

**AMENDING ACT REQUIRING REGISTRATION
OF FOREIGN AGENTS**

HEARINGS

BEFORE

**SUBCOMMITTEE NO. 4 OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES**

SEVENTY-SEVENTH CONGRESS

FIRST SESSION

ON

H. R. 6045

A BILL 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

NOVEMBER 28 AND DECEMBER 1, 1941

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SEVENTY-SEVENTH CONGRESS

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CONTENTS

NOVEMBER 28

	Page
Brief explanation of proposed amendments to Foreign Agents Registration Act of 1938, as amended.....	10
Statement of—	
L. M. C. Smith, Chief, Special Defense Unit, Department of Justice, Washington, D. C.....	12
Types and contents of Axis political propaganda.....	21
Résumé of proposed amendments.....	24
Adolph A. Berle, Jr., Assistant Secretary of State, Washington, D. C.....	28
Vincent M. Miles, Solicitor, Post Office Department, Washington D. C.....	33

DECEMBER 1

Statement of—	
L. M. C. Smith (resumed).....	48
Article from New York Times, of October 31, 1941, concerning Sofina.....	43
Letters from—	
Walter C. Louchheim, Jr., Assistant Director, Securities and Exchange Commission, Washington, D. C.....	45-46
E. H. Foley, Jr., Acting Secretary of the Treasury, Washington, D. C.....	46
Hon. Jerry Voorhis, a Representative in Congress from the State of California.....	47
L. M. C. Smith (resumed).....	48
Vincent M. Miles (resumed).....	51
Hon. Jerry Voorhis (resumed).....	52
Letters from—	
Hon. Cordell Hull, Secretary of State, Washington, D. C.....	55
Hon. Francis Biddle, United States Attorney General, Washington, D. C.....	55-56
Statements of Alexander Holtzoff, special assistant to the Attorney General, appear in various places in the hearing.	

AMENDING ACT REQUIRING REGISTRATION OF FOREIGN AGENTS

FRIDAY, NOVEMBER 28, 1941

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met at 10 a. m., Hon. Charles F. McLaughlin (chairman) presiding.

Mr. McLAUGHLIN. The subcommittee has convened for the consideration of H. R. 6045 and for the purpose of hearing witnesses on that bill.

(The bill and a brief explanation read as follows:)

[COMMITTEE PRINT]

DECEMBER 17, 1941

NOTE: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is made is shown in roman. (Subcommittee additions are shown in bold type and deletions are in black brackets.)

[H. R. 6045, 77th Cong., 1st sess.]

A BILL 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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 8, 1938 (52 Stat. 631, U. S. C., title 22, sec. 233 (a) to sec. 233 (g)), entitled "An Act to require the registration of certain persons employed by agencies to disseminate propaganda in the United States, and for other purposes", as amended, is hereby amended to read as follows:

"It is hereby declared to be the policy and purpose of this Act to protect the national defense, internal security, and foreign relations of the United States by requiring public disclosure by persons engaging in propaganda activities and other activities for or on behalf of foreign governments, foreign political parties, and other foreign principals so that the Government and the people of the United States may be informed of the identity of such persons and may appraise their statements and actions in the light of their associations and activities.

"DEFINITIONS

"SECTION 1. [That] As used in and for the purposes of this Act—

"(a) The term 'person' [means] includes an individual, partnership, association, [or] corporation, organization, or any other combination of individuals;

"[(c)] (b) The term 'foreign principal' includes—

"(1) [the] a government of a foreign country [a political party of a foreign country] and a foreign political party;

"(2) an individual affiliated or associated with, or supervised, directed, controlled, financed, or subsidized, in whole or in part, by any foreign principal defined in clause (1) of this section 1 (b);

"(3) a person [domiciled abroad] outside of the United States, unless it is established that such person is an individual and is a citizen of and domiciled within the United States or that such person is not an individual, is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States. Nothing in this clause (3) shall limit the operation of clause (5) of this section 1 (b);

"(4) [any foreign business, partnership, association, corporation or other political organization, or] a partnership, association, corporation organization, or other combination of individuals organized under the laws of, or having its principal place of business in, a foreign country;

"(5) a domestic partnership, association, corporation, organization, or other combination of individuals, subsidized directly or indirectly, in whole or in part, by any [of the entities described herein:] foreign principal defined in clause (1), (3), or (4) of this section 1 (b);

"(c) Except as provided in section 1 (d) hereof, [(d)] the term 'agent of a foreign principal' [means] includes—

"(1) any person who acts [or engages] or agrees to act within the United States as, or who is or holds himself out to be, whether or not pursuant to [authorization or] contractual relationship, [as] a public-relations counsel, publicity agent, information-service employee, [or as agent, servant] servant, agent, representative, or attorney for a foreign principal; [and shall include any person who receives compensation from or is under the direction of a foreign principal: Provided, however, That such term shall not include—]

(NOTE: Present law sets out at this point matter hereinafter shown under "Exemptions".)

"(2) any person who within the United States collects information for or reports information to a foreign principal; who within the United States solicits or accepts compensation, contributions or loans, directly or indirectly, from a foreign principal; who within the United States solicits, disburses, dispenses, or collects compensation, contributions, loans, money, or anything of value, directly or indirectly, for a foreign principal; who within the United States acts at the order, request, or under the direction, [express or implied,] of a foreign principal;

"(3) any person who assumes or purports to act within the United States as an agent of a foreign principal in any of the respects set forth in clauses (1) and (2) of this section 1 (c); and

"(4) any person who is an officer or member of the active or reserve military, naval, or other armed forces of any foreign principal defined in clause (1) of section 1 (b) hereof, or who is an officer of or employed by any such foreign principal; and proof of any affiliation or employment, specified in this clause (4), of any person within a period of five years previous to the effective date of this Act shall create a rebuttal presumption that such person is an agent of a foreign principal;

"(d) The term 'agent of a foreign principal' does not include any news or press service or association organized under the laws of the United States, or of any State or other place subject to the jurisdiction of the United States, or any newspaper, magazine, periodical, or other publication for which there is on file with the Postmaster General a sworn statement in compliance with section 2 of the Act of August 24, 1912 (37 Stat. 553), as amended, published in the United States, solely by virtue of any bona fide news or journalistic activities, including the solicitation or acceptance of advertisements, subscriptions, or other compensation therefor, so long as it is at least 80 per centum beneficially owned by, and its officers and its directors, if any, are, citizens of the United States, and such news or press service or association, newspaper, magazine, periodical, or other publication, is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by any foreign principal defined in clause (1), (2), or (4) of section 1 (b) hereof, or by any agent of a foreign principal required to register under this Act;

"(e) The term 'government of a foreign country' includes any person or group of persons exercising sovereign de facto or de jure political jurisdiction over any country, other than the United States, or over any part of such country, and

includes any subdivision of any such group and any group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated. Such term shall include any faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been recognized by the United States;

"(e) The term 'Secretary' means the Secretary of State of the United States."

"(f) The term 'foreign political party' includes any organization or any other combination of individuals in a country other than the United States, or any unit or branch thereof, having for an aim or purpose, or which is engaged in any activity devoted in whole or in part to, the establishment, administration, control, or acquisition of administration or control, of a government of a foreign country or a subdivision thereof, or the furtherance or influencing of the political or public interests, policies, or relations of a government of a foreign country or a subdivision thereof;

"(g) The term 'public-relations counsel' includes any person who engages directly or indirectly in informing, advising, or in any way representing [another person] a principal in any matter pertaining to political [or public] interests, policies, or relations;

"(h) The term 'publicity agent' includes any person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise;

"(i) The term 'information-service employee' includes any person who is engaged directly or indirectly in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, social, cultural, or other benefits, advantages, facts, or conditions of any country other than the United States or of any government of a foreign country or of a foreign political party or of a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in, a foreign country;

"(j) The term 'political propaganda' includes any oral, visual, graphic, written, pictorial, or other communication or expression by any person (1) which is reasonably adapted to, or which the person disseminating the same believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, or in any other way influence the 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, or with reference to the foreign policies of the United States, or promote in the United States racial, religious, or social dissension, or (2) which advocates, advises, instigates, or promotes any racial, social, political, or religious disorder, civil riot or other conflict involving the use of force or violence in any other American republic or the overthrow of any government or political subdivision of any other American republic by any means involving the use of force or violence. As used in this section (j) the term 'disseminating' includes transmitting, or causing to be transmitted in the United States mails or by any means or instrumentality of [in] interstate or foreign commerce or offering or causing to be offered in the United States mails;

"(k) The term 'registration statement' means the registration statement required to be filed with the Attorney General under section 2 (a) hereof, and any supplements thereto required to be filed under section 2 (b) hereof, and includes all documents and papers required to be filed therewith or amendatory thereof or supplemental thereof, whether attached thereto or incorporated therein by reference;

"(l) The term 'American Republic' includes any of the states which were signatory to the Final Act of the Second Meeting of the Ministers of Foreign Affairs of the American Republics at Habana, Cuba, July 30, 1940;

"(m) [(b)] The term 'United States', when used in a geographical sense, includes [the United States and any place subject to the jurisdiction thereof] the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, including the Philippine Islands, and all other places now or hereafter subject to the civil or military jurisdiction of the United States.

"(n) The term 'prints' means newspapers and periodicals, books, pamphlets, sheet music, visiting cards, address cards, printing, proofs, engravings, photographs, pictures, drawings, plans, maps, patterns to be cut out, catalogs, prospectuses, advertisements, and printed, engraved, lithographed, or autographed

notices of various kinds, and, in general, all impressions or reproductions obtained on paper or other material assimilable to paper, on parchment or on cardboard, by means of printing, engraving, lithography, autography, or any other easily recognizable mechanical process, with the exception of the copying press, stamps with movable or immovable type, and the typewriter.

"REGISTRATION

"Sec. 2. [Every person who is now an agent of a foreign principal shall, within thirty days after this Act takes effect, and every person who shall hereafter become an agent of a foreign principal shall forthwith file with the Secretary a registration statement, under oath, on a form prescribed by the Secretary which shall set forth—] (a) No person shall act as an agent of a foreign principal unless he has filed with the Attorney General a true and complete registration statement and supplements thereto as required by this section 2 (a) and section 2 (b) hereof, or unless he is exempt from registration under the provisions of this Act. Except as hereinafter provided, every person who is an agent of a foreign principal on the effective date of this Act shall, within ten days thereafter, and every person who becomes an agent of a foreign principal after the effective date of this Act shall, within ten days thereafter, file with the Attorney General, in duplicate, a registration statement, under oath, on a form prescribed by the Attorney General, of which one copy shall be transmitted promptly by the Attorney General 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. Failure of the Attorney General so to transmit such copy shall not be a bar to prosecution under this Act. The registration statement shall include the following, which shall be regarded as material for the purposes of this Act:—[(a) The name, business address, and residence address of the registrant:]

"(1) registrant's name, principal business address, and all other business addresses in the United States or elsewhere, and all residence addresses, if any;

[(g) If the registrant be a partnership, association, or corporation, a true and complete copy of its charter, articles of incorporation, copartnership, association, constitution, and bylaws, and any other instrument or instruments relating to its organization, powers, and purposes.]

"(2) status of the registrant: if an individual, nationality; if a partnership, name, residence addresses, and nationality of each partner and a true and complete copy of its articles of copartnership; if an association, corporation, organization, or any other combination of individuals, the name, residence addresses, and nationality of each director and officer and of each person performing the functions of a director or officer and a true and complete copy of its charter, articles of incorporation, association, constitution, and bylaws, and amendments thereto; a copy of every other instrument or document and a statement of the terms and conditions of every oral agreement relating to its organization, powers, and purposes; and a statement of its ownership and control;

[(b) The name of the foreign principal or other person or organization for which such person is acting as agent:]

"(3) a comprehensive statement of the nature of registrant's business; a complete list of registrant's employees and a statement of the nature of the work of each, unless, and to the extent, this requirement is waived in writing by the Attorney General; the name and address of every foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act; the character of the business or other activities of every such foreign principal, and, if any such foreign principal be other than a natural person, a statement of the ownership and control of each; and the extent, if any, to which each such foreign principal is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party;

[(c) a copy of all contracts of employment under which such person acts or agrees to act as such agent, if written, or a full statement of the terms and conditions thereof, if oral;

"(d) the date when each such contract was made, the date of commencement of activity thereunder, and the period during which such contract is to be in effect:]

"(4) copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is an agent of a foreign principal; a comprehensive statement of the nature and method of performance of each such contract, and of the existing and proposed activity or activities engaged in or to be engaged in by the registrant as agent of a foreign principal for each such foreign principal;

["(e) the compensation to be paid, if any, and the form and time of payment, under such contract;

"(f) the name of every foreign principal, or other person or organization which has contributed or which has promised to contribute to the compensation provided in such contract; and]

"(5) the nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received within the preceding sixty days [six months] from each such foreign principal, either as compensation or for disbursement or otherwise, and the form and time of each such payment and from whom received;

"(6) a detailed statement of every activity which the registrant is performing or is assuming or purporting or has agreed to perform for himself or any other person other than a foreign principal, and which requires his registration hereunder;

"(7) the name, business and residence addresses, and, if an individual, the nationality, of any person who has within the preceding sixty days [six months] contributed or paid money or anything of value to the registrant in connection with any of the activities referred to in clause (6) of this section 2 (a) and the amount or value of the same;

"(8) a detailed statement of the money and other things of value spent or disposed of by the registrant during the preceding sixty days [six months] in furtherance of or in any way in connection with activities which require his registration hereunder and which have been undertaken by him either as an agent of a foreign principal or for himself or any other person;

"(9) copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is performing or assuming or purporting or has agreed to perform for himself or for a foreign principal or for any person other than a foreign principal any activities which require his registration hereunder;

"(10) such other statements, information, or documents pertinent to the purposes of the Act as the Attorney General, having due regard for the national security and the public interest, may from time to time require;

"(11) such further statements and such further copies of documents as are necessary to make the statements made in the registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.

"(b) [Sec. 3.] Every [person] agent of a foreign principal who has filed a registration statement required by section 2 (a) hereof shall, within thirty days after the expiration of each period of six months succeeding [the first] such filing, file with the [Secretary] Attorney General a [statement] supplement thereto under oath, on a form prescribed by the [Secretary] Attorney General, which shall set forth with respect to such preceding six months' period [(a)] such facts as the Attorney General, having due regard for the national security and the public interest, may [be] deem necessary to make the information required under section 2 hereof accurate, complete, and current with respect to such period [(b) the amount and form of compensation received by such person for acting as agent for a foreign principal which has been received during such six months' period either directly or indirectly from any foreign principal; and (c) a statement containing such details required under this Act as the Secretary shall fix, of the activities of such person or agent of a foreign principal during such six months' period]. In connection with the information furnished under clauses (3), (4), (6), and (9) of section 2 (a) hereof, the registrant shall give notice to the Attorney General of any changes therein within ten days after such changes occur. If the Attorney General, having due regard for the national security and the public interest, determines

that it is necessary to carry out the purposes of this Act, he may, in any particular case, require supplements to the registration statements to be filed at more frequent intervals in respect to all or particular items of information to be furnished.

"(c) The registration statement and supplements thereto shall be executed under oath as follows: If the registrant is an individual, by him; if the registrant is a partnership, by a majority of the members thereof; if the registrant is a person other than an individual or a partnership, by a majority of the officers thereof or persons performing the functions of officers or by a majority of the board of directors thereof or persons performing the functions of directors, if any.

"(d) The fact that a registration statement or supplement thereto has been filed shall not necessarily be deemed a full compliance with this Act and the rules, regulations, and orders, thereunder on the part of the registrant; nor shall it indicate that the Attorney General has in any way passed upon the merits of such registration statement or supplement thereto; nor shall it preclude prosecution, as provided for in this Act, for willful failure to file a registration statement or supplement thereto when due or for a willful false statement of a material fact therein or the willful omission of a material fact required to be stated therein or the willful omission of a material fact or copy of a material document necessary to make the statements made in a registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.

"(e) If any agent of a foreign principal, required to register under the provisions of this Act, has previously thereto registered with the Attorney General under the provisions of the Act of October 17, 1940 (54 Stat. 1201), the Attorney General, in order to eliminate inappropriate duplication, may permit the incorporation by reference in the registration statement or supplements thereto filed hereunder of any information or documents previously filed by such agent of a foreign principal under the provisions of the Act of October 17, 1940 (54 Stat. 1201).

EXEMPTIONS

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

"(a) [(1)] A duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, [of the United States; nor (2)] while said officer is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer;

"(b) Any official of a foreign government, if such government is recognized by the United States, [as a government other than] who is not a public-relations counsel, [or] publicity agent, information-service employee, or a citizen of the United States, whose name and status and the character of whose duties as such official are of record in the Department of State, [of the United States; nor (3)] while said official is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official;

"(c) Any member of the staff of, or any person employed by, a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, [of the United States] other than a public-relations counsel, [or] publicity agent, or information-service employee, whose name and status and the character of whose duties as such member or employee are of record in the Department of State, [of the United States; nor (4)] while said member or employee is engaged exclusively in the performance of activities which are recognized by the Department of State as being within the scope of the functions of such member or employee;

"(d) Any person [performing] 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 [nor (5)] 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) [Neutrality Act of 1939] and such rules and regulations as may be prescribed thereunder;

"(c) Any person [engaged] *engaging or agreeing to engage* only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts.

"FILING AND LABELING OF POLITICAL PROPAGANDA

"Sec. 4. (a) Every person within the United States who is an agent of a foreign principal and required to register under the provisions of this Act and who transmits or causes to be transmitted in the United States mails or by any means or instrumentality of [in] interstate or foreign commerce any political propaganda (i) in the form of prints, or (ii) in any other form which is reasonably adapted to being, or which he believes will be, or which he intends to be, disseminated or circulated among two or more persons shall, not later than forty-eight hours after the beginning of the transmittal thereof, send to the Librarian of Congress two copies thereof and file with the Attorney General one copy thereof and a statement, duly signed by or on behalf of such agent, setting forth full information as to the places, times and extent of such transmittal.

