dealing with publicity activities; persons engaged in nonpolitical, financial, mercantile, religious or scholastic activities, scientific or fine arts pursuits on behalf of a foreign government);

Section 4, which sets forth the labeling requirements discussed in more detail later;

Section 5, which provides that registrants are required to keep and preserve all account books and records pertaining to their registration for a period up to and including 3 years after termination of such registration;

Section 6, which requires the Attorney General to make available to the public a copy of all registration and dissemination statements filed under the act;

Section 7, which makes each officer and/or director of a corporate agent of a foreign principal actually liable for the nonregistration of such agent corporation;

Section 8, which provides penalties up to \$10,000 and/or up to 5 years in prison for willfull violation of the act, or the Justice Department regulations thereunder established.

This legal framework for foreign agent registration is buttressed by the extensive registration statement and dissemination forms adopted by the Justice Department in their administration of the act.

C. REGISTRATION FORMS

The registration forms used by the Department of Justice in administering the Foreign Agent Registration Act seek to carry out the intent of the act by requiring complete disclosure of all activities, income, and expenditures from each registrant.

For example, the initial registration form requires "the nature and purpose of registrant's representation of each foreign principal" along with a full description of "all activities of registrant for or in the interests of each such foreign principal."

The registrant is also required to furnish the names and addresses of all individuals "who render any services or assistance * * * with or without compensation, for or in the interests of each foreign principal * * *" along with a description of the nature of such service rendered.

When it comes to registrant's receipt and expenditure of funds, the form requirements are clear and to the point. "All amounts received during the period directly or indirectly from each foreign principal" are required to be itemized giving the date received, the payee, the purpose, and the amount. Registrants are also required to itemize receipts from sources other than their foreign principal where such funds are "to be used directly or indirectly for or in the interests of any foreign principal."

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Likewise, each of the registrant's expenditures made "directly or indirectly for or in the interests of each foreign principal" is required to be itemized giving the date the payment was made, the person receiving it, the purpose for which it was paid and the amount. According to a footnote directive on the form, only when a payment is for less than \$100 may a registrant combine it with other amounts provided that the disposition purpose remains "clearly indicated".

In line with the labeling provisions of the act, the form requests a complete report of the registrant's activities in the fields of mass communications. Speeches, lectures, talks, and radio broadcasts arranged, sponsored or delivered by registrant—whether or not in the interests of a foreign principal—are to be listed giving dates, places, and "subject matter discussed." The form also requests a complete rundown of "publications prepared or distributed by registrant, or by others for registrant, or in the preparation or distribution of which registrant rendered any services or assistance." The term "publications" is made to include: press releases, articles, books, magazines, radio scripts, pamphlets, moving pictures, posters, maps, still pictures, circulars, news bulletins, form letters, reprints, copies of speeches, lantern slides, photographs, charts, and other publications. In each case, the registrant is requested to provide a description of the publication, by whom it was written, edited, or prepared and by whom it was printed, produced, or published. The registrant is also asked to supply the name of the distributor of each publication and the methods or channels through which it was distributed.

The registrant is further required to file a short form registration statement for each individual listed previously as rendering any basic service with or without compensation for the foreign principal. This statement to be completed by the individual calls for a full description of activities to be undertaken by him on behalf of any registrant or foreign principal. At the same time, it calls for "a brief description of all other businesses, occupations, and public activities" in which the individual is engaged.

The individual is also called on to "describe in detail the financial arrangement pursuant to which (he is) rendering services or assistance" as well as "all amounts or things of value received * * * as compensation or otherwise during the 3 months preceding the filing of this statement, directly or indirectly from the registrant or from any foreign principal * * *."

Finally, the individual is requested to outline in detail his own activities with regard to the mass media—whether directly involved with the foreign principal or not. He is requested to list not only the speeches, lectures, broadcasts, and so forth, in which he participated during the previous 3 months, but also the publications which he prepared or distributed or "in the preparation or distribution (he) rendered any services or assistance" during the prior 6 months.

Every 6 months, following the filing of an initial statement, each registrant for a foreign government is required under the act to file a supplemental statement with the Justice Department. The supplemental statement form, bearing many of the same questions regarding activities, income, and expenditures, as found on the initial statement form, is designed to keep the Department, and through it, the public, up-to-date on the registrant's operations.

In addition to the initial and 6-month supplemental statements, section 4(a) of the act requires a registered agent to file a dissemination report with the Attorney General for each piece of political propaganda which he transmits or causes to be transmitted by any means across at least one State border. Such a dissemination report, to be filed within 48 hours after release of the political propaganda, must set forth in detail a description of the material disseminated as well as the time, place, and volume distributed.