"(b) It shall be unlawful for any person within the United States who is an agent of a foreign principal and required to register under the provisions of this Act to transmit or cause to be transmitted in the United States mails or by any means or instrumentality of [in] interstate or foreign commerce any political propaganda (i) in the form of prints, or (ii) in any other form which is reasonably adapted to being, or which he believes will be, or which he intends to be, disseminated or circulated among two or more persons, unless such political propaganda is conspicuously marked at its beginning with, or prefaced or accompanied by, a true and accurate statement, in the language or languages used in such political propaganda, setting forth that the person transmitting such political propaganda or causing it to be transmitted is registered under this Act with the Department of Justice, Washington, District of Columbia, as an agent of a foreign principal, together with the name and address of such agent of a foreign principal and of each of his foreign principals; that, as required by this Act, his registration statement is available for inspection at and copies of such political propaganda are being filed with the Department of Justice; and that registration of agents of foreign principals required by the Act does not indicate approval by the United States Government of the contents of their political propaganda. The Attorney General, having due regard for the national security and the public interest, may by rule or regulation prescribe the language or languages and the manner and form in which such statement shall be made and require the inclusion of such other information contained in the registration statement identifying such agent of a foreign principal and such political propaganda and its sources as may be appropriate.

"(c) The copies of political propaganda required by this Act to be sent to the Librarian of Congress shall be available for public inspection under such rules and regulations as he may prescribe.

"(d) For purposes of the Library of Congress, other than for public distribution, the Postmaster General is authorized, upon the request of the Librarian of Congress, to forward to the Library of Congress fifty copies, or as many less thereof as are available, of all foreign prints excluded from the mails by him under authority of section 1 of title 12 of the Act of June 15, 1917 (18 U. S. C. 343), as well as all foreign prints containing propaganda addressed to the Library of Congress.]

"(d) For purposes of the Library of Congress, other than for public distribution, the Secretary of the Treasury and the Postmaster General are authorized, upon the request of the Librarian of Congress, to forward to the Library of Congress fifty copies, or as many fewer thereof as are available, of all foreign prints determined to be prohibited entry under the provisions of section 305 of title III of the Act of June 17, 1930 (46 Stat. 688), and of all foreign prints excluded from the mails under authority of section 1 of title XII of the Act of June 15, 1917 (40 Stat. 230).

"Notwithstanding the provisions of section 305 of title III of the Act of June 17, 1930 (46 Stat. 688), and of section 1 of title XII of the Act of June 15, 1917 (40 Stat. 230), the Secretary of the Treasury is authorized to permit the entry and the Postmaster General is authorized to permit the transmittal in the mails of foreign prints imported for governmental purposes by authority or for the use of the United States or for the use of the Library of Congress.

"BOOKS AND RECORDS

"Sec. 5. Every agent of a foreign principal registered under this Act shall keep and preserve while he is an agent of a foreign principal such books of account and other records with respect to all his activities, the disclosure of which is required under the provisions of this Act, as the Attorney General, having due regard for the national security and the public interest, may by rule, regulation, or order prescribe as necessary or appropriate for the enforcement of the provisions of this Act and shall preserve the same for a period of three years following the termination of such status. Until rules, regulations, or orders are in effect under this section, every agent of a foreign principal shall keep books of account and shall preserve all written records with respect to his activities. Such books and records shall be open at all reasonable times to the inspection of any official charged with the enforcement of this Act. It shall be unlawful for any person willfully to conceal, destroy, obliterate, mutilate, or falsify, or to attempt to conceal, destroy, obliterate, mutilate, or falsify, or to cause to be concealed, destroyed, obliterated, mutilated, or falsified, any books or records required to be kept under the provisions of this section.

"PUBLIC EXAMINATION OF OFFICIAL RECORDS

"[Sec. 4.] Sec. 6. The [Secretary] Attorney General shall retain in permanent form one copy of all registration statements and all statements concerning the distribution of political propaganda [filed] furnished under this Act, and [such statements] the same shall be public records and open to public examination and inspection at [all] such reasonable hours, under such rules and regulations, as the [Secretary] Attorney General may prescribe and copies of the same shall be furnished to every applicant at such reasonable fee as the Attorney General may prescribe [; Provided, That]. The [Secretary] Attorney General may [is hereby authorized to] withdraw from [the] public [records] examination the registration statement and other statements of any [person] agent of a foreign principal whose activities have ceased to be of a character which require registration under the [terms] provisions of this Act [or any other registration statement or portion thereof, or statements furnished under this Act, if the Attorney General determines that such withdrawal would be in the public interest and not inconsistent with the national security].

"LIABILITY OF OFFICERS

"Sec. 7. Each officer, or person performing the functions of an officer, and each director, or person performing the functions of a director, of an agent of a foreign principal which is not an individual shall be under obligation to cause such agent to execute and file a registration statement and supplements thereto as and when such filing is required under sections 2 (a) and 2 (b) hereof and shall also be under obligation to cause such agent to comply with all the requirements of sections 3 (a), 3 (b), and 5 and all other requirements of this Act. In case of failure of any such agent of a foreign principal to comply with any of the requirements of this Act, each of its officers, or persons performing the functions of officers, and each of its directors, or persons performing the functions of directors, shall be subject to prosecution therefor.

"ENFORCEMENT AND PENALTIES

"Sec. 8. (a) [Sec. 5.] Any person who— [willfully fails to file any statement required to be filed under this Act, or in complying with the provisions of this Act, makes a false statement of a material fact, or willfully omits to state any material fact required to be stated therein.]

"(1) willfully violates any provision of this Act or any [rule.] regulation, [or order] thereunder; or

"(2) in any registration statement or supplement thereto or in any statement under section 3 (a) hereof concerning the distribution of political propaganda or in any other document filed with or furnished to the Attorney General under the provisions of this Act willfully makes a false statement of a material fact or willfully omits any material fact required to be stated therein or willfully omits a material fact or a copy

of a material document necessary to make the statements therein and the copies of documents furnished therewith not misleading, shall, [on] upon conviction thereof, be punished by a fine of not more than [\$1,000] \$10,000 or by imprisonment for not more than [two] five years, or both.

"(b) In any proceeding under this Act, in which it is charged that a person is an agent of a foreign principal with respect to a foreign principal outside of the United States, proof of the specific identity of the foreign principal shall be permissible but not necessary.

"(c) Any alien who shall be convicted of a violation of, or a conspiracy to violate any provision of this Act or any [rule.] regulation, [or order] thereunder shall be subject to deportation in the manner provided by sections 19 and 20 of the Immigration Act of 1917 (39 Stat. 889, 890), as amended.

"(d) The Postmaster General may declare to be nonmailable any communication or expression falling within clause (2) of section 1 (j) hereof in the form of prints or in any other form reasonably adapted to, or reasonably appearing to be intended for, dissemination or circulation among two or more persons, which is offered or caused to be offered for transmittal in the United States mails to any person or persons in any other American Republic by any agent of a foreign principal, if the Postmaster General is informed in writing by the Secretary of State that the duly accredited diplomatic representative of such American Republic has [stated] made written representation to the Department of State that the admission or circulation of such communication or expression in such American Republic is prohibited by the laws thereof and has requested in writing that its transmittal thereto be stopped.

"APPLICABILITY OF ACT

"SEC. 9. This Act shall be applicable in the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, including the Philippine Islands, and all other places now or hereafter subject to the civil or military jurisdiction of the United States.

"RULES AND REGULATIONS

"[SEC. 6.] SEC. 10. The [Secretary is authorized and directed to] Attorney General may at any time make, prescribe, amend, and rescind such rules, regulations, orders, and forms as he may [be] deem necessary to carry out the provisions of this Act.

"REPORTS TO THE CONGRESS

"SEC. 11. The Attorney General shall, from time to time, make a report to the Congress concerning the administration of this Act, including the nature, sources, and content of political propaganda disseminated or distributed.

"SEPARABILITY OF PROVISIONS

"SEC. 12. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

"SEC. 13. This Act is in addition to and not in substitution for any other existing statute.

"SHORT TITLE

"SEC. 14. This Act may be cited as the 'Foreign Agents Registration Act of 1938, as amended'."

TRANSFER OF ADMINISTRATION

Sec. 2. Upon the effective date of this Act, all powers, duties, and functions of the Secretary of State under the Act of June 8, 1938 (52 Stat. 631), as amended, shall be transferred to and become vested in the Attorney General, together with all property, books, records, and unexpended balances of appropriations used by or available to the Secretary of State for carrying out the functions devolving on him under the above-cited Act. All rules, regulations, and forms which have been issued by the Secretary of State pursuant to the provisions of said Act, and which are in effect, shall continue in effect until modified, superseded, rescinded, or repealed.

EFFECTIVE DATE

[Sec. 7.] *Sec. 3.* This Act shall take effect on the [nineteenth] sixtieth day after the date of its [enactment] approval, except that prior to such sixtieth day the Attorney General may make, prescribe, amend, and rescind such rules, regulations, [orders,] and forms as may be necessary to carry out the provisions of this Act.

BRIEF EXPLANATION OF PROPOSED AMENDMENTS TO FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED

The attached bill is an amendment to the existing Foreign Agents Registration Act which was enacted in 1938 and requires the registration of agents of foreign principals employed to disseminate propaganda in the United States and for other purposes.

In addition to providing the public with a broader and more detailed picture of the propaganda activities of foreign agents in this country, the proposed amendments would transfer administration of the act from the Department of State to the Department of Justice. The bill, however, proposes no change in the scheme of administration of the present act and does not extend its coverage, in any substantial way, to include persons who are not now required to register.

The amendments include the following changes:

(1) Requiring those foreign agents who are subject to registration to label all political propaganda disseminated by them so recipients may know who is primarily concerned in its distribution.

(2) Transferring administration of the act from the Department of State to the Department of Justice and requiring registrants to file copies of all political propaganda distributed by them with the Department of Justice and the Library of Congress.

These provisions are in line with recommendations made by the Secretary of State, the Postmaster General, and the Attorney General and meet with their full approval.

(3) Extending application of the statute to include foreign agents using the United States as a base for propaganda activities in Central and South America. This provision would put into effect recommendations approved by the United States and 20 other American republics at the Pan-American Conference held in Habana, Cuba, in 1940.

(4) Strengthening and clarifying enforcement provisions of the act through various technical changes in language.

The additional length of the bill is attributable not so much to completely new matter and additional concepts as to the fact that it incorporates, with little or no change, definitions which under the existing legislation are now found in the regulations and explicitly spells out in certain instances what is now implicit in the statute. This approach has been utilized in order to clarify the act and make it more certain and definite for those who are affected by it. For example, the definitions of "government of a foreign country"; "foreign political party"; "public relations counsel"; "publicity agent"; and "registration statement" are now in the present regulations. The remaining definitions in the bill (and almost one-third of the bill is comprised of definitions), are made necessary by the insertion of new provisions, particularly those referring to the filing and labeling of political propaganda, the protection of other American republics from political propaganda sent them in the United States mails and the spelling out of concepts already implicit in the present act in its definition of "agent of a foreign principal."

With respect to the present definition of the term "foreign principal" in section 1 (b), clause (2) thereof has no counterpart at present and declares to be "foreign principals" those individuals controlled by foreign governments and foreign political organizations. Clause (3) of that section is revised to shift the difficult burden of proof respecting domicile now present in the existing act.

With respect to the term "agent of a foreign principal," it is believed that clause (2) of section 1 (c) of the proposed amendments merely expresses what is already implicit in the statute, although it possibly goes further in the phrase relating to the soliciting or accepting contributions or loans directly or indirectly from a foreign principal. Clause (3) which makes assuming or purporting to act as an agent of a foreign principal sufficient to constitute one

such an agent is probably implicit in the present act, while clause (4) in its reference to active or reserve military association with a foreign government or foreign political party, adds a new and probably necessary idea to the present concept of "agent of a foreign principal."

Section 2 of the bill makes it clear that a prosecution because of failure to register may be brought not only in the District of Columbia but also wherever the agent of a foreign principal acts without having registered. In addition, this section requires that the registration statement include all pertinent information, so as to achieve the main purpose of the act—the shedding of more light upon the activities of foreign agents. The newly required information includes data about partners, directors, and officers of the registrant and lists of registrant's employees; information about a foreign principal's business, its ownership and control by a foreign government or foreign political party; and additional statements concerning the activities of an agent of a foreign principal which require registration, such as expenditures for such activities. All of these additions have been induced by experience in cases under the present act.

The section also provides coordination with the State Department by providing that it shall receive a copy of each registration statement for examination from the point of view of the foreign relations of the United States.

The exemptions section (sec. 3) which follows is but little different from the statutory exemptions now in effect and does not substantially add thereto or subtract therefrom.

Section 4 requires those who have to register under the act to label any political propaganda which they distribute through the mails or interstate commerce if the propaganda is in a form for distribution to two or more persons. In addition, copies of the propaganda are required to be filed with the Library of Congress and the Attorney General. It is to be noted that while the definition of political propaganda is fairly broad, it affects only those persons who have to register as agents of a foreign principal. The label required informs the reader that the distributor is an agent of a foreign principal and that his registration statement is on file with the Department of Justice. The label may also contain other identifying information. Provision is made for the Library of Congress to receive propaganda material for purposes other than public distribution.

The additional sections of the bill require registered agents of foreign principals to keep books and records concerning activities of theirs which have compelled their registration (sec. 5); provides for public examination of registration statements and other statements concerning the distribution of political propaganda in accordance with present practices (sec. 6); and establishes the liability of an organization's officers and directors for failure of the organization to comply with the requirements of the act (sec. 7).

A maximum fine of \$10,000 or maximum imprisonment for five years or both for willful violation of the act is an increase over the present act but is comparable to the penalties in the so-called Voorhis Act, for the registration of certain types of political organization, the administration of which is now lodged with the Department of Justice (sec. 8 (a)). A presumption as to the identity of persons outside of the United States is created by section 8 (b) and an alien convicted of a violation of this act is deportable under section 8 (c).

Provision is also made to carry out the Habana Convention of July 1940, in which each signatory undertook to attempt to protect the others against subversive activities originating within its own borders. To this end section 8 (d) authorizes the Postmaster General upon the request of a South American country and of the Secretary of State to cooperate in the enforcement of that country's laws.

There is the usual applicability section (sec. 9), section 10 dealing with rules and regulations permits the Attorney General to make such additional rules and regulations as may be necessary in the administration of the act, notwithstanding the incorporation in the proposed amendments of certain existing regulations. The Attorney General is directed to make reports from time to time on the nature, sources, and content of propaganda distributed (sec. 11). Sections 12 and 13 are standard provisions.

Section 2 of the amending act transfers administration of the act to the Department of Justice, where it can be administered by the same group engaged in the administration of the so-called Voorhis Act and where it more appropriately fits in with the functions of the Department. Section 3 of the amending act gives 60 days for the act to become effective.

Mr. McLAUGHLIN. May I inquire how you desire to proceed. Mr. Holtzoff?

Mr. HOLTZOFF. Mr. Chairman, Mr. L. M. C. Smith, the Chief of the Special Defense Unit of the Department of Justice, who has studied this matter and who has had a very large share in the drafting of the bill, will make the presentation on behalf of the Department of Justice, if you will be good enough to hear him.

Mr. McLAUGHLIN. We will be pleased to hear Mr. Smith and all other witnesses, of course, who desire to be heard on the bill.

Will you, for the purpose of the record, identify yourself?

**STATEMENT OF L. M. C. SMITH, CHIEF, SPECIAL DEFENSE UNIT,
DEPARTMENT OF JUSTICE**

Mr. SMITH. I am L. M. C. Smith, Chief of the Special Defense Unit of the Department of Justice.

Before discussing briefly the problem of political propaganda by foreign agents, let me say the Attorney General would be very glad to come before your committee if you want him, but he thought I was more familiar with it and would be more helpful to you in this respect.

Mr. McLAUGHLIN. We should be very much pleased to have the Attorney General, or any witness he may delegate from the Department.

Mr. SMITH. The problem of political propaganda is one of the major problems, and of the four respects in which the act introduced by Congressman McCormack in 1937 has been changed, one of the principal problems is that of political propaganda.

I want, briefly, to show you here some of the types of propaganda that have come into this country in the course of the mail, sent in by the Axis countries. This propaganda, of which you will see various types here, consists of German publications, Italian publications, and Japanese publications.

We get copies of this material in accordance with the Attorney General's opinion of December 10, 1940, under which the Post Office Department has been declaring nonmailing material that is being sent into this country by unregistered foreign agents. The German material I think you will find is interesting, some of which is books and pamphlets. This one is "Murder! Espionage! Assassination! The Blood Trace of the English Secret Service at the Attempted Bombing at Munich."

Then there is another type back here [indicating] which is economic, and this is called "The Economic Future of Europe."

Then a third type of book is "Britain's Designs on Norway," which is a selection from the official German white book.

A fourth type is "Hitler's Speech," which was delivered at Munich and reprinted in French for distribution at New Orleans.

Then we have, in addition to these books and pamphlets, weekly and monthly periodicals, and you will notice, running through all of this, a certain domination of themes that the Germans are trying to inculcate into our country. Typical of those was "World Service," of which vast quantities have come into this country and this particular one [indicating] is entitled "Free Masonry as the Secret Political Weapon of Jewish-English Imperialism." Then there is another one

here called "Die Judenfrage—the Jewish Question," and giving the American views and the German views. A great many of them emphasize antisemitism. They also emphasize the Nazi ideology, the British war guilt, and the power and might of the German people and the certainty of their conquest.

Then you have a third type which consists of news sheets from party newspapers, which are put out, apparently, by the propaganda minister, directly sometimes, and sometimes indirectly through such persons as Mr. Hoffman, of Munich. All of this news is colored and twisted to present solely one point of view.

I have collected in this exhibit here [exhibiting], which I would like to have back, if I may, certain illustrations of the type of news and the coloring and distortion which is given.

Then, as I say, this material emphasizes the themes such as this, from Germany:

Nazi ultimate victory is inevitable. German Army is invincible.

This is emphasized again and again in the propaganda intended for foreign consumption. Unity is the keynote of German success—unity within the armed forces, unity of the people behind their beloved Fuehrer, and unity of the countries in the Axis orbit, and the "New Order."

They also emphasize that—

Germany is the true democracy.

The Fuehrer principle is the essence of the highest socialism.

True socialism is represented by the Nazi community of blood and race.

Culture in Germany is flourishing and expanding, even in wartime.

National Socialism, while not tolerating the decadent art of the democracies, offers real incentive and stimulus for the production of true art and letters.

Then, on anti-Semitism:

The Jews are really responsible for the present war, as history shows them to have been for every previous war. International Jewry is a ring of international bankers, warmongers in the United States, and English plutocrats who traffic in souls for the sake of all profits and have made a mockery out of democracy. Jews are rich international bankers and are also Communists.

Then there are again the themes about the United States:

This country is incapable of any great economic effort and is greatly hampered by her political system. The only way for the United States to save herself from disastrous economic collapse at the end of this war is to align herself with Germany's new order.

Then there are the specific attacks upon the President, that—

the country is not behind his warmongering activities; he is anxious to go to war to defend monopoly in the name of Christianity, democracy, and good faith, and Americans are easy prey to British false propaganda, and England is dragging the United States into the war by offering the bait of United States-Anglo world domination.

These have been coming in in vast quantities, or being sent, at least, into this country in vast quantities.

And I have here certain illustrations of the Italian publications which I would like to call your attention to, but which I will not read, which carry out the same themes but with a slightly different emphasis.

The Italian publications point out:

In the international order, Italian prestige is constantly increasing, due to the might of the Italian arms in the Mediterranean; the whole world is looking to

Italy and expects her to say the decisive word; the great domestic achievements in both Italy and the Empire are continuing and expanding even during the war.

Then they attack Great Britain and again attack the United States as being the base of international Jewry and being inspired by this Anglo-American Jewish conspiracy and Roosevelt as a warmonger.

And then again we have publications from Japan, practically all of them printed in English, whereas the other ones are sometimes in English and sometimes in their own language. They have a somewhat different theme. They are more on the cultural line, more to sell Japan to the people, and more to sustain Japan's economic self-sufficiency; to explain that the principle of universal brotherhood and international righteousness for the entire world is at the basis of Japan's efforts to construct a new order in east Asia and to defend Japan's policy in Manchuria.

Mr. McLAUGHLIN. Mr. Smith, in what respect will the law differ concerning the things you have described, if this bill is passed, from the present law?

Mr. SMITH. It will differ from the present act in four main respects. In the first place, it will require the labeling of all propaganda material distributed by registered foreign agents. In other words, they will have to say somewhere on the pamphlet, in a prominent place, that "I am a foreign agent; my principal is such and such country; my registration statement is on file with the Department of Justice, where it can be examined, and this document does not meet necessarily with the approval of the United States Government."

That mechanism, to which a number of the paragraphs are devoted, is designed to bring out into the open this material; and I can give you some illustrations, such as the German white book here, which came up in the Trans-Ocean trial, in which the distribution of that was concealed under the name of a Jewish publishing house and nowhere did it appear that it was inspired by the Trans-Ocean Press, or the German Government, and it appeared as if it were circulated in this country by Americans as a bit of American comment. That is the first major change.

The second major change relates to certain provisions being put into the act to prevent the United States from being used as a base of propaganda activities in South America. This is designed to carry out provisions of the Havana Conference of 1940 of the 21 nations, at which they adopted resolutions for each State to take steps to protect each other against propaganda activities. This does it in a limited way and states that the Postmaster General can prevent and declare nonmailable any matter which is in violation of the laws of a South American country if that South American country shall request his Secretary of State or the Postmaster General to help them enforce their own laws. That is to enable them to cooperate with South American countries.

The third change relates to changes in certain technical matters, to improve the enforceability of the Act in the light of our experience. For instance, there has been some question as to whether proceedings might be brought elsewhere than in the District of Columbia, because the requirement is that the registration statement must be filed within the District; therefore, there may not be jurisdiction elsewhere. The act is clarified to make it clear that jurisdiction is with-

in any District of the United States, by changing the language slightly and saying "No person shall act as a foreign agent" so that his activities in a particular place subject him to the jurisdiction of that place.

Improvements have been made in the difficult question of domicile. The present act provides that a foreign principal is somebody who is domiciled abroad. We all know the difficulties of the Hetty Green estate and the Dodge estate of proving domicile and how difficult the concept of domicile is in the law. So that we have shifted the burden of proof so that, if it is proved that the foreign principal is a person outside of the United States, the defendant must come forward and prove that he is domiciled in the United States. It is a technical change; but, in one case here, it took us two or three months to find out the domicile of a person abroad, and it is very hard to find out whether they are now alive, or where they are, or whether they are a fictitious person.

Then there is a clarification of certain definitions and also certain clarifications and making more specific the registration requirements, incorporating what we believe to be already in the act. And the penalties have been made comparable to the Voorhis Act, which is closely related to this, and liability has been specifically imposed upon the officers and directors of corporations which fail to register, so that they are liable if the corporation itself does not register.

The fourth major change relates to the transfer of the administration of the act from the State Department to the Department of Justice, in order to tie it in more closely with the administration of the Voorhis Act for the regulation of certain types of organizations. These two acts dovetail one into the other very closely.

In that respect, if you are interested in the further relationships of those two acts, Mr. Kane, Assistant Chief from the Department of Justice, who is in direct charge of the administration of the Voorhis Act, is here to explain that to you.

I have a statement here in detail discussing the types and contents of this political propaganda in this book which I have here.

I have also a statement in detail which explains the reasons for the various changes in the act—the technical changes.

(The two statements referred to appear at the end of Mr. Smith's statement.)

Mr. SPRINGER. I want to ask just one question, Mr. Smith, at this point, if I may.

This propaganda which you have indicated you have: Has that been distributed extensively over the entire country, or has it been in segregated communities?

Mr. SMITH. Well, an analysis of that shows there are probably 700,000 recipients of it in the country. Sometimes it goes in bulk shipments of up to 2,500 packages; sometimes it goes just to an individual, or it goes to certain communities and certain places. It often goes to good people. Very often it goes to Congressmen and clergymen and teachers. They have designed those for distribution in communities especially of German subjects.

Mr. HANCOCK. Is that for the self-protection of the Congressman?

Mr. SMITH. I do not know. Then, in that respect, we find, as I have an illustration here, one of these pieces of propaganda as a news

release. It turned up, about 30 days later, because we spotted the press, printed in one of the German papers on the Pacific coast; that is, just one item of it was reproduced. It is then redistributed and reproduced in various ways.

For instance, here is a copy of Life magazine in which those propaganda leaflets were distributed, hidden in it, sent within the United States, and they all carried the slogan "Please pass me along."

Mr. HANCOCK. They were not published in the magazine itself?

Mr. SMITH. Oh, no.

Mr. HANCOCK. They were concealed in the magazine?

Mr. SMITH. They were concealed in the magazine; they used it as a vehicle, merely. I suppose the Life people had nothing to do with it. And we have various examples of that. You remember the *Burch case here*, in which Mr. Burch was indicted and plead guilty and was fined \$10,000. The indictment charged him with receiving \$10,000 from the German consulate in Cleveland, Ohio, and he distributed a pamphlet entitled "A. D. 1776 for Liberty; H. R. 1776 for Dictatorship," published by the Women's National Committee to Keep the United States Out of War. I do not know anything about this particular organization, but the interesting fact is that the propaganda theme that the Germans are pushing in all of this stuff is repeated in clearly identifiable form in this material here [indicating], and this man who got \$10,000 from the German consul utilized the material to redistribute it.

I could go on and give you examples of this propaganda material. Undoubtedly you have received a lot of it, because we have received a lot of it from you.

Mr. McLAUGHLIN. I regret to say that the House convenes at 11 o'clock this morning and the members of the subcommittee will in all likelihood be required to leave about that time to go on the floor; so it will be impossible, I assume, to complete the hearing this morning. I call that to your attention so as to expedite the matter as much as possible.

We are very much indebted to you, Mr. Smith, for calling these facts to the attention of the subcommittee, but I should like, and I am sure the subcommittee would like, to hear a discussion of the exact changes which will be made by this bill in the existing law, and the reason for those changes. You have addressed yourself to that subject pretty well up to this time, but a memorandum in the file submitted to the subcommittee indicates that the amendments include the following changes:

(1) Requiring those foreign agents who are subject to registration to label all political propaganda disseminated by them so recipients may know who is primarily concerned in its distribution.

(2) Transferring administration of the act from the Department of State to the Department of Justice and requiring registrants to file copies of all political propaganda distributed by them with the Department of Justice and the Library of Congress.

Those two provisions are in line with recommendations made by the Secretary of State, the Postmaster General, and the Attorney General and meet with their full approval, the memorandum says.

Mr. SMITH. Yes, sir.

Mr. McLAUGHLIN. (3) Extending application of the statute to include foreign agents using the United States for propaganda activities in Central and South America. This provision would put into effect recommendations approved by the United States and 20 other American republics at the Pan American Conference held in Habana, Cuba, in 1940.

(4) Strengthening and clarifying enforcement provisions of the act through various technical changes in language.

Now, going back to No. 1, I do not want to dictate how you shall present your matter, but for the enlightenment of the subcommittee could you address yourself to that subject? No. 1, which I have read, indicates the change—

Requires foreign agents who are subject to registration to label all political propaganda disseminated by them so recipients may know who is primarily concerned in its distribution.

Now, what change will this bill make?

Mr. SMITH. That provision was not in the act before. There was no requirement that they label their propaganda; consequently, the German Library of Information, or any other distributor of propaganda material, could distribute it even though they are registered, and the person receiving it would not know the source or identity of the person distributing it.

If this would help you, sir, I have a Ramseyer edition of this act which will show the changes specifically underlined.

Mr. McLAUGHLIN. We would be glad to have that.

Going on to No. 2: Amendment No. 2 transfers administration of the act from the State Department to the Department of Justice, and requires registrants to file copies of all political propaganda distributed by them with the Department of Justice and the Library of Congress.

Do you wish to state the underlying reason for that?

Mr. SMITH. The underlying reason for the transfer of the administration is that the Department of State feels that it did not want the administration of this act, particularly in the beginning, and Mr. Berle, I think, will come over here and state briefly that he approves of the transfer. The administration of the work relating to foreign agents is much more closely related to the work of the Department of Justice, which has the enforcement of the act and it would be better not to separate the two. In other words, you cannot have a traffic policeman directing traffic out of the twenty-second story window. It can be more economically and efficiently administered, because we have the administration of the Warburg Act, which covers a lot of this activity of comparable nature. So that this will fit in like a glove with the administration of that act. In other words, it would be much easier to have an integrated administration.

Mr. McLAUGHLIN. It consolidates the administration within one department?

Mr. SMITH. That is correct.

Mr. HANCOCK. By the term "political propaganda," what is meant?

Mr. SMITH. The term "political propaganda" as defined in this act applies only to those agents who must register, and it does not apply if a person is not required to register. If they must register, then

we define political propaganda as (1) material designated to further the public interests and policies of a foreign government; (2) material designated to influence the foreign policies of the United States, and (3) material designed to create religious, social, or racial dissension within the country, and (4) material designed to create the overthrow of or civil disorder or strife in a South American country.

Mr. HANCOCK. I was wondering in regard to that whether the language is so broad that we might have a certain amount of sensitivity among the members of the Democratic and Republican Parties.

Mr. SMITH. I called attention to that first restriction, because that is very important; the distribution of political propaganda on the basis of causing a person to register. That is substantially the same—with a few changes—as under the existing act. But once they are registered agents and have been compelled to register, then we want to get a fairly broad coverage of the type of material that they distribute. That, of course, would not apply to the Democratic or Republican Parties, or any parties like that, because they do not come within the registration requirements of the act.

Is that clear, sir?

Mr. HANCOCK. That is clear, Mr. Smith; thank you.

Mr. McLAUGHLIN. Now, No. 3 of the amendments, as outlined in the brief or in the memorandum furnished the subcommittee, states that the amendment will extend the application of the statute to include foreign agents using the United States as a base for propaganda activities in Central and South America. This provision would put into effect the recommendations approved by the United States and 20 other American republics at the Pan American Conference held in Habana, Cuba, in 1940.

Now, you have already addressed yourself to that?

Mr. SMITH. Yes, sir.

Mr. McLAUGHLIN. That is in addition to the present law?

Mr. SMITH. That is correct, sir. That is not in the present law.

Mr. McLAUGHLIN. No. 4 of the suggestions of amendments contained in this memorandum states that the amendment will strengthen and clarify enforcement provisions of the act through various technical changes in language.

Mr. SMITH. I have addressed myself to certain of those, and I can go through the technical changes. If you will follow me with the Ramseyer edition, I think that will be easier.

On this mimeographed sheet, section (a) (2) refers to an individual affiliated with or supervised, directed or controlled by a foreign political party of a foreign government, as a foreign principal. In other words, a person who is employed by a foreign government becomes a foreign principal; that is, the individual. That is a new provision, but it is consistent with the principles of the act requiring the foreign government agent to register, and is to prevent evasion of the act in this country.

The domicile provision in section 3 I have already explained.

Section 4, which is to be found on top of page 2, as you will see, is practically the old act, only spelled out a little bit more. The old act does not use all of the words that we have there.

Five is practically the old act. In the definition of an agent of a foreign principal we have made there some clarifications of what we believe to be implicit in the present act.

Thus, in section 4, we say that any person who is an officer or member of the active or reserve military, naval, or other armed forces of any foreign principal, and so forth; whereas the existing act defines any person as an agent who is under the direction or supervision of, or subsidized by, a foreign principal. This tends to spell out in the light of our experience and make definite certain items which we believe to be in the act now.

The various definitions that are here, a number of them, are merely the incorporation in the act of the regulations of the State Department which have already been promulgated. Some of the other definitions are the result of the need for definition of political propaganda, which is new.

Mr. HANCOCK. Hastily going through some of the provisions of this bill, have you given some thought to the question which might be raised as to the constitutionality of the bill as affecting freedom of speech or freedom of the press?

Mr. SMITH. Oh, yes, sir; very definitely. And in that respect, the present act is no different in concept, as I see it; that is, the proposed amendment is no different in concept from the existing act, neither of which dictate to you what you can say, which would be an interference with freedom of speech. If it said you shall not say certain things, that would be one thing; but it merely provides that before you say certain things you shall disclose who you are and who is paying you. I believe that comes within the cases.

This does not change the scheme of regulation under the existing act which was drawn up with a great deal of difficulty by Congressman McCormack and others.

You will notice that in the important exemption provisions we have preserved verbatim the language which is in the existing act, because it is so difficult to improve upon it without getting into some improper territory.

Mr. KAUFMAN calls my attention to one point that I think should be clear, that labeling of material does not apply to material coming in from abroad. That is covered by the Attorney General's opinion, and a committee is working with the Post Office Department in the administration of that now.

May I call your attention now to page 6 of the statement, to the registration provision. Section 2 (a) is where we make a change in order to give jurisdiction in any district of the United States. We say that: "No person shall act as an agent of a foreign principal unless he has filed with the Attorney General," and so forth; instead of saying that "every person shall file," which tends to limit the jurisdiction within the District of Columbia. That is a technical change, because the failure to file only occurs in the District of Columbia. Therefore you have to bring the action where the failure to file occurs. Now, we say no person may act unless he has filed, and, acting gives jurisdiction in the district in which he acts.

In regard to the registration provisions, I believe these are on pages 7 and 8; they spell out the requirement that was already inherent there, but make certain things more specific.

On page 10 we have the exemptions which are substantially in the form of exemptions in the present act. There are certain changes in the consular exemptions which were made at the suggestion of the Department of State, which has primary jurisdiction over persons with official status. Otherwise the exemptions for persons engaged in private and nonpolitical activities, and religious activities, are the same as in the present act.

Section 4 on page 11 relates to the filing and labeling of political propaganda, which I have already discussed; and requires the filing of copies with the Library of Congress and the Attorney General.

Section 5 on page 13 requires these registered agents to keep books and records of their expenditures.

Section 6 deals with public examination of official records and is substantially the present act.

Section 7, on page 14, deals with the liability of officers and is a new provision, designed to make the officers of corporations that fail to register liable, if the corporation does not register. That is an enforcement provision.

Section 8, on page 15, contains the penalties and makes the change by increasing the penalty from 1 year and \$1,000 to 5 years and \$10,000. Also, as to agents of foreign principals outside of the United States, there is a change in the requirement as to the burden of proof; it shifts the burden of proof. Also it says that any alien who is convicted of a violation of this law may be subject to deportation.

Subsection (d) is the provision dealing with South America, providing that the Postmaster General may cooperate in preventing our mails being used in violating the laws of a South American country.

Section 11 deals with reports to Congress and provides that the Attorney General shall make reports from time to time.

Section II of the amending act, on page 17, provides for the transfer of administration.

I may point out—I think it is important—that the purpose of this act is a disclosure and not a suppression. I think that is inherent in the act. We believe that disclosure of the activities is a democratic way to approach this matter and is more effective than suppressive acts. From the point of view of prosecution it is easier, very often, to prosecute for failure to tell the truth than it is to prove that some person was engaged in advocating the overthrow of the Government by force and violence. And, secondly, as Justice Holmes has said, champagne that is put in the light and left in the light goes flat, and that is the way we have found it to be, that these bad political organizations cannot survive in the pitiless light of publicity.

I have much more material here, Mr. Chairman, but in view of your limited time, I shall not attempt to present it now.

Mr. HANCOCK. Mr. Chairman, I think this bill is of sufficient importance that we take more time in the consideration of it.

Mr. McLAUGHLIN. Yes. We do not intend to conclude the hearings today.

Mr. SMITH. Mr. Chairman, Mr. Berle is here, from the Department of State, and if the committee can hear him at this time, I think he would like to make a brief statement.

(The matter referred to is as follows:)

TYPES AND CONTENTS OF AXIS POLITICAL PROPAGANDA¹

(Statement submitted for Committee of the Judiciary, House of Representatives, by Lawrence M. C. Smith, Chief, Special Defense Unit, Department of Justice)

Approximately 50 percent of the Axis propaganda from abroad consists of books, booklets, pamphlets, and miscellaneous small sheets not regularly issued; 30 percent are weekly or monthly periodicals and magazines; and 20 percent or less daily and biweekly papers, magazines, and news sheets. These three headings will be used, for the sake of convenience, in the following discussion of types of publications received from each country. The exhibits referred to are those contained in the assembled book entitled, "Report to the Attorney General on the Treatment of Propaganda Sent to the United States by Unregistered Agents of Foreign Principals."

1. PUBLICATIONS FROM GERMANY

(a) *Types*.—Most of the first-mentioned type, books, etc., received from Germany are in the form of small pamphlets and small paper-covered books. Some of these pamphlets are semiofficial or occasionally official in character and most of them are in English language. The publications in this class do not, for the most part, deal with current news, but concern themselves chiefly with the origins of the war, the economic and political ideology of Germany, and various aspects of British imperialism. The four examples in exhibit A are typical.