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It is the belief of the staff of the Committee on Foreign Relations that the four basic Justice Department forms described above—if completed fully and accurately—together would fulfill satisfactorily the disclosure provisions of the act.

To date, however, the requirement for full and accurate completion of the various forms has been only sporadically enforced by the Justice Department.

D. ENFORCEMENT

The effectiveness of any law, particularly one requiring full disclosure of information, can be measured in proportion to its enforcement. Such is clearly the case with the Foreign Agent Registration Act.

During its first 6 years on the statute books (1939-44) 19 indictments—with 18 convictions—were brought under the act. Although a majority of the cases were filed against individuals who failed to register initial statements, the Government also successfully used the act against:

A propagandist who failed to describe in detail on his registration form all his activities on behalf of a foreign principal;

A correspondent in the United States for a foreign newspaper who filed as a newsman but failed to list his public relations activities on behalf of a foreign government;

A magazine writer who filed as the recipient of financial support from a foreign government organization but failed to disclose that fact to all of his publishers;

The owner of a U.S.-based foreign language newspaper who received a subsidy from a foreign government; and

An individual who listed his foreign principal as a private cultural organization located overseas when in fact he knew the organization to be supported by a foreign government.

The courts, during these first formative years of the act, consistently upheld its purpose and construction; particularly in the difficult legal area of the first amendment. Perhaps the act's strongest legal support came from Supreme Court Justice Hugo Black, who, in a 1943 dissent on the *George Sylvester Viereck* case, wrote:

The general intent of the act was to prohibit secrecy as to any kind of political activity by foreign agents * * *.

Resting on the fundamental constitutional principle that our people, adequately informed, may be trusted to distinguish between the true and the false, the bill is intended to label information of foreign origin so that hearers and readers may not be deceived by the belief that the information comes from a disinterested source. Such legislation complements rather than detracts from the prized freedoms guaranteed by the first amendment.

Despite this active beginning, interest in the foreign agents problem appeared to fade with the end of the Second World War. In the 10-year period from 1945 to 1955, only two indictments were brought under the act. The first was against Amtorg, the Soviet Union trading corporation in the United States, for failure to file. A nolle prosequi was entered on this indictment when a registration statement by Amtorg was submitted. The second indictment, also a failure to file action, named a Communist-front group, the Peace Information Service. This case was dropped when the Justice Department was unable to legally prove an agency relationship between the foreign principal—the Committee of World Congress of Defenders of the Peace—and the Soviet Government.

In the past 7 years, legal activity has stepped up somewhat; nine indictments have been brought. In every case, however, the legal issue involved was failure to file.

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Since 1945, the Justice Department has not brought an action under the Foreign Agent Registration Act for failure to list all activities, expenses, or principals. And the Government has never brought to court a single case under the 1942 political propaganda labeling provisions.

This failure to prosecute does not, however, reflect full compliance with the law by the registrant. On the contrary, study of the foreign agent registration statements accepted as complete by the Justice Department and placed in their public files, discloses a significant number of apparent omissions and/or evasions.

A recent inquiry turned up the following registrations:

1. A lawyer furnishing legal and lobbying services to a Western European country gives no indication of contract renewal after 1955 although the registration continues to report receipts from the country in amounts averaging \$80,000 a year for the past 4 years. Section 2(a) of the act requires copies be filed of each written or oral agreement (including all modification) between the agent and his foreign principal.

From 1957 to date, the same registrant entered "none" in response to item 9(c) of the supplemental registration statement which requires a list of all expenditures made during the period directly or indirectly for or in the interests of each foreign principal. His last filed contract called for \$25,000 a year in expenses.

2. An agent for a newly independent African country describes his activities in behalf of his client as "engaged in public relations via the press and other media of information." Under part 10 of the supplemental registration statements, however, the registrant claims that no speeches, lectures, talks, or radio broadcasts have been arranged or delivered and no publications have been prepared or distributed by him or with his assistance.

3. An agent representing a foreign sugar association receives \$2,500 a month including expenses. Since the date of the original agreement on August 4, 1959, the registrant has reported total receipts of \$90,286.50 and expenditures of \$91,354.15. No explanation for this discrepancy is given and no itemized breakdown of his expenses has been included in his latest supplemental statements.

4. A public relations firm which distributes propaganda material for a number of foreign principals has rather consistently left blank a question regarding the filing of dissemination reports in accordance with section 4 of the act. On several statements, however, the firm indicated that reports were filed "when applicable" although the Department of Justice has no record of having ever received a dissemination report from this organization.