Of the German weekly or monthly periodicals, many are picture magazines (somewhat on the order of *Life*) specializing in pictures of the German war machine and of the excellent conditions in wartime Germany generally. Some of this type of publication are special editions of German newspapers. Texts for the pictures often appear in English, or in German and English, and occasionally in English, French, and Spanish.

Most of the monthly publications are periodicals in German with few pictures, containing general articles on the economic system of greater Germany, the new order, the causes of war, etc.

Other weekly and monthly publications are news sheets and news letters, purporting to present the true picture of the war and of world events. These news sheets often reproduce editorials and news items from the press in other countries (of course, favorable to or controlled by the Axis Powers).

Exhibit B, consisting of eight publications, presents examples of each of the above classes of weekly and monthly publications.

The third main type of German-language publications consists of daily and biweekly papers and magazines. These are, for the most part, newspapers in the German language and, while full of the usual propaganda themes suitable for foreign readers, are nevertheless primarily designed for domestic consumption within Germany.

Two of the most outstanding examples of these appear as exhibit C.

(b) *Contents*.—1. Propaganda policies: As the Postmaster General pointed out in his public letter of February 20, 1941, to Senator McKellar, all the propaganda material "appears to have been carefully planned to follow the familiar propaganda lines of foreign propaganda organizations." And, as the sample analyses which have been made from time to time clearly show, there are four principal propaganda policies which form the touchstone of the German propaganda program. These are:

(1) To accuse the enemy of war guilt; to reiterate the humiliation and inequities of the Versailles Treaty; and to insist that although the Germans are a peace-loving people, their persecution and provocations have passed beyond the bounds of endurance.

(2) To make a systematic attempt to prove that the enemy is engaged in a widespread propaganda program of lies, whereas Germany presents but the unadulterated truth.

¹This analysis is based primarily upon studies by Ward P. Allen and others of this Unit who have been working with this material over a considerable period of time.

(3) To insist that the enemies of Germany are weak and decadent, their economic and demo-plutocratic systems are nearing collapse; while Germany is strong, young, progressive, and invincible.

(4) Systematically to attempt to persecute the Jews and plutocrats (and Communists), presenting the National Socialist Party as the world's savior from these menaces.

2. Principal themes: These policies are, of course, variously expressed and approached from different points of view in different publications, depending upon the nature of the publication and the type of reader to whom it is designed to appeal. Principal themes which reflect these policies are set out below:

(1) Great Britain: Great Britain is solely responsible for the present war which she instituted for the preservation of her imperialist world domination for the sake of the profits of the ruling Jewish plutocracy. Britain's defeat is completely inevitable. She is following in the present war her usual policy of duping and deceiving other nations to fight her war and then double-crossing these nations when they face disaster.

Britain's entire history is one of brutality, arrogance, hypocrisy, and decadence; the viciousness and cruelty of England toward subject peoples is an oft-reiterated theme.

(2) Germany: Her ultimate victory is inevitable. The German Army is invincible (this is emphasized again and again in the propaganda intended for foreign consumption). Unity is the keynote of German success—unity within the armed forces, unity of the people behind their beloved Fuhrer, and unity of the countries in the Axis orbit and the "new order."

Germany is the true democracy. The "Fuhrer principle" is the essence of the highest socialism. True socialization is represented by the Nazi community of blood and race.

Culture in Germany is flourishing and expanding, even in wartime. National socialism, while not tolerating the decadent art of the democracies, offers real incentive and stimulus for the production of true art and letters.

There is an abundance of food and supplies in Germany. All are assured of more than enough to eat, and Germany has sufficient supplies so that the British blockade is completely ineffective.

(3) Antisemitism: The Jews are really responsible for the present war, as the history shows them to have been for every previous war. International Jewry is a ring of international bankers, warmongers in the United States, and English plutocrats who traffic in souls for the sake of war profits and have made a mockery out of democracy. Jews are rich international bankers and are also Communists.

Although the Germans are humanitarians and are never cruel, the Jews are vipers and humanitarianism therefore has no place in the treatment of Jews.

(4) The United States: This country is incapable of any great economic effort and is greatly hampered by her political system. The only way for the United States to save itself from disastrous economic collapse at the end of this war is to align herself with Germany's new order.

President Roosevelt is not popular with the people. The country is not behind his warmongering activities. Roosevelt is anxious to go to war to defend monopoly in the name of Christianity, democracy, and good faith. Americans are easy prey to British false propaganda. England is dragging the United States into the war by offering the bait of United States-Anglo world domination.

2. PUBLICATIONS FROM ITALY

(a) *Types.*—1. Classes of publications: There have apparently been no books which have emanated from Italy of a propaganda nature. There are a few small pamphlets devoted mainly to presenting a picture of the great improvement in the life of the people throughout Italy and the empire since the advent of fascism. These are practically the only evidence of propaganda particularly devised for American consumption.

The periodicals, issued weekly or monthly, although of somewhat poorer quality than their German counterparts, are similar in their combination of pictures and text showing the might of the Italian army, navy, and air force and the excellent conditions prevailing in wartime Italy. There are a few magazines without pictures containing articles of a political and economic nature. There are likewise several news sheets and news letters serviced

by the Italian news-gathering agencies and attempting to relate the "true" picture of world events. Most of these are in Italian.

These newspapers from Italy most closely controlled by the Government and the fascist party bulk considerable in the total of Italian propaganda.

Exhibit D shows six examples of Italian publications:

2. Press organization and policy: Because of the complete control of the Italian press exercised by the government, it is well organized into (a) special papers or columnists in papers, serving as "mouthpieces" of official views; (b) extremist publications which overstress the official line and overemphasize ultrafascist tendencies; and (c) the general bulk of newspapers and periodicals with, although occasionally selected for the launching of new press drives, usually are permitted but to follow the regular, uniform, and less spectacular presentation of news and comments.

Coexisting with the uniformity among the press in news, headlines, and captions and the unanimity of approach and comment, there is a tendency to differentiation which, however, actually amounts to no more than an overstress of expected new trends and which therefore ultimately accelerates the process of uniformity itself.

(b) Content by main themes: With the exception of the theme of anti-Semitism and the racial issue, which does not receive as much emphasis, there is a great parallelism between Italian and German propaganda themes, both in publications intended for domestic consumption and those designed for other countries. The following are the familiar and recurrent themes which characterize the Italian newspaper press:

(1) Italy: In the international order Italian prestige is constantly increasing, due to the might of the Italian arms in the Mediterranean. The whole world is looking to Italy, and expects her to say the decisive word. The great domestic achievements in both Italy and the empire are continuing and expanding even during the war—land reclamation, social peace, labor legislation, the "battle of the wheat," industrial progress under the plan for autarchy, etc.. Italian morale is unbreakable.

(2) Great Britain and the war: England is a world within a world, antagonistic in interest, points of view, and aims to the entire European continent. Egoism, imperialism, plutocratic privilege, and oppression are the mainstays of English world mastery.

Her two main lines of policy, (a) to incite the Europeans one against the other, and (b) to avoid continental contacts likely to pollute her, have now failed and isolated her, and, together with the might of the Italo-German comradeship in arms, will result in her downfall.

(3) The United States and the war: The international, Anglo-American Jewish conspiracy is responsible for the present war, unleashed by the "demopluto-cracies" to strengthen their wealth and hegemony.

The United States is a Jewish-controlled plutocracy exploiting the working classes who should revolt to install a Fascist order.

Roosevelt, the warmonger, and his administration, are leading the United States toward war and ruin, attempting to force the country to enter the struggle on the side of British who hate and snub America—a struggle which is already completely won by the Axis.

3. PUBLICATIONS FROM JAPAN

(a) Types.—Japan is the only other country from which unregistered foreign agents have been transmitting propaganda in significant quantities.

Again, there are almost no books, although a few paper-covered pamphlets have appeared, attempting to convince the English reader of the excellent results of Japanese occupation of Manchuria, Manchukuo, and occupied China.

The second type—weekly and monthly magazines—are numerous; all of them are in English, and most of them are ostensibly trade and commerce publications which are, in large part, political in character. There is also, however, some emphasis upon international trade and the products of Japanese industry.

In this type of publication also appear several news sheets and news letters apparently modeled closely on similar material from Germany. Many contain digests and excerpts from articles on world events found in other Japanese publications, and all are in English.

As to the third type, the comparatively few daily newspapers which reach this country from Japan are those in English, intended for foreigners, and controlled completely, but often indirectly, by the Government.

As exhibit E there are presented five examples of typical Japanese propaganda declared nonmailable.

(b) *Content-technique and main themes.*—The main themes of Japanese publications are more difficult to categorize because of the purposive vagueness and contradictions with which the officially inspired publications express themselves. To a greater extent than other countries, the technique is employed of emphasizing esthetic and cultural matters to attract American sympathy for Japan's motives and character. This technique is often employed in seemingly innocuous media.

When direct attempts are made to propagandize, the predominant themes are as follows (there are several obvious inconsistencies):

(1) The principle of *Hakko Ichiu* (universal brotherhood) and international righteousness for the entire world is at the base of Japan's efforts to construct the new order in East Asia. There will eventually be there set up a coprosperity sphere which will result in lasting peace.

Japan has the right to economic self-sufficiency and supremacy at the expense of other nations in East Asia and of non-Asiatic powers. Japan, however, has no real hostile intentions to infringe upon legitimate rights of other nations.

(2) East Asian cultural and racial similarity between Japan and other east Asian people is the basis for cooperation between Japan and other countries in eastern Asia.

The unique character of Japanese civilization is vastly superior to all others and the preeminence of the Japanese race is the justification for her leadership.

(3) Although great economic crises, civil disorders, and domestic chaos abound and are continually threatening the Chungking Government, due to the recalcitrance of that government in refusing the oft-extended Japanese hand of friendship, no early peace can be expected in the China incident.

(4) The United States is the real head of international capitalism, the center of gravity of world economy. This increases the influence of the Jews and means that the defeat of England will not end the war.

The United States' 150-year policy of extending its influence in the Pacific is the chief point of conflict with Japan, but America's firm attitude is in reality a bluff, for America is not certain of her own strength, Japan's defenses make her impregnable, and the United States would not risk a war with Japan now. American armed forces in the Pacific area are an intolerable threat to Japanese security.

The United States completely misunderstands Japan, and our leaders do not try to understand. Japan cannot change her policy, and the only road to lasting peace is for the United States to revise its deliberate misinterpretation of the Japanese.

(NOTE.—The foregoing does not attempt to be a comprehensive statement of the types of propaganda coming into this country but is set forth for illustrative purposes only. Attention is further called to the shifting nature of the propaganda with the shifting issues that arise so that material illustrative of one period may not be applicable to another.)

RÉSUMÉ OF PROPOSED AMENDMENTS TO FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED

The chief instrument which we now possess for controlling foreign agent activity in the theater of political propaganda and in kindred fields of activity is the Foreign Agents Registration Act of 1938, as amended. The act was introduced by Congressman McCormack on January 5, 1937, in the first session of the Seventy-fifth Congress as a result of the recommendations of the special committee appointed in the Seventy-third Congress to investigate un-American activities in the United States. It was enacted into law on June 8, 1938, in the third session of the Seventy-fifth Congress, and in 1939, because of certain ambiguities requiring minor changes, it was amended to its present form.

There have been some successful prosecutions under the existing statute, and it has been found a fairly successful medium of control. It is believed, however, that the act can be made even more effective and valuable in the regula-

tion of the important activities which it covers by amending it in these respects:

1. By rendering it more explicit, particularly with respect to its definitions and the information required to be disclosed by registration;

2. By clarifying and strengthening its enforcement provisions; and,

3. In view of the increased attempts by foreign agents at the systematic manipulation of mass attitudes on national and international questions, by adding requirements to keep our Government and people informed of the nature, source, and extent of political propaganda distributed in the United States by those subject to registration under the act.

The purpose of this statement is to disclose what changes and additions, and the reasons therefor, this reinforcement and clarification of the present statute has occasioned.

It cannot be emphasized too strongly that these amendments do not change the fundamental approach of the statute, which is one not of suppression or of censorship, but of publicity and disclosure; nor do they alter its scheme of administration; nor are they designed substantially to broaden its coverage to include classes of persons who are not now required to register; nor do they greatly increase the size of the existing Act and its regulations.

As in the present statute, the first section of the bill (pp. 2-8 inclusive, H. R. 6045) is reserved for definitions, and this section comprises one-third of the bill's length. Particular effort was made to insure that none of these definitions could be interpreted as to include within their compass and the purview of the bill, activities which the Congress did not intend to regulate under its original enactment. As a matter of fact, there is little essentially new matter in this section. That which is new is made necessary by the insertion of new provisions, particularly those referring to the filing and labeling of political propaganda, possible nonavailability of political propaganda directed to Central and South America, and the spelling out of concepts which are already implicit in the present Act in its definition of "agent of a foreign principal." Particulars in which this definition has been made more specific but not more inclusive are the exclusion of news or press services or associations and newspapers, periodicals, etc., and the inclusion of the term "information service employee." Several of the definitions herein contained, specifically, "government of a foreign country," "foreign political party," "public relations counsel," "publicity agent," and "registration statement." (line 11, p. 5 to line 13, p. 6 and line 24, p. 7 to line 5, p. 8, H. R. 6045) have been carried over from the present regulations with little or no substantial change in order to make the scope of the act more certain and definite for those who may be exposed to its requirements.

What may appear to be enlargements of the present definitions of "foreign principal" and "agent of a foreign principal" are in reality (except in one or possibly two instances) only attempts to render these definitions more precise by expressing what is now implicit in them. In the definition of "foreign principal" a new concept is added by section 1 (b) (2), found in lines 9-12, page 2, H. R. 6045, which refers to an individual associated with or controlled by a government of a foreign country or a foreign political party. This appears to be a desirable extension because it will make the employees of such an individual, who is an agent of a foreign political party, themselves agents subject to registration, if they participate in unexempted political activities for such individual or otherwise. By virtue of section 1 (b) (3), found in lines 13-22, page 2, H. R. 6045, a shift of the difficult burden of proof respecting domicile, which is now present in the existing act, is provided for.

With respect to the term "agent of a foreign principal" as defined in section 1 (c) of the bill, it is believed that clause 2 thereof (line 16, p. 3 to line 2, p. 4, H. R. 6045) merely expresses what is already implicit in the statute, although it possibly goes further in the phrase relating to the soliciting or accepting of contributions or loans directly or indirectly from a foreign principal. Clause 3 thereof (lines 3-6, p. 4, H. R. 6045) which holds that for an individual to assume or purport to act as an agent of a foreign principal suffices to constitute him such an agent, is probably implicit in the present act. Clause 4 thereof (lines 7-15, p. 4, H. R. 6045) in its reference to active or reserve military association with a foreign government or foreign political party, expresses what is already probably inherent in the present definition which states that "The term 'agent of a foreign principal' * * * shall include any person * * * under the direction of a foreign principal." As a result of actual experience and difficulties encountered in specific cases under the present act, it was felt that it would be wiser to alter the present general terminology of the agency concept so as to set out expressly the specific types of activity it was intended to cover.

The definition of political propaganda found in section 1 (j) of the bill (lines 3-23, p. 7, H. R. 6045) is necessitated by the addition of the filing and labeling provisions. While fairly broad, this definition is not open to attack on that score since the dissemination of propaganda alone is not sufficient to constitute a person an agent of a foreign principal subject to registration under the act.

Section 2 of the bill (line 1, p. 9 to line 2, p. 15, H. R. 6045) proposes two vital changes in the present statute.

In contrast to the present provisions requiring the filing of a registration statement and supplements thereto, the amendment makes it unlawful for an agent of a foreign principal to act without filing a required registration statement and supplements thereto. Thus it eliminates any doubt that may exist as to more than one possible venue of action under the present statute. Prosecution will now be possible in any district wherein an agent of a foreign principal acts without filing a required registration statement or supplement thereto. The clarity and possible additional venues which this change adds to the act seem amply to justify it. This justification becomes more apparent when it is understood that such a change effects only a theoretical enlargement of the existing statute because under such requirement and the requirement of registration in the present act, proof of violation thereof is practically identical.

The existing law is also believed to have been bolstered by explicit enlargement of the registration provisions so as to render them more efficacious for disclosure and investigative purposes. These provisions now require information about the nature of the registrant's business, name of registrant's principals, contracts with such principals, compensation received and a statement containing such details of the registrant's activities as the Secretary of State shall fix. The amendment, merely declaratory of these requirements as found in sections 2 and 3 of the act, specifically seeks further information concerning registrant's status; data about partners, directors, and officers of the registrant, and lists of registrant's employees; information about all foreign principals' businesses, their ownership and control by a foreign government or foreign political party; and additional statements concerning the activities of registrant which have required his registration. All of these additions have been prompted by experience in cases under the present act.

The section also provides coordination with the State Department by providing that it shall receive a copy of each registration statement for examination from the point of view of the foreign relations of the United States. Registration statements are no longer to be filed with the Department of State, since under Section 2 of the amending portion of the bill (lines 4-15, p. 24, H. R. 6045) as contradistinguished from this section 2 of the amended portion, administration of the act is transferred from the Department of State to the Department of Justice. This transfer is dictated by several worthwhile considerations. The administration of this act more appropriately fits in with the functions of the Department of Justice, where it will result in unified governmental supervision of the activities of aliens, agents of foreign principals, and certain organizational activity, which last is provided for in the so-called Voorhis Act. The Foreign Agents Registration Act and the Voorhis Act parallel each other closely in seeking to secure disclosure by registration from those who, under foreign control, act to influence the public. The administration and enforcement of the latter act have already been assigned to the Department of Justice. Therefore, there is considerable advantage in placing in the same hands the administration of both acts. Moreover, this transfer of administration of the Foreign Agents Registration Act meets with the approval of the interested departments and is in line with their recommendations.

No substantial change in the present exemption provisions is made by Section 3 of the bill (line 4, p. 15 to line 18, p. 16, H. R. 6045).