5. An agent representing a Central American government states he has no written agreement with his client. His first supplemental statement lists a salary of \$1,000 a month and "general expense" of \$5,000. The registrant lists receipts in the amount of \$349,594.61 for the ——— Government agency for an approximate 2-year period covering 1958 and 1959. These amounts are broken down haphazardly into categories such as "other disbursements—\$51,818.57" or "travel and entertainment—\$22,279.19." The registrant also lists as a "personal gift" \$10,000 from the president of the country he represents. The agent makes no explanation for the fact that no receipts were received after 1959, although he continues to describe his activities on behalf of the foreign principal in identical language.

6. A registered foreign agent claims to have no authority to comply with labeling provisions of the act because—

the only items for distribution and publication are moving pictures and television films which are the sole property of the foreign agent * * *. The registrant is without authority to file any prints or label the prints in any way whatsoever. The only one who can authorize this is the ——— Government, and they have refused to issue such authorization.

The agent, however, handles distribution of the films to television stations around the country.

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Section (a) of rule 403 provides:

An agent of a foreign principal who is required to register under the provisions of the Act shall be deemed to cause political propaganda to be transmitted in the United States mails or by a means or instrumentality of interstate or foreign commerce, within the meaning of section 4 of the Act, if such propaganda is disseminated or caused to be disseminated by such agent, knowing, intending, or having reason to believe that it will be, and thereafter it actually is, so transmitted in whole or in part either in the same or in a different form by any person.

The agent does not file dissemination reports pertaining to the films he distributes.

7. A public relations firm lists its foreign principal as a committee representing industrialists, civic and political groups in a West European country, without indicating by name the individuals or organizations involved. Despite a requirement in the law that principals be clearly identified, the Justice Department has not requested further details as to the makeup of the foreign principal "committee." The public relations firm, with expenditures of more than \$100,000 in its latest 6-month report, does not itemize its payments, lumping them in its report in two categories--general payroll and general administration.

The apparent failure by the Justice Department to require full disclosure does not extend to all registrations. Representatives of certain Communist countries file statements complete to the last detail and the Federal Bureau of Investigation regularly checks over their accounts. This type of enforcement, however, is limited to Communist countries' agents.

Five years ago when its files contained 307 active foreign agents' statements, the Justice Department registration section operated with 14 employees, 8 of them attorneys. Today, with 404 active statements (a 33-percent heavier workload than 5 years ago), the registration section has only 13 employees, 7 of whom are lawyers (only 5 are currently at work, the other 2 are on extended leaves).

Administration and review of the registration statements are not the only problems faced by the Justice Department's short-handed section. With the growth of foreign government lobbying activity, particularly in the public relations field, the amount of disguised political propaganda disseminated has greatly increased. Though the act contemplated control of just this type activity through its labeling provisions, these particular provisions have been all but erased from the lawbooks through nonapplication. At one time in the 1940's, the registration section had 25 political analysts who read newspapers, books, and magazines and followed radio broadcasts in search of hidden propaganda. The last analyst was discharged in 1949. Today, though the number of channels of propaganda has grown and public impact multiplied, the Justice Department has been left with no machinery in operation to monitor the flow.

E. DEPARTMENTS OF STATE AND JUSTICE

If the act has failed to keep the public informed on foreign lobbying activities, its administration and enforcement have failed the State Department in the same area. There is little more than minimal cooperation between these two Government agencies with regard to the Foreign Agent Registration Act.

Under section 2 of the act, the Attorney General is required to send a copy of each foreign agent's initial registration statement to the Secretary of State "for such comment, if any, as the Secretary of State may desire to make from the point of view of the foreign relations of the United States." In practice, these initial registration statements are sent from Justice to State's Office of Security, where they are channeled to the geographic areas concerned. There they are reviewed, normally by the desk officer involved, and returned to

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Justice. In almost every case, the initial statement becomes the first and last time that State receives official information on a registered foreign agent and his activities. Six-month supplemental statements, dissemination reports, and any additional short-form statements that become part of the complete Justice Department registration file are normally not circulated to the State Department. In fact, under the current system, State does not even receive notification when the registration is terminated.

The logical result of this lack of coordination is that State Department officials closely involved in geographic areas have little knowledge of the work and even identity of lobbyists representing various countries. (Some are not even aware of the act.) Officers of the Department have on occasion made use of the Justice Department's public files on their own initiative. In at least one instance, a State Department bureau initiated a successful Justice Department effort to force one public relations firm to label its foreign government material. These, however, are the exceptions where they should be the rule.