The basic theory of the act—namely, that complete disclosure by agents of foreign principals subject to registration who are engaged in propaganda and kindred enterprises within the United States is the most effective method of combating such activity is substantially embodied in sections 2 (line 1, p. 9 to line 2, p. 15, H. R. 6045) and 4 (line 19, p. 16 to line 2, p. 19, H. R. 6045) of the amended bill. The effect of section 4 is to compel all persons within the United States, who have to register under the act, to label all political propaganda which they distribute through the mails or in interstate commerce and which is designed for distribution to two or more persons. By this means the recipients

will be informed that the distributor is registered under the act as an agent of a foreign principal. They will be informed of the identity of each such principal. They will be informed that such registration statement is available for inspection, and that copies of such political propaganda have been filed with the Department of Justice, but that registration of such agent does not indicate approval by the United States Government of the contents of his political propaganda. With all this information at their disposal, recipients of such propaganda can properly appraise its worth. The labeling may also have to contain other identifying information. In addition, a statement setting forth the places, times, and extent of the distribution of such political propaganda must be filed within 48 hours thereafter with the Attorney General. While the definition of political propaganda is fairly broad, as has already been pointed out, it is to be noted that the filing and labeling provisions of the bill only apply to persons who have to register as agents of foreign principals and that the distribution of political propaganda of itself does not compel such registration.

The section also authorizes the Postmaster General to forward propaganda material excluded by him from the mails to the Library of Congress for purposes other than public distribution.

Additional means of disclosure and control are provided for by section 5 (lines 4-25, p. 19, H. R. 6045), section 6 (lines 1-18, p. 20, H. R. 6045), and section 7 (line 19, p. 20, to line 9, p. 21, of H. R. 6045). Section 5 requires registered agents of foreign principals to keep books and records concerning such of their activities as have compelled their registration. Public examination of registration statements and other statements concerning the distribution of political propaganda, in accordance with present practices, is provided for in section 6. Section 7 establishes the liability of officers and directors, or those performing similar functions, of an agent of a foreign principal which is not an individual, for failure of such agent to comply with any requirement of the act.

The penalty provisions have been completely spelled out in the bill in section 8 (a), found in line 11, page 21, to line 2, page 22, H. R. 6045, and the original penalties for violations of the act increased from a maximum fine of \$1,000 or imprisonment for not more than 2 years, or both, to a maximum fine of \$10,000 or imprisonment for not more than 5 years, or both. However, the new penalties are comparable to those fixed under the aforementioned Voorhis Act for violations thereof other than for false or incomplete registration statements. The bill, in section 8 (c), found in lines 8-13, page 22, H. R. 6045, also provides the additional penalty of deportation for any alien convicted of a violation of the act.

In section 8 (b), found in lines 3-7, page 22, H. R. 6045, the bill endeavors to facilitate proof of the existence of an agent-of-a-foreign-principal relationship by making it unnecessary to prove the specific identity of such foreign principal—in most cases located in a foreign land.

Provision is made in section 8 (d), found in line 14, page 22, to line 3, page 23, H. R. 6045, to integrate the bill with commitments entered into at the Habana convention of July 1940, whereby each signatory undertook to attempt to protect the others against the effects of subversive activities originating within its borders. To this end, the Postmaster General is authorized to prevent transmittal of political propaganda attempted to be sent through the United States mails to any other American republic, when he is informed by the Secretary of State that the representative of such American republic has stated to the Department of State that the admission or circulation of such communication or expression in such American republic is prohibited, and has requested that its transmittal thereto be stopped.

The usual applicability provision is found in section 9 (lines 4-9, p. 23, H. R. 6045) of the bill. By virtue of section 10 (lines 10-14, p. 23, H. R. 6045) the Attorney General is authorized to make, amend, and rescind rules, regulations, and forms in order to carry out the provisions of the act, notwithstanding the incorporation in the bill of certain existing regulations. By section 11 (lines 15-19, p. 23, H. R. 6045) the disclosure principle is put into further operation by direction to the Attorney General to make periodical reports to Congress on the nature, source, and content of propaganda distributed.

Section 12 (lines 20-25, p. 23, H. R. 6045) and section 13 (lines 1-3, p. 24, H. R. 6045) are the standard separability and short-title clauses.

It is provided in section 3 (lines 16-20, p. 24, H. R. 6045) of the amending bill that the amendment shall take effect 60 days after they have been approved.

Mr. McLACHLIN. We shall be glad to hear Mr. Berle at this time.

STATEMENT OF HON. ADOLF A. BERLE, JR., ASSISTANT
SECRETARY OF STATE

Mr. BERLE. If the committee please, I do not have very much to say about this, because primarily the text of the bill and the details of it rest in the responsibility of the Department of Justice, of course.

I should like to say that section 2 on page 24 transfers from the Secretary of State to the Department of Justice the function of acting as registrant for foreign agents, agents of foreign principals, which now comes under the jurisdiction of the Department of State. That transfer of jurisdiction is entirely satisfactory to the State Department.

When the original act was passed—that is to say, the act of June 8, 1938—it was then the opinion of Secretary Hull that this function was more properly a police function than a function of foreign affairs, and that the obvious interest which the State Department had in certain phases of it, such as the employees of foreign missions and of consulates, and so forth, could quite well be handled by cooperation between the Department of State and the Department of Justice, should the occasion arise.

Mr. McLAUGHLIN. Mr. Berle, if I may interrupt, and in order to make this more specific, you have stated that the transfer is agreeable to the Department of State?

Mr. BERLE. That is right.

Mr. McLAUGHLIN. Would you go so far as to say that it is the desire of the Department of State?

Mr. BERLE. I think we do; yes. If I may amplify the answer a little, it so happens that the administration of the act of June 8, 1938, now falls in my charge. If an agent of a foreign principal is kind enough to step up to the counter and register, he will do so. If he does not, there is not very much that we can do about it. All of our machinery is overseas except for the departmental organization in Washington and a few limited agencies around the country, chiefly for the purpose of issuing passports.

Mr. McLAUGHLIN. You think the act can be enforced more efficiently if the transfer is made, than as at present?

Mr. BERLE. Yes, sir; I do. It is true, that if we run into an agent of a foreign principle somewhere, or we happen to find out about it, we can send over to the Department of Justice and ask them to do something about it. But we do not have any detective agency or any police force, or anything else, to find out. So we have to rely upon the casual contacts that we have, plus whatever we can find out from overseas. But that is not a very effective way of finding out whether a foreign propaganda office is secretly operating, or anything of the kind.

We have done some things under the act, but I cannot honestly say that I think that any machinery we have is apposite to the size and scope of the problem.

For that reason we should be glad to have that function taken out of our hands and have an agency, which has the machinery to enforce it, take it over.

I should like merely to make one other observation, if I may, and that relates to the so-called exemptions in the bill.

That appears on page 15, and more particularly on page 16. You will notice that that has to do with certain persons who are exempt from registration under this act. Among other things, reference is made to the provisions of the Neutrality Act of 1939. That act has been very considerably amended, as you know, in recent weeks. I am not clear that the amendment touches the particular section which was here referred to, but since this bill was drafted prior to the amendment, I imagine that the Department of Justice will check to see whether the present reference to the Neutrality Act of 1939 needs to be amplified or modified in view of the changes.

Mr. HANCOCK. Would not some phrase to the effect, "as hereafter amended," cover that?

Mr. BERLE. I should think so; yes, quite. I merely noticed that, in the drafting, it was drafted with reference to the Neutrality Act in its previous form.

For the rest, let me say that in the conferences which have gone on between the Department of Justice and the Department of State, we do recognize, of course, that in certain of these matters, notably the occurrence of propaganda and things of that kind, there may be an interest in foreign affairs. I am entirely confident that should any such interest come to the attention of the Department of Justice or of the Department of State, we can resolve any questions arising out of it by a simple, ordinary conference between the departments. Were there to be an over-riding interest proceeding out of foreign affairs, I have not the slightest doubt that the Attorney General would give all proper weight to any representation which the Department of State might make.

I should like merely to add one other point. We do emphasize that there is an enormous problem here. The problem has grown rather than lessened, since the passage of the act of 1938. The handling of foreign propaganda is now a recognized part of the machinery of making war and is perhaps at its most acute in that debatable period when it is not clear what the intentions of another country may be. That is the time when the technique of infiltration, of propaganda, of internal organization in another country—all these processes go on. We have become unhappily familiar with them in recent years, and until the general international scene takes on a more law-abiding atmosphere, I am afraid that we may have to cope with these problems.

For this reason I think we do feel that the widening scope of the problem would better be dealt with by the agencies having to do with the law enforcement and the internal security of the United States, rather than by a department whose major interest is and must be the carrying on of foreign relations outside the country and whose jurisdiction in general stops at the water line on the way in.

I am obliged to you and am glad to answer any questions that I can.

Mr. HANCOCK. Would you say that this effort at propaganda through the sending of material here has increased in the last year or so, or is it about the same?

Mr. BERLE. We do not have any really good quantitative analysis. You can only give a very general impression because that kind of propaganda does not advertise itself.

In the main I should think that it had somewhat increased. I should not like to say that the circulation within the country had

increased, because we have, of course, taken some measures to prevent the most reprehensible parts of it and to some extent those have been effective with the very limited machinery which we have.

Mr. HANCOCK. Would you say it has become more scientific in character?

Mr. BERLE. And frequently better concealed, sir, to be blunt about it.

Mr. McLAUGHLIN. Mr. Berle, while you are here, it might be well, while we have some additional time, to give some consideration to points that have been raised in a communication addressed to the chairman of the Judiciary Committee by Mr. John B. Trevor, president, American Coalition, Southern Building, here in Washington.

He is concerned about the transfer. That subject has been covered. He says [reading]:

On page 15, section 3, under the title, "Exemptions," it seems to me that commenting on line 18, subsection (c), the functions of members of the staff employed by duly accredited diplomatic or consular officers of foreign governments should be more carefully defined, in order to prevent a possible charge that in the administration of the provisions of this section, there might be accorded greater latitude to the employees of some foreign nations than to the employees of others.

Do you have any comment to make on that?

Mr. BERLE. Mr. Chairman, it has always been recognized that a diplomatic or consular officer, or the staff, did not have any right to enter into American political discussions except by the grace of courtesy, if you choose, of the host government. There is always some distinction to be made between the different status of various countries. For instance, in the inter-American field, we do have the frankest and freest discussion about our various affairs and comment about the operation of the affairs of the hemisphere proceed merrily, freely, openly, and healthily as between a great many of our South American colleagues and ourselves.

I do not feel that this does anything except to maintain the existing diplomatic rule which has been the rule under which the United States has proceeded during most of its history.

As I say, there is always some latitude depending on the various relations, and the inter-American family of nations is an excellent illustration of it.

There are things which certainly are permissible there which might not be elsewhere. But in the main, that has always rested in the power of the host government, and that has commonly been exercised by the Secretary of State and still is.

Mr. McLAUGHLIN. The communication states further [reading]:

Again, on page 16, subsection (e), I would suggest be stricken from the bill because any person who actually engages in "bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts" is clearly not an agent of a foreign government, but, if that subsection is left in, it provides a possible cover for agents engaged in activities which it is clearly the purpose of this bill to prevent.

Mr. BERLE. My impression is that that language is substantially lifted from the act of 1938, and while there are sometimes difficult questions of interpretation, we have not had under the old act any main difficulty.

I ought to say we are now running into some situations which in older times we would not have thought possible. For instance, in certain countries the universities and the scholastic life are entirely dominated by the government itself and are used by those governments as an agency of propaganda and of carrying on psychological warfare. In such a case, you might have an individual not nominally an agent, nominally carrying on scholastic or academic pursuits, but who was in reality a part of a foreign governmental machine.

I take it that language is easily construable to mean a person in such a case would have to agree to engage only in activities, scholastic or otherwise, as stated by the act, free from that control and that, having made such an agreement, if he violated it, he would then become subject to the provisions of the act. The endeavor is to leave entirely free of influence the scholar, or preacher, or writer and, at the same time, to be able to move into a situation where it became clear he was a part of this more recently-invented and carefully controlled analytical machine with which we have become familiar.

Mr. McLAUGHLIN. This would permit you to do that?

Mr. BERLE. Yes.

Mr. McLAUGHLIN. The suggestion was made [reading]:

Again, on page 16, under section 4, there does not appear to be any provision to control the activities of foreign agents who are serving as radio commentators or publishers. If the provisions of this section are necessary, and I am not disputing that fact, there would appear to be no good reason why such persons should not be required to preface their remarks by a statement that they are acting as agents of a foreign government or of a foreign political party. It might, furthermore, be well to provide that they should file a transcript of their remarks in the same fashion as is required of a foreign agent who transmits political propaganda through the mail or interstate commerce.

Mr. BERLE. Mr. Chairman, I do not profess to be able to speak on the complexities of interpretation of those parts of the bill not relating directly to the Department of State. Speaking individually, I would think the words "transmits or causes to be transmitted" would include radio propaganda just as much as mail propaganda, because it says: transmits or causes to be transmitted in the United States mails or in interstate commerce.

My understanding is that radio transmission has already been defined by the courts to be transmission in interstate commerce, and the requirement that the transcript be filed, I believe, is already in effect through the Federal Communications Commission. They have that power and, as I understand, they have been exercising it.

The other suggestion strikes me as a suggestion that might very well be worth considering. As I say, that is a personal opinion, rather than a Department opinion.

Mr. McLAUGHLIN. Then it seems he complains with respect to the withdrawal of the registration papers from public examination and suggests that the registration be kept on file and merely endorsed rather than withdrawn. He suggests as an amendment the following [reading]:

When the activities of a foreign agent have ceased to be of a character which requires registration under the provisions of the act, the Attorney General (or the Secretary of State, if the suggestion at the beginning of this memorandum be adopted) shall cause a notation of that fact to be endorsed upon the registration statement filed by the foreign agent.

Rather than to cause it to be withdrawn as the present law provides.

Mr. BERLE. I do not know that I have much of a view on that, Mr. Chairman.

Mr. McLAUGHLIN. The reason is possibly obvious, but he says [reading]:

My reason for this material change in the text of H. R. 6045 is the fact that once a registration had become a matter of public record, no good purpose can be served by the withdrawal from public examination of that registration statement; and, on the other hand, the power to withdraw that registration statement from public examination may be subject to grave abuse.

Mr. BERLE. The clause as it stands was, again, a clause in the 1938 act. A very great number of registrations, of course, are entirely innocent registrations. If a man appears here, let us say, as an advertising agent for a foreign bank or railroad or leather company—something of that kind—he would have to register under this act, as I understand it, if he was engaged in publicity or something of that kind. Whether there is any good purpose to be served by keeping that on file, I do not know. I do not seriously object to the suggestion made. Practically the record does stay and is available to officers of the Federal Government. I do not, right off the bat, have any objection to the suggestion.

Mr. McLAUGHLIN. The last suggestion made is with reference to subsection (b) of section 8 on page 21, and which carries over into the third line on page 22:

Under the provisions of this subsection as written, any loyal citizen of the United States who sincerely and honestly differs from the policies pursued by the administration in power might literally be framed and sent to jail through the fact that the prosecuting officer is not required to prove the identity of the foreign principal for whom the defendant is alleged to be an agent. This particular subsection is suggestive of the powers of a Gestapo or G. P. U. being granted to our Department of Justice. I would suggest, therefore, that this subsection be amended by striking out the words "permissible but not necessary" and substituting the word "required" following the word "be." I emphasize the danger of this provision particularly, Mr. Chairman, because you will note after a careful study of clause (2) on page 3, commencing with line 16, that a foreign agent is defined as a person who may be acting "under the direction, express or implied" of a foreign principal. Now, it would not be difficult for a prejudiced or overzealous officer to contend that a person who had no direct, express, or definite connection with a foreign principal was, in fact, acting under some implied but nonexistent agreement.

Mr. BERLE. Mr. Chairman, I should be grateful if you would let me refer that question to the Department of Justice people. That raises a technical point in criminal law which they are much more able to deal with than I am.

Mr. McLAUGHLIN. I will be very glad to do that. Thank you very much, Mr. Berle.

I think at this time the members are compelled to go to the floor; however, I am perfectly willing to remain for awhile.

Mr. HOLTZOFF. Could I make a suggestion? The Solicitor of the Post Office Department is here and he states he will take only 5 minutes and would like very much if he could get through.

Mr. McLAUGHLIN. I think we can accommodate him.

Mr. MILES. I have no objection to coming back to another meeting, but probably I can complete my testimony in 5 or 6 minutes.

Mr. McLAUGHLIN. We are glad to accommodate you, if you can do it in 5 minutes.

**STATEMENT OF VINCENT M. MILES, SOLICITOR, POST OFFICE
DEPARTMENT**

Mr. MILES. All I can say is that the Postmaster General had many letters in 1935, 1936, and 1937 on these German prints criticizing the President for being a Free Mason and a Jew, controlled by the international Jews, and all that sort of thing. They were printed in Germany, in Erfurt, Germany, and Berlin. One was World Service, printed in three languages, German, Spanish, and English, three columns on each page. On their face, they appeared to be a private concern.

At that time, Mr. Messersmith, who has recently been named as Ambassador to Mexico, was Assistant Secretary of State and he conferred with the Postmaster General and the Postmaster General referred me to him, and we discussed those various situations.

We knew they were being supported by the German Government. We finally found that Mr. McCormack had had hearings to do away with these subversive activities, and he had really produced something valuable in the alien Registration Act.

It had not been contemplated up to that time, the latter part of 1939, that it applied to the agent of a foreign government living abroad. In order to clarify that, the Postmaster General wrote to the Attorney General a formal request for an opinion and the Attorney General came back with a well-reasoned opinion that it did apply to the agent of a foreign government wherever he was situated.

After that time, we maintained a liaison with the State Department, because alien agents were required to register there and when the publishers of those magazines known to be published by the German or Russian Government sent in here, the kind forbidden by the act, our procedure was to have the various ports intercept those prints. That was possible because, in the foreign mail, there are just two classes of mail; there is not our first-, second-, third-, and fourth-class mail, but under the International Postal Convention it is provided that all mail shall be letters or prints. Letters are sacred and can only be attached by a search warrant in this country, just like the search of a man's home, but the others are open, and we found tons of those things coming in here from Germany and Japan, mainly, coming in at the west coast and New York.

When those prints came in, the postmasters at the port of entry had the customs officers turn them over to them. Postmasters would send two copies of those prints by air mail to the Solicitor's office, where we had interpreters employed to interpret any foreign language and, if such prints were violative of the act, we immediately called up the State Department—we had a copy of the list from the State Department of the foreign agents registered—and if they did not appear there, they were violating the act and those prints were not mailable in the United States because they violated a criminal statute of the United States, under the Attorney General's opinion.

As a result of that action I can say, without fear of contradiction, we have nothing to be ashamed of in connection with our work in that regard. Mr. Hassell, who is here, is my assistant in direct charge of it. We have had two or three tests of it, have had two or three libraries come in to us who had subscribed to these things and had

gotten certain copies that were intellectual or scientific, but those bragging on Hitler and the German Government and criticizing this Government had been eliminated. We had been pretty careful in the inspection of them.

We finally found there was a great deal of complaint by everybody, particularly some Members of the House and Senate, with reference to the German agents under assumed names, or apparently innocent names, mailing them within this country. Also, it was necessary under the International Postal Convention for the Postmaster General to notify the postal agent of the foreign Government that such action had been taken. With that situation, Senator McKellar requested the Postmaster General to give some reports on several acts, and the Postmaster General wrote a letter to Senator McKellar explaining this whole situation to him and suggesting that the Departments of State, the Treasury, the Post Office, and Justice, would try to work up an amendment to the act.

The present act, as Mr. Smith has testified, simply clarifies some of the definitions and by perfect agreement it has been transferred—the enforcement of it—from the State to the Justice Department.

The whole procedure under the post-office system continues to proceed just as it was. Under the new act, letters in this country that are sealed are not subject to search and seizure except by a warrant, but there is a criminal provision whereby the Department of Justice shall prosecute any agent that mails them in this country from one point to another.

The purpose of the act is to require that persons shall say on the cover of it what it is, without any attempt at censorship whatever.

We feel from our experience in the past that when these things were sent out, sometimes they made a mistake and sent them to good American citizens who would send them in to us. We had hundreds of these things sent in before we began to stop these prints. For instance, it seems that the propaganda agents in Germany got lists of all the doctors and all the lawyers, chamber of commerce members, even telephone lists. I know at one time all the Army officers of the United States got a copy of World Service. I received copies sent to the office from 8 or 10 different Army officers.

This bill as now drawn is not any attempt to change the theory of the fine McCormack Alien Registration Act but it just tightens it up in one or two places. It is in no way a censorship but a requirement of a frank statement of what they are doing.

In other words, any one of these foreign agents that registers, that complies with the provisions of this bill, can send anything he wants into the country.

Mr. McLAUGHLIN. In other words, they can send anything they want if they state clearly what it is.

Mr. MILES. I thought when their postal services were notified, they would quit sending them in here, but apparently they did not. We get 9 or 10 sacks on every Japanese ship that comes in.

Mr. SPRINGER. Do you think that has increased in the last few months or not?

Mr. MILES. At first we thought there had been a decrease, in view of the present Russian situation, not as many are coming through in Japanese ships, but we find that they are coming up through Mexican

ports, and getting into the South American countries, and some of them come into New York in the same way.

Mr. HANCOCK. How about the distribution of foreign propaganda in this country?

Mr. MILES. All I can tell about that is what we get from foreign countries. I know nothing about what is done here. But I do know that in the sacks of these prints we find some addresses are already on them, directed generally over the United States. But at other times a big bundle was sent to one person over here apparently with the intent that he would distribute them; in other words, the addressee would distribute them.

Mr. HANCOCK. I received some of that myself during the early part of the year, some quite extensive articles on Germany. The publication has not come to me for several months and I was wondering what had happened. Apparently it had a New York mailing. I might say that it did not do any good so far as I was concerned. But I was just curious as to the actual operations of those people. This matter was plainly propaganda. There was not any question about it. I was very curious as to what we had in the way of machinery to check what is apparently either printed or distributed within this country, or whether this law covers that.

Mr. SMITH. That is what this law is designed to cover primarily, the material being distributed in this country, so that it will have to be labeled. It will give us a basis for setting up these checking systems. We already have a certain amount of them now, but we will be able to make them more effective under this law.

Mr. MILES. Mr. Chairman, finally, I want to compliment Mr. John McCormack and the House, because you did have an investigation here and gave birth to something that is real.

Mr. McLAUGHLIN. We all realize the good work that was done there. Thank you very much Mr. Miles.

Mr. SMITH. Mr. Chairman, may I have permission to insert certain statements in the record?

Mr. McLAUGHLIN. Yes. The committee will now recess and will reconvene on Monday at 10 o'clock.

(Whereupon, the subcommittee adjourned to meet on Monday, December 1, 1941, at 10 a. m.)

Caplin & Drysdale

AMENDING ACT REQUIRING REGISTRATION OF FOREIGN AGENTS

MONDAY, DECEMBER 1, 1941

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met at 10 a. m., Hon. Charles F. McLaughlin (chairman) presiding.

Mr. McLAUGHLIN. The committee has reconvened for further hearing on H. R. 6045. Mr. Smith, you are here to conclude your statement. Please proceed.

FURTHER STATEMENT OF L. M. C. SMITH, CHIEF OF SPECIAL DEFENSE UNIT, DEPARTMENT OF JUSTICE

Mr. SMITH. At our last hearing there were several points on which I was asked to elaborate, and I have done so in a written memorandum which I would like to submit for the record covering these points in detail.

Briefly, the question was raised as to the provision in section 8 (b), page 21, with regard to the proof of the specific identity of the foreign principal; whether that permitted the Government to take an unfair advantage of a defendant.

Briefly, in answer to that, the burden of proof as to a foreign principal is quite substantial on the Government. The Government has to prove that the person abroad is engaged in certain transactions covered by the act, and that the transactions are of a character making him an agent of a foreign principal with respect to that person abroad.

The purpose of the section is to make the defendant come forward in proving as to who John Smith is abroad; whether John Smith is an individual, a group of persons, or a combination of persons. That would be very difficult for the Government to establish. It would have to establish, however, before this section could come into operation, that the defendant was receiving political instructions from a "John Smith" abroad.

Therefore, in answer to that criticism, I would say that the Government has a very substantial burden of proof, and what the defendant is asked to prove is what is within his own knowledge and what the Government cannot prove, because the proof concerns a person with whom he is dealing who is abroad, who is in a foreign land.

Secondly, I call your attention to certain other statutes creating presumptions in favor of the Government, which go further than this. I call attention particularly to one in regard to the possession of

marihuana in which it is provided that with certain exceptions possession of marihuana is presumptive evidence of failure to register, and pay a special tax in accordance with the code.

These points, with examples of how the language operates, are covered in more detail in my statement.

A second point that was raised was the application of labeling provisions to the dissemination of propaganda by radio and from the public platform. I think radio is covered by the present section. However, I think the language might be improved by the use of the phrase, "means or instrumentalities of interstate commerce," instead of the present language, which would make it clearer that radio was covered. And I think it might also make it clearer if it said "means or instrumentalities of interstate or foreign commerce."

This is in section 4 (b), page 17 of the act.

Mr. McLAUGHLIN. Will you please indicate the exact wording of the amendment you suggest?

Mr. SMITH. The amendment would be at lines 21 and 22 on page 16, and lines 10 and 11 on page 17, to be altered to read as follows:

in the United States mails, or by any means or instrumentality of interstate or foreign commerce.

A further question was raised as to whether this bill should not cover political propaganda from the public platform which is not broadcast. This is admittedly not provided for in the bill, unless it is broadcast. However, there would seem to be no objection to the adoption of the suggestion provided it is restricted to meetings of some importance and not to informal conversations. If this change is to be made, language similar to the following might be inserted after the word, "commerce," on page 16, line 22, and page 17, line 11—that is, if you want to cover public meetings that are not broadcast—

or disseminates or causes to be disseminated at any meeting at which ten or more persons are present.

You could make that 10 or 25 or 100. That would be a matter for the committee to decide. I suggested 10 as being a minimum. Maybe it should be larger.

Mr. HOBBS. Do you favor such an amendment?

Mr. SMITH. I have no objection to it, sir.

Mr. SPRINGER. What page and line is the suggested amendment to go?

Mr. SMITH. Page 16, line 22 and on page 17, line 11. It goes in two places.

Mr. McLAUGHLIN. When you say you favor it, are you speaking for the Department?

Mr. SMITH. Yes. Now, with regard to section 4 (d), page 18, line 17, there has been a question as to material which is ordered by official agencies of the Government for official purposes being transmitted in the mails, and the Postmaster General suggests that he is prepared to permit the transmittal of any material to governmental agencies for official purposes, such as the Library of Congress or the Department of Agriculture—and other agencies—and to take care of that, it has been suggested that in section 4 (d), page 18, line 23, before the phrase, "as well as," strike the rest of that sentence and insert the following:

notwithstanding the provisions of section 1, title XII of the act of June 15, 1917 (18 U. S. C. 343), the Postmaster General is authorized to permit the transmittal

of foreign prints in the mails to any department or other agency of the Federal Government for governmental purposes¹

A further question arose as to a reference to the Neutrality Act, whether it was accurate in view of the amendatory legislation which has recently been passed, and it is suggested that that could be improved as follows, on page 16, lines 12 and 13:

to the provisions of section 8, of the act of November 4, 1939, as amended (54 Stat. 8), and such rules and regulations as may be prescribed thereunder:

At two other places the word "political" before the word "propaganda" has been omitted; section 4 (d); page 18, line 24; and section 11, page 23, line 16. By inserting the word "political" before the word "propaganda" to make it conform to the phrase "political propaganda," which is defined and used elsewhere in the act, that error will be corrected.

I have covered these specifically in this statement, which I will file for the record.

Mr. McLAUGHLIN. That may be included as part of your remarks, Mr. Smith.

(The matter referred to is as follows:)

PARTICULAR POINTS RAISED

(Additional statement submitted, for the Committee on the Judiciary, by Lawrence M. C. Smith, Chief, Special Defense Unit, Department of Justice, in connection with Hearings on H. R. 6045)

The purpose of this statement is to consider several points concerning the bill which have arisen since its introduction, principally at the hearing before the subcommittee on November 28, 1941, and to consider particularly several points at the request of the chairman of the subcommittee.¹

1. *The provision with regard to proof of the specific identity of a foreign principal (sec. 8 (b), p. 21, line 24 et seq.).*—In criticism of this section it has been said that it opens the door for governmental oppression of innocent citizens, and the critic has suggested that the section be amended by striking out the words "be permissible but not" so that the latter part of the provision will read: "Proof of the specific identity of the foreign principal shall be necessary."

The criticism does not appear to be well founded and the proposed change would be undesirable. The existing provision requires substantial proof by the Government. The change proposed would add a burden which experience has shown the Government often cannot meet and at the same time would not confer any appreciable benefit on the defendant.

The precise effect of the provision can best be shown by considering an example of a case in which it operates. Suppose that the Government proves that the defendant was continuously receiving cabled instructions to carry out political activities from a person abroad who signed himself John Smith. The Government proves also that the defendant carried out such activities. Thus, the defendant is acting "at the order" of a foreign principal in a nonexempt transaction and hence is an agent of a foreign principal; if John Smith is a foreign principal, John Smith is a person outside of the United States and hence is a foreign principal, unless the defendant can prove that he is a citizen of and domiciled within the United States. If, in addition to the foregoing, the Government must prove the "specific identity" of John Smith; that is, if the Government must prove that John Smith is the name of a real individual (and not, for example, an alias for an organization or group of individuals) or his nationality or sex or similar facts about him other than the name "John Smith," the Government's case will probably fail, because experience has already shown the great difficulty of obtaining evidence of this character with respect to persons abroad. The object of the provision in question is to make certain that on the facts stated the Government is entitled to go to the jury.

¹Page and line references are to the bill as printed upon reference to the committee.

It is thus apparent that the provision in question does not come into operation until the Government has proved very specific facts, namely:

(a) That the defendant engaged in certain transactions covered by the act with a "John Smith" abroad; and

(b) That the transactions are of a character making him an agent of a foreign principal with respect to "John Smith."

If the Government can prove these facts, it has proved all that the defendant can fairly require to be proved against him. In proving these facts the Government informs the defendant very precisely of what the charge against him is. The issue tendered to the defendant is very specific.

It would be of no appreciable advantage to the defendant if the Government were required in addition to prove the "specific identity" of the person abroad—age, sex, nationality, etc. Such proof could hardly help the defendant to prove that the person was not abroad. It could hardly help the defendant to show that he did not engage in the transactions in question. It would not help the defendant to show that the transactions were not of a character making him an agent of a foreign principal. And, on the other hand, to require this additional proof from the Government would generally make it impossible for the Government to prosecute cases on evidence of this character. The provision therefore seems altogether fair in providing that if the defendant does not wish to be convicted on the evidence proved in the hypothetical case, he must assume the burden of explaining the transactions either by witnesses or by his own testimony.

As a matter of fact the provision does not go so far as criminal statutes creating presumptions in favor of the Government. Such statutes say that a fact which must be proved in order to establish the crime shall be inferred from other facts unless the defendant shows otherwise. An example of such a presumption appears in the Revenue Code in connection with the control of marihuana. It is provided there that, with certain exceptions, possession of marihuana is presumptive evidence of failure to register and pay a special tax in accordance with the Code. It is therefore believed that section 8 (b) should be retained without change.

2. *Requirement of registration of economic agents of foreign principals.*—It was suggested at the hearing that this bill include within its registration provisions economic agents of foreign powers as well as propaganda agents.

If the suggestion can be construed to mean the inclusion of a requirement of registration as a foreign agent of any corporation in which there is a substantial amount of foreign ownership—say, for purposes of discussion, 10 percent or more—or control through other media, the wisdom of such a requirement is doubted. In the first place attention is called to the fact that the Treasury Department, in connection with its census of foreign property, has secured detailed information regarding the foreign ownership of domestic companies as of June 1940, and June 1941. Furthermore, the Treasury Department, in connection with the frozen funds of foreign nationals, has secured extensive information on the control and ownership by foreign interests of property within the United States and is continuing to secure that information under the provisions of the freezing order. Thus it appears that the Treasury Department has now in its possession or is in a position to secure extensive information as to the control and ownership by foreign interests of property in this country. The insertion of any provision in this act requiring the registration of foreign-owned or dominated companies would seem to cause a duplication of that Department's functions.

Some questions arise also as to the desirability of classifying persons as foreign agents merely because of the manner in which they are controlled or owned as opposed to the nature of their activities. The former classification would result in an extension of the concept of foreign agent as used in the present act. While there is not now a public disclosure of foreign ownership in many cases, it is pointed out that there are a great many factors to be considered before any such policy should be recommended. In any event it is believed that this is a matter which should be taken up with the Treasury Department in connection with its freezing order activities.

With respect to amending the present act so as to require the registration of foreign economic agents who are engaged in the acquisition of control or a substantial influence in American corporations, a different problem is presented. Persons who are in this country engaged in negotiating for or acquiring a substantial interest in American corporations are, in many ways, comparable to propaganda agents and are part of the process of total infiltration. It must be recognized, however, that the act should not require the registration of every person who merely buys a few shares interest in an American corporation for a

foreign principal, unless that acquisition is connected with a scheme for a much larger acquisition.

While a provision to require the registration of foreign economic agents engaged in the acquisition of control in American corporations raises technical difficulties of drafting to avoid interfering with perfectly legitimate operations, it is believed that such a provision is not inconsistent with the scheme of this bill or objectionable to Department of Justice or to the Treasury Department.

In this connection attention is called to the attached item from the New York Times of October 31, 1941, in which the activities of "Sofina" Corporations are discussed at length, together with the names of the officers and directors and other information with regard to their activities. No attempt has been made to check on the accuracy of these statements.

3. *Application of labeling provisions to dissemination of propaganda by radio and from the public platform (sec. 4, (b), p. 17, line 18 et seq.).*—The suggestion has been made that registerable agents of foreign principals who disseminate political propaganda by means of radio or the public platform be required to preface their remarks by a statement setting forth the information required by section 4 (b) of the bill.

With respect to dissemination by radio, it is believed that this is already provided for under the present language of section 4 (b). That section applies to transmittal "in the United States mails or in interstate commerce" (p. 17, lines 10-11) and as Mr. Berle pointed out at the hearing, transmission by radio is considered to be transmission in interstate commerce unless, as is extremely unlikely, it be proved that the particular broadcast was not heard by anyone beyond the bounds of the State in which it was made. Although specific mention of radio might be made in clarification of this, this is believed undesirable in that it may require similar specificity to be attempted of all possible instrumentalities of interstate commerce.

The language might, however, be improved upon by the use of the phrase "means or instrumentalities of interstate commerce", since this language has been employed in other legislation, notably the Public Utility Act of 1935 (sec. 4 (a) (2)).

This problem of the inclusion of radio likewise raises a question as to whether the section should not be broadened to include foreign commerce, as well, in order more adequately to cover the dissemination of political propaganda from the United States to the other American republics. If this is thought desirable, it is suggested that lines 21 and 22 of page 16 and lines 10 and 11 of page 17 be altered to read: "in the United States mails or by any means or instrumentality of interstate or foreign commerce."

With respect to the dissemination of political propaganda from the public platform which is not broadcast, this is admittedly not provided for in the bill. However, there would seem to be no objection to the adoption of the suggestion, provided it is restricted to meetings of some importance and not informal conversations. If this change is to be made, language similar to the following might be inserted after the word "commerce" on page 16, line 22, and page 17, line 11: "or disseminates or causes to be disseminated at any meeting at which — or more persons are present."

4. *Political propaganda to government agencies for official purposes. (Sec. 4 (d), page 18, line 17 et seq.).*

It has been suggested that in order to prevent the possible unintended application of the nonmailability provision in section 1, title XII, of the act of June 15, 1917 (18 U. S. C. 343), to material sent to various departments and agencies of the Federal Government, the present language of section 4 (d) of the bill might be broadened to apply to other agencies in addition to the Library of Congress.

With the approval of the Post Office Department, it is therefore proposed that this suggestion be incorporated in the bill by placing a period before the phrase "as well as" in section 4 (d), (p. 18, line 23), striking the rest of that sentence, and adding another sentence as follows: "Notwithstanding the provisions of section 1, title XII of the act of June 15, 1917 (18 U. S. C. 343), the Postmaster General is authorized to permit the transmittal of foreign prints in the mails to any department or other agency of the Federal government for governmental purposes."

5. *Reference to the Neutrality Act of 1939 (sec. 3 (d), p. 16, line 12).*—A question has arisen as to whether the recent amendments to the Neutrality Act of 1939 render inaccurate the references thereto in this bill. The act of November 17, 1941 (Public Law No. 294, 77th Cong., 1st sess.) does not affect the provisions in the Neutrality Act relating to the matter referred to in this bill.

While the reference is accurate, it is suggested that for clarity it might well be reworded to read as follows (p. 16, lines 12 and 13): "to the provisions of ch. 2, sec. 8, of the act of November 4, 1939, as amended (54 Stat. 8), and such rules and regulations as may be prescribed thereunder;"

6. *Omission of the word "political"* (sec. 4 (d), p. 18, line 24, and sec. 11, p. 23, line 16).—It has been discovered that in the above two places the bill refers to "propaganda" and does not use the term "political propaganda" which is the term defined in Section 1 (J) (p. 7, line 3 et seq.). This clerical error should be corrected by the insertion of the adjective "political" preceding the word "propaganda" in these two references.

DISCUSSION OF THE PROVISIONS OF H. R. 6045 RELATING TO FILING OF POLITICAL PROPAGANDA AND TO THE DEFINITION OF "AGENT OF A FOREIGN PRINCIPAL"

1 (sec. 4 (a), p. 16, line 18, et seq.). It has been suggested that this provision which requires the filing of copies of political propaganda by agents of foreign principals with the Librarian of Congress and the Attorney General not later than 48 hours after the beginning of its transmittal, be altered to require the filing at the time of, or prior to, the dissemination.

The sole purpose of this requirement is to provide the government with comprehensive information on the propaganda which is being disseminated within the country for study and analysis and for such publicity as may be found desirable. The only reason for the limitation of 48 hours is to insure that the filing will be done within a reasonable time.

To require the filing at or prior to the time of dissemination would not appear to offer any advantage from the point of view of the purpose for which filing is sought, since there is no power to prevent the dissemination of material. It is believed that the effect of such a requirement would be to prohibit the dissemination of any statement which may be regarded as political propaganda unless the agent could make sufficient provision several days ahead of time to prepare the text to be followed and to see that the copies were in the hands of the Librarian and the Attorney General prior to or at the moment of the commencement of dissemination.

Concerning the alteration of the subsection to requiring the filing of copies prior to the dissemination of the propaganda an additional problem is presented which would seem to border upon a possible invasion of the guarantee of freedom of speech in the first amendment.

The basis of the interpretation of this amendment is the principle that there should in general be no interference with freedom of speech unless there is a "clear and present danger" (*Schenck v. United States*, 249 U. S. 47, 63 L. Ed. 470 (1919)) that the words used will lead to force and violence against the government or, in war time, against the successful prosecution of the war. The cases make it clear that the first amendment is intended in major part to protect against previous restraints. (*Near v. State of Minnesota*, 283 U. S. 697, 75 L. Ed. 1357 (1931); *Grosjean v. American Press Co., Inc.*, 297 U. S. 233, 80 L. Ed. 660 (1936).) Whether or not the requirement of prior filing would, by itself, be construed as a previous restraint need not be decided, although the principle of law was of some weight in arriving at the decision to require the filing only subsequent to dissemination.

However, it would appear to be of little advantage at this time to require any filing prior to dissemination unless some repressive or counter measure, or perhaps licensing action is to be undertaken in the event that it was decided that the statements which the person contemplated making were objectionable and as to such action the constitutional objection of previous restraint would indeed seem a serious one.

2 (sec. 1 (c) (1) and (2), p. 3). A further criticism of the Bill appears in the Economic Council Letter, No. 97, dated Monday, December 1, 1941, and published by the New York State Economic Council, Inc. This is directed against the definition of "agent of a foreign principal." It is argued that such definition too greatly broadens the classes of persons who may be found to be foreign agents so that no one would be able to discuss foreign policy without being subject to registration.

Specifically, the objection includes reference to the phrases "whether or not pursuant to authorization or contractual relationship" (p. 3, lines 11 and 12), and "acts * * * under the direction, express or implied, of a foreign prin-

principal" (p. 3, lines 24 and 25). Section 8 (b) (p. 21, line 24 et seq.) which eliminates the necessity of proof of the specific identity of a foreign principal is also brought into question as is the definition of "political propaganda" in section 1 (j) (p. 7, line 3 et seq.).

The point of the criticism appears to be that because of the cumulative effect of these phrases a person could be convicted because he had asserted an opinion for or against a particular foreign government or party or the head thereof, and the particular phrase which is cited to sustain this point is the phrase "acts . . . under the direction, express or implied, of a foreign principal."

In the first place, it is fairly certain that the words "express or implied" are implicit in the present language which includes a person who "acts . . . under the direction of a foreign principal"—with no reference to whether that direction need be express or implied.

But further, it is clear that "implied" direction or implied agency requires much more by way of legal proof than the expression of an opinion for or against a foreign country or party as is stated to be sufficient in the Economic Council Letter. There is a definite legal concept of implied agency which would prevent the predication of agency of a foreign principal relationship upon any such unsubstantial bases, and the criticism therefore appears to be unfounded.

However, if it is felt that the cumulative effect of all the phrases referred to might possibly result in the inclusion as foreign agents of persons with foreign connections less substantial than was intended, there would appear to be no serious objection to the elimination of the words "express or implied" in section 1 (c) (2), or the words "authorization or" in section 1 (c) (1).

Concerning the subsection in which this latter phrase appears, it should be noted, however, that it was proposed after consideration by the Senate Subcommittee to retain that language and to preface it with the further phrase "or who is or holds himself out to be"; so that the subsection would read: "Any person who acts or agrees to act within the United States as, or who is or holds himself out to be, whether or not pursuant to authorization or contractual relations, a public relations counsel, etc. . . ."

With reference to section 8 (b) which eliminates the necessity of proof of the specific identity of a foreign principal, which is also criticized, attention is called to the discussion of this point in the additional statement (pp. 1-4) submitted to your committee on December 1, 1941. Concerning the definition of "political propaganda" which the letter comments upon, it is admittedly broad, but it is believed that it is not open to attack on that ground since the dissemination of propaganda alone is not sufficient to constitute a person a registerable agent of a foreign principal under the act.

[New York Times, October 31, 1941]
SCAN ACTIVITIES OF ALIEN CONCERN

TREASURY, JUSTICE DEPARTMENT AND SECURITIES AND EXCHANGE COMMISSION INVESTIGATE BIG TRUST KNOWN AS SOFINA—UNITS IN MANY COUNTRIES—INTEREST ALREADY SECURED IN SEVERAL UTILITIES—DIRECTORS OF EUROPEAN ORIGIN

By Thomas P. Swift

The Department of Justice, the United States Treasury and the Securities and Exchange Commission are conducting an exhaustive investigation into the corporate activities and financial affairs of Sofina, a sprawling European utility holding company and investment trust, which, indirectly through subsidiaries, is operating now in the United States, it was learned yesterday.

Sofina, corporately known as the Société Financière de Transports et d'Entreprises Industrielles, has controlling or substantial interests in electric light and power, gas, and transportation properties in Berlin, Paris, London, Lisbon, Madrid, Brussels, Venice, Barcelona, Algiers and South America. It is, and for many years has been, operated under the direction of Danmie Heineman, who left Belgium for this country shortly before the outbreak of the war.

Mr. Heineman, who was born in the United States but spent most of his life in Belgium, brought the nucleus of the Sofina organization here last year and now it has blossomed into a full-fledged enterprise occupying more than three floors at 50 Broadway under the name of Amitas, Ltd., employing about 300

former European nationals. Under a somewhat complex corporate arrangement, Amitas is controlled by an intermediate holding company known as Securitas, which, in turn, stems back to Sofina.

The Federal Government's investigation of Sofina's affairs is being undertaken in an effort to determine whether the vast enterprise, which has listed assets of 2,126,865,476 Belgian francs, falls within the purview of United States laws governing the regulation of utility holding companies and trusts.

ACTIVE IN SOUTH AMERICA

Interest also is being evidenced by Federal agents into Sofina's South American activities and its rumored quiet acquisition over the last year of substantial stock interests in two American utilities which directly own a 93-percent stock interest in the rich Panhandle Eastern Pipe Line Company. Panhandle Eastern operates a continuous natural gas pipe line from the oil fields in Texas to Michigan.

Another aspect of the investigation revolves around Sofina's interest, acquired in 1936, in the Middle West Corporation, a domestic utility holding company, with headquarters in Chicago, which operates electric and gas properties in north central, middle west and southwestern sections of the United States. Sofina owns 4.96 percent of Middle West stock and has a representative, Charles Wilmers, on the board. Mr. Wilmers is a director of Amitas.

Sofina's board of directors represents a cross-section of Belgian, French, German, English, Spanish and Italian nationals. In addition to Mr. Heineman, Gordon Auchincloss of the law firm of Auchincloss, Alley & Duncan is an American representative on the board.

Sofina's board is as follows: Viscount Van de Vyvere, Mr. Heineman, Charles de LeHoye, Lucien Janlet, Max Horn, Raoul Richard, Henri Speciael, David-Michel Van Buuren, Mr. Auchincloss, Gaston Barbauson, Rodolphe Bindschedler, Gaston Blaise, Maurice Bock, Francisco da A. Cambo y Batlle, Jean Cassel, Mariano de Foronda, Maurice de Patoul, Jules Descamps, Albert d'Huer, Bernard Dudley, Franck Docker, Sir Hugh J. Elles, Sir George Grabane, Fernand Hautain, Maurice Hermans, Reginald McKenna, André Meyer, Maurice Pesson-Didion, Maurice Soesman, Frederick G. Steiner, Viscount Swinton, Giuseppe Volpi di Misurata, Louis Wibratte and Lord Wigram.

The board of Amitas consists of Mr. Auchincloss, J. D. Duncan, Mr. Wilmers, Marcel Ronge and Jean Ehrlich.

ENTRY INTO PIPE LINE COMPANY

In connection with Sofina's reputed acquisition of the indirect interest in Panhandle Eastern Pipe Line it is understood that nominees were used exclusively in the process. The Columbia Oil and Gasoline Corporation and the Missouri-Kansas Pipe Line Co. (Mokan) between them own 93 percent of the common stock of the pipe-line company. Columbia and Mokan have been at swords' point for 6 years over management policies and ownership of the Panhandle Eastern Pipe Line Co. Antitrust proceedings have been involved against Columbia Oil and its parent, the Columbia Gas and Electric Corporation, and hearings are now being held before the Securities and Exchange Commission on the proposed dissolution of both Mokan and Columbia Oil by means of a pro rata distribution of their Panhandle Eastern holdings to stockholders of the two companies.

One of the nominees known to hold a sizable block of Mokan stock is a Charles Gordon & Co. Corporate records show no data on Charles Gordon & Co., but it was learned that the name is the combination of first names of two Sofina representatives—Charles Wilmers and Gordon Auchincloss. Another Sofina director, Mr. Steiner, also is understood to control a substantial amount of Mokan stock. Another angle in the situation is reported to revolve around a so-called "Independent Committee of Stockholders of the Missouri-Kansas Pipe Line Co.," in which Mr. Duncan is understood to be interested.

TREASURY CLAMPS DOWN

For several months Sofina, since its nominal headquarters are in Brussels, Belgium, has applied to the Treasury in Washington for permission to use its funds under President Roosevelt's "frozen funds" edict against the Axis and Axis-controlled countries. It is understood, however, that on October 15 the

Treasury put a ban on additional Sofina permits to use its funds. Whether the ban has since been raised has not been disclosed by Treasury representatives.

Insofar as the enterprise's South American operations are concerned, it is understood that Amintas, through its engineering and technical staff, handles the shipment to Argentina and Brazil of electrical equipment, generating supplies, and fuel purchased in the United States. The fuel and supplies are being utilized in the operation of the Compañia Hispano-Americana de Electricidad, S. A. known as "Chade," this system, in which Sofina has a substantial interest, controls widespread public utility and other properties in Latin America.

"Chade" was incorporated in Madrid in 1920 to take over South American properties of the German Transatlantic Electric Co. and to own, operate, construct and manage public utilities. In 1938 this company reorganized under the laws of the Grand Duchy of Luxemburg and formed a subsidiary—Societe d'Electricite—to which it transferred all its assets. Recently "Chade" dissolved Societe d'Electricite and resumed its direct holding-company status.

SECURITIES AND EXCHANGE COMMISSION,
Washington, December 2, 1941.

Re a bill 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, 1939, as amended.

Mr. L. M. C. SMITH,

Chief Special Defense Unit, Department of Justice, Washington, D. C.

Dear SAM: You have asked me to comment upon the proposed inclusion in this bill of a provision to the effect that the exemption under section 3 (d) shall not be available to any person who knowingly secures or acquires, or assists in securing, or acquiring, or attempts to secure or acquire on behalf of a foreign principal or principals for any purpose whatsoever the ownership or control direct or indirect of any of the outstanding voting securities or the direction or control by any means whatsoever of any partnership, association, corporation, or organization or other combination of individuals organized or operating as a business enterprise under the laws of the United States or any State or any place subject to the jurisdiction of the United States.

As I have had very little time to consider this proposal and have only discussed it with one other member of the staff, the following comments, you will understand to be tentative. I have, of course, not consulted the Commission and, therefore, this represents only my own comments as a member of the staff.

The provision in question would bring under the definition of agent of a foreign principal many banks and brokers or dealers who are exempted under section 3 (d). I do not know of any available figures to provide an estimate as to the number of such banks and brokers who might be affected. The Treasury Department, through its foreign funds control, could no doubt compile a partial figure from its file of applications for licenses. This would be partial because the Treasury regulations on blocked accounts apply only to continental Europe so that agents handling transactions emanating from Latin America and Asia would not be included. Such transactions, however, particularly of recent date, represent the most substantial proportion of security transactions reported as of foreign origin. Probably, therefore, a large number of banks and brokers would become subject to this act.

In view of the fact that there is no minimum limitation upon the amount of securities that may be acquired, even a small and isolated purchase for a person resident outside of the United States would subject an agent to the requirements of the act. No doubt there will also be cases where a person has not acted for a foreign principal but upon receipt of instructions or an order for the purchase or sale of securities comes into the category of foreign agent and would have, therefore, the choice of carrying out instructions and registering or refusing to carry them out.

There will, no doubt, be many banks and brokers who will resent being classified as agents for foreign principals, some might even refuse for this reason to continue to act for foreign principals. This might have repercussions upon our financial and commercial relations with South America for example, should facilities for consummation of securities transactions become difficult.

There will also be questions as to whether certain customers of banks or brokers fall within the category of foreign principals. The determination of these questions would impose an additional burden upon banks and brokers.

In general there is a question in my mind as to the reasonableness of labeling, as foreign agents, persons who have customarily and for a long period merely acted as bankers or brokers for foreigners. If such bankers or brokers in addition to their ordinary services also disseminate information to their clients abroad they might, on the other hand, be rightfully classified as agents for foreign principals in accordance with the terms of this act.

Also, I can understand that you might wish to include as such agents, persons who act on behalf of a foreign principal in the acquisition of a measurable percentage of the outstanding securities of any of our businesses or corporations or who assist in the accumulation of a large dollar amount of such securities. If this is your purpose it might be obtained by incorporating within the proposed revision a phrase such as "the lesser of 1 percent of outstanding voting securities or \$_____."

With respect to your question as to the insertion of the words "in whole or in part" after the word control it is my feeling that these words do not add any meaning to "control." Perhaps some definition of the word control such as that employed by the Commission in its general rules and regulations under the Securities Act of 1933 might clarify your meaning. This definition is as follows:

The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

You might also wish to consider in this connection Section 2 (a) (8) (B) of the Public Utility Act of 1935. This section treats with the subject of "controlling influence."

Very truly yours,

WALTER C. LOUCHHEIM, Jr.,
Assistant Director.

TREASURY DEPARTMENT,
Washington, December 6, 1941.

Mr. L. M. C. SMITH,
Chief of Defense Unit, Department of Justice, Washington, D. C.

Dear Mr. SMITH: Reference is made to our recent discussions concerning H. R. 6045, containing some proposed amendments to the act of June 8, 1938, relating to the registration of agents of foreign principals.

You requested the views of the Treasury Department with respect to the proposal that agents engaged in acquiring ownership or control of American corporations on behalf of foreign principals be subjected to the registration requirements of the act. As you were informed, the Treasury Department has no objection to the general proposition that foreign economic agents as well as other types of foreign agents be subjected to the registration requirement.

However, at the time that this proposed provision was considered by the Treasury Department, it applied only to agents engaged in securing 1 percent or more of the outstanding voting securities of any American corporation, etc. It is understood that it is now proposed to eliminate this 1 percent limitation. The Treasury Department will find the proposed provision objectionable unless it contains some reasonable limitation so as to distinguish between agents who are engaged in acquiring ownership or control on behalf of a foreign principal and agents who merely make random or casual purchases for investment or other miscellaneous purposes on behalf of foreign principals. If agents in the latter category are subjected to the requirement of registration, the door would be open wide for the registration of all persons and institutions acting as bona fide financial agents for foreign purchasers of domestic securities.

The Treasury Department believes that if the proposed amendment is adopted in principle, it should contain some reasonable limitation so as to insure that the requirement of registration is imposed only on those agents who are engaged in acquiring ownership or control of American corporations on behalf of foreign principals.

In making the foregoing comments, it should be noted that this Department has not attempted to express its views upon the desirability of the bill as a whole.

Very truly yours,

E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

Mr. SMITH. There is one other point that I think Congressman Voorhis wished to submit an amendment on, Mr. Chairman.

Mr. McLAUGHLIN. Do you wish to be heard, Mr. Voorhis?

Mr. VOORHIS. I do not want to interrupt Mr. Smith's statement, but I do have a suggestion I would like to make.

Mr. McLAUGHLIN. We shall be very glad to hear from you.

**STATEMENT OF HON. JERRY VOORHIS, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. VOORHIS. This is a question, Mr. Chairman, about the problem of an individual who might be operating in the United States on behalf of a foreign corporation for the purpose of purchasing a substantial or a controlling interest in an important American business enterprise. It seems to me that that sort of thing might well be covered by this Act.

I have in mind one or two specific cases that may represent either what may or may not be actually happening, but where it looks very much as though it was. It is my opinion that the language in subsection (d) on page 16 would exempt a person of that sort, because it says:

Any person engaging or agreeing to engage only in private financial activities in furtherance of bona fide trade or commerce [omitting a few words]—

In other words, it seems to me that under that a person who might have been sent here by a corporate interest in some totalitarian country, for example, or a country dominated by a totalitarian power, might come here and buy up a considerable interest in American properties which might be of strategic importance. That would be something that we at least ought to know about, and here is some language, Mr. Chairman, that has been suggested as amendatory of that section for the purpose of covering that situation. Would you care for me to read it or do you want me just to hand it to you?

Mr. McLAUGHLIN. Let us hear what the suggestion is.

Mr. VOORHIS. It is proposed to insert at the end of subsection (d) at the middle of page 16, the following:

The exemption under this subsection shall not be available to any person who knowingly secures or acquires, or assists in securing or acquiring, or attempts to secure or acquire, on behalf of a foreign principal or principals, for any purpose whatsoever, the ownership or control, direct or indirect, of one per centum or more of the outstanding voting securities, or the direction or control by any means whatsoever of any partnership, association, corporation, organization, or other combination of individuals, organized or operating as a business enterprise under the laws of the United States or of any State or other place subject to the jurisdiction of the United States:

Mr. McLAUGHLIN. Do you care to discuss that any further?

Mr. VOORHIS. Is it necessary, Mr. Chairman? The point is clear, and I would just like to submit it for the consideration of the committee.

Mr. McLAUGHLIN. The effect of your amendment is merely to clarify the status of a person subject to the exemption in subsection (d) who engages only in private or other activities in furtherance of bona fide trade or commerce.

Mr. VOORHIS. That is right. It seems to me that what the exemption is intended to cover is somebody who comes here for the pur-

pose of marketing a product, in the United States, something like that; or perhaps to purchase products on behalf of some corporation that is located abroad, which obviously is understandable and a legitimate business enterprise. But this is supposed to remove the exemption from somebody who is operating as an agent of a foreign principal for the purpose of buying into control of American properties.

Mr. McLAUGHLIN. Of course, the bill in its present form tends to accomplish the purpose you seek to accomplish, and you are merely adding this for purposes of clarification.

Mr. VOORHIS. I think so, except I think the bill in its present form would exempt a person if that person were, for instance, buying stock of an American utility or an American metal-mining company on behalf of foreign capital.

Mr. McLAUGHLIN. Specifically, do you have in mind the activities of the concern known as Sofina? Is that one of the activities you have in mind?

Mr. VOORHIS. That is one I have in mind. I do not feel I am prepared to make any statement about that, Mr. Chairman. Either it is a serious proposition or else it is not. In any case, to require the registration of an individual who was engaged in what some of us fear may be taking place would be salutary, it seems to me.

Mr. McLAUGHLIN. We have a communication from a colleague, Congressman Dondero, of Michigan, with reference to this corporation, and the activities of the corporation. He requests that the subcommittee make quite an exhaustive inquiry into the nature and character of the corporation and its activities. Discussing this matter with the members of the subcommittee, we felt that this request on the part of Mr. Dondero, while prompted by the highest motives, would lead us a little afield of the scope of our duties here, inasmuch as this bill has to do with an amendment of the present act covering the registration of aliens.

However, we are very glad to have your views and comments on it, for the record.

Do you care to discuss this matter raised by Mr. Voorhis, Mr. Smith?

STATEMENT OF L. M. C. SMITH—(Resumed)

Mr. SMITH. Yes. That was the question that you asked me to discuss more fully. I have a statement on that, together with a copy of a New York Times article on Sofina and its activities, which has already been put in the record. I discussed this with a representative of the Treasury Department and we both felt that that provision which would require the registration of American concerns under foreign control through the ownership of, say, 10 percent or more of their stock, or control through other media, would not be appropriate in this act; that that is being covered by the inventory of foreign property now being engaged in by the Treasury as well as the fund-freezing provisions, which are quite broad.

On the other hand, the activities of foreign economic agents who are over here engaged in acquiring economic control are comparable to that of political propaganda agents, because they are just another form of totalitarian infiltration. Consequently it seems to me that the

amendment which Congressman Voorhis has suggested is appropriate for this act, because it is restricted to the activities of agents who are over here as opposed to requiring a registration on the basis of ownership, which is a different function.

Mr. McLAUGHLIN. Mr. Voorhis' amendment, so far as this exemption provision is concerned, really in effect spells out the activities which are considered to be other than private.

Mr. SMITH. That is correct.

Mr. McLAUGHLIN. So as to define by reference what activities are private.

Mr. SMITH. That is right. Under the existing act, this type of activity, the acquisition of control of American corporations for foreign interests, might well be considered as a private bona fide commercial transaction. The purpose of this amendment is to make clear that it is not, but it is in the category of those requiring registration.

Mr. McLAUGHLIN. Then you have no objection to Mr. Voorhis' amendment?

Mr. SMITH. That is correct, sir.

Mr. McLAUGHLIN. Putting it another way, the suggested amendment of Mr. Voorhis is agreeable to you and to the Department, is that correct?

Mr. SMITH. That is correct. There is one question as to the language of the exemption which says:

for any purpose whatsoever, the ownership or control, direct or indirect, of one per centum or more of the outstanding voting securities.

I think that is appropriate, because if a foreign agent is going to acquire less than 1 percent, you may catch a great many small 10-share transactions in this country; for instance, banks have a great many investment accounts which would be caught. I think we are only interested at the point when it gets to have some significance in terms of control or direction. On the other hand, there is a possibility that it may lead to evasion through having that limitation. It may frustrate the purpose. I think Mr. Holtzoff has some thoughts on that.

Mr. O'HARA. In regard to that percentage provision, I think it is something that we should be pretty careful of, because if you start making these percentages you are going to run into some deliberate subterfuges.

Mr. SMITH. That is correct. I am torn between trying to avoid catching every picayune transaction and a desire to prevent evasion. I think if you do not have any exemption you will catch as many as 50 brokers who do business in New York who would be required to register as foreign agents, whereas if you have the 1 percent provision in there, you may have a lot of activities through a variety of brokers and you will not get the information as to 1 percent being accumulated through ten different brokers. Mr. Holtzoff may have some comment on that.

Mr. McLAUGHLIN. We shall be glad to hear you, Mr. Holtzoff, if you care to make a statement on that.

Mr. HOLTZOFF. I do not want to be in a position of differing with my colleague. My thought has been that it would not hurt a stock broker to register. We are asking a lot of other people who might be entirely innocent to register in order to trace all these activities.

It would not hurt if a number of stock brokers in New York were made to register. On the other hand, I can conceive of a situation where a foreign interest that is acquiring or seeking to acquire control of a corporation would so split up its orders through numerous stock brokers and banks so as not to place in the hands of any one an order large enough to reach the percentage that is named in the act.

Therefore, I would rather burden the stock broker with the duty of reporting a minor transaction than to permit a mass of small transactions which are intended to make up a single large transaction, to escape.

So that the thought I had in mind was that we should have no percentage limitation in this amendment, if it is accepted.

Mr. McLAUGHLIN. Are you fearful that what you might call a subterfuge would be used in the event that we inserted the 1-percent provision in the amendment?

Mr. HOLTZOFF. Precisely, because we know that even in perfectly legitimate transactions, when people acquire a large block of securities of any one issue, they do not place a single order for that block. It would be bad business to do it, because it would affect the price too much. The average businessman, when he is doing that, places a number of orders from time to time, on different days, perhaps during different weeks or months, and among different stock brokers, in order not to show his hand. That is done in entirely legitimate business, and it would be done all the more in illegitimate business. Therefore, 1 percent or any other percentage would, it seems to me, make the act subject to evasion by that means.

Mr. McLAUGHLIN. So you would favor the amendment, but you would suggest the elimination of any percentage.

Mr. HOLTZOFF. Precisely, Mr. Chairman.

Mr. McLAUGHLIN. Mr. Voorhis, do you have any views you care to express on that suggestion?

Mr. VOORHIS. I rather think there is a good deal in what Mr. Holtzoff has just said.

Mr. McLAUGHLIN. Does that conclude your statement, Mr. Smith?

Mr. SMITH. That concludes my statement, if I may put this more detailed statement into the record.

Mr. HOBBS. You are going to put in the New York Times article about Sofina?

Mr. SMITH. I am going to put in the article about Sofina; and I have copies here if you would like to see it.

Mr. HOBBS. I would like to ask Mr. Smith one question about that public speaking provision: you do not think that impinges upon the freedom of speech?

Mr. SMITH. No; I do not. I do not, because it does not impinge, I do not think, any more than the existing Foreign Agents' Act would impinge and they both require the disclosure, prior to the person engaging in certain types of propaganda activities, of who the person is, the source of income, and who his principal is. And it does not attempt to censor or say what he shall or shall not say. He can say that the United States is fighting an imperialist war for Britain or anything he likes under this, and there is nothing in this bill to stop him. It is a disclosure statute and not a suppression statute, as I see it.

Mr. HOBBS. In other words, you think it is sufficiently limited so as to apply only to foreign agents engaging in propaganda?

Mr. SMITH. I think it is limited in the sense there is nothing in the bill which would control what he may say. Freedom of speech under the Constitution is designed primarily, as I understand it, to prevent any law dictating what a person shall or shall not say and there is nothing in this bill which says what a person shall or shall not say. They can say anything they like. And there is nothing that restricts the freedom of speech of the agent. It merely says before he engages in certain types of activities he shall disclose certain facts about himself and shall file thereafter any copies of material he has disseminated.

Mr. HOBBS. I realize that is the general purpose of the bill, of course, but I was a little bit hazy as to whether or not the words you employ in this amendment are sufficient to make it clear that it does not limit the freedom of speech.

Mr. SMITH. That question, about which we have had quite a lot of research into the law on, has been a problem we have been very anxious to avoid and I think we have avoided any interference of that sort; at least, we have taken great care to do so and I think very definitely we have.

Mr. SPRINGER. Do you remember what section that is?

Mr. SMITH. Section 4, on page 16. Secondly, of course, it only applies to agents who are registered, or required to register.

This particular provision recommending the labeling of propaganda material was the outcome of a joint suggestion by the Postmaster General with the approval of former Attorney General Jackson and the Secretary of State, in a letter to Senator McKellar in February of this year. So it is not a new concept.

Mr. HOBBS. I had not read the section; I just heard you read the amendment. I see now that the first sentence of section 4 clearly covers the point I made.

Mr. McLAUGHLIN. Are there any further questions? If not, have you concluded, Mr. Smith?

Mr. SMITH. Yes, sir.

Mr. McLAUGHLIN. Mr. Holtzoff, do you have anything further?

Mr. HOLTZOFF. No.

Mr. McLAUGHLIN. Thank you very much, gentlemen.

FURTHER STATEMENT OF VINCENT M. MILES, SOLICITOR, POST OFFICE DEPARTMENT—(Resumed)

Mr. MILES. I just want to make one brief statement in reference to the amendment, as to the Library of Congress and other publications.

I am not opposing that amendment, but I want to tell the committee the situation of the Post Office with reference to it. It grew out of the fact that, under the Attorney General's opinion with reference to the Foreign Agents Registration Act, all mail which violated that act was nonmailable and could not be delivered by any postmaster or letter carrier.

The question came up as to things that were addressed to the Library of Congress and the things they wanted. By mandate of Congress,

there was no authority for the postmaster to deliver them. We had a conference with the Librarian of Congress and finally worked out—and it is now working—a procedure whereby he wrote the Postmaster General a letter saying he would keep those prints confidential and use them for study for the benefit of the Department of Justice and other agencies of the Government. And by his becoming the agent for that purpose, we have been sending to him 45 copies of this propaganda that has been declared nonmailable, before it is destroyed.

In those conferences there were several librarians represented and we made it plain, so far as the libraries were concerned, that the obligation of the Library of Congress to the Postmaster General would be that he would be responsible as to what type of people he wanted to have interpret and to submit the data to, but it would not be submitted to the public until its value as propaganda was over.

When it came to the question of drawing this bill, you noticed the original bill provides that 50 copies were to go to the Library of Congress. In preparing that, the Librarian was there and he assumed the burden of supplying the other agencies of the Government, under those same conditions—the conditions, however, not being stated in the bill.

I feel any agency of the Government should not have its mail stopped if it is behaving properly, but there is an administrative difficulty. When prints are directed, from the standpoint of the Post Office Department, to the Library of the Department of Agriculture or any other agency of the Government, there is no trouble about it, as the directions are on each one; but, when they are bound up and hidden in a bundle of 50,000 prints, the administrative job of taking those and going through them all to see if they are all alike, is such that one may be overlooked. I say the Post Office Department would have no objection to the present act as it is, because we understand whenever the Post Office Department does happen to overlook something, they can rely on the Library of Congress to give us one out of theirs.

Mr. Hassell, who is my assistant in direct charge of this work, is here, if you desire to hear him on the operation of it. I made the rather blunt statement the other day that we had no apologies to make for the operation, and Mr. Hassell is here if you desire to ask him any questions on how it operates.

Mr. McLAUGHLIN. I think you have covered it pretty well, unless members of the subcommittee have any questions.

STATEMENT OF HON. JERRY VOORHIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA—(Resumed)

Mr. VOORHIS. I would like to be heard just for a moment on this proposition, generally.

Mr. McLAUGHLIN. We will be very glad to hear you, Mr. Voorhis.

Mr. VOORHIS. I would like to say, in the first place, Mr. Chairman, I am in favor of this legislation.

My conception of our problem in this democracy in combating these totalitarian influences has been that the best method we could use was the method of informing our people and keeping them continuously informed of who was who and what was what; then depending in general on their own good judgment to form sound

judgments and conclusions about the matter, providing they were informed ahead of time as to what the thing was.

It seems to me this bill is entirely in line with that. I would like to say I am personally of the opinion it is a very wise thing to change the administration of it from the Department of State to the Department of Justice. And I say that with no disrespect to the Department of State, but only because the business of the Department of State, after all, is to try to get along with other Governments and it seems to me it is obvious that Department, whose principal task is to do that, ought not be compelled also to register foreign agents and give publicity to them. And I submit the job of giving publicity to the registrations has been one of the weakest parts of the act so far; that in order for this method and device to be effective, it is necessary that publicity be given in a rather vigorous manner, which I believe the Department of Justice is in a better position to do.

I would like to make one suggestion on this problem about the filing of speeches not broadcast with the Library of Congress. I can readily envision there might be attacks on the bill from that standpoint and, for the committee's consideration and just as an idea that occurred to me since you have been discussing it this morning, which may or may not have validity, I would like to suggest the possibility of requiring the filing of such speeches with the Librarian of Congress unless the speaker had, prior to the delivery of his address, informed the Department of Justice, or some appropriate agency of the Government, of the fact he was going to make that address and had made it possible for a speech to be made in rebuttal to what he had to say. In other words, if you include that, I would say you ought not to require the filing of the original address, provided it was made at what was really a public meeting where there was a real opportunity for a real speech on both sides.

Mr. HOBBS. Mr. Voorhis, that amendment comes on page 16, section 4, after the words "every person within the United States who is an agent of a foreign principal and required to register under the provisions of this act."

Mr. VOORHIS. I understand that.

Mr. HOBBS. So I think, even though that criticism were made, it would be easily controverted.

Mr. VOORHIS. Personally, I agree with you.

Mr. HOBBS. Now, I would like to ask you a question not with reference to the mechanics of this bill or its verbiage, but with regard to the success or not of what is known as the Voorhis Act.

You will remember, in the hearings before the Senate committee, Mr. Wilhelm Kuntze and that other witness—I have forgotten his name—said it would put them out of business and my reply to that was "I hoped their fears were true and, if so, it would be a better bill even than I thought it was." I was just wondering if it had had any such salutary results.

Mr. VOORHIS. Of course this bill is amendatory of the McCormack Act, which provides for the registration of agents of foreign principals.

Mr. HOBBS. I realize that, but I am talking about your bill. As I say, this has nothing to do with this bill.

Mr. VOORHIS. Mr. Chairman, it is still my belief that if and when the Department is in a position to compel that registration, it will have substantially the very result that those gentlemen said it would. I believe the other one was Earl Browder.

Mr. HOBBS. I have forgotten their names, but that was their testimony.

Mr. VOORHIS. I know on that bill that both the German-American Bund and the Communist Party representatives appeared together at the same time.

Mr. HOBBS. I think Earl Browder was not present at that time, and Wilhelm Kuntze appeared.

Mr. VOORHIS. He sent somebody to represent him; but, in any case, they both appeared together, as I recall.

Mr. HOBBS. That is right.

Mr. VOORHIS. And I am still of the opinion if registration can be compelled and the facts brought out about those organizations, which that measure would require, it would have the effect they feared. Of course it cannot have that effect until the Department has their material and is ready to move.

Mr. HOBBS. Thank you, Mr. Voorhis.

Mr. McLAUGHLIN. Mr. Smith, do you have something further?

Mr. SMITH. Nothing more, sir, except I am due over in the Senate committee.

Mr. McLAUGHLIN. Before you leave, I might state we have a letter, which will be put into the record, from the Secretary of State, in which he encloses a letter from Mr. Sumner Welles, Acting Secretary of State, with reference to subsection (a) of section 2, which affects the Department of Justice. That appears on page 9. In the letter Mr. Welles states:

I believe that the proposed legislation is desirable. It is suggested, however, that subsection (a) of section 2 should be amended by inserting after the words "Attorney General" in the seventh line a period and by substituting for the words "which shall include" the following provisions: "The statement shall be filed in duplicate and a copy thereof shall be transmitted promptly by the Attorney General to the Secretary of State for such comment, if any, as he may desire to make from the point of view of the foreign relations of the United States. The statement shall include: —"

Mr. SMITH. May I say, sir, that has been taken care of in this draft. I call your attention to page 9, line 15:

* * * of which one copy shall be transmitted promptly by the Attorney General 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.

Mr. McLAUGHLIN. So the draft we have before us conforms with the suggestion of the Secretary of State?

Mr. SMITH. That is correct, sir.

If you wish anything more on the Voorhis Act and the relation of that to the administration, Mr. Kane, who is assistant chief in charge of that, is here and can discuss it.

Mr. McLAUGHLIN. Is there anything further? If not, the Secretary of State has written to the chairman of the subcommittee with reference to the bill and his letters will be included in the record.

(The letters above referred to are as follows:)

NOVEMBER 28, 1941.

Hon. CHARLES F. McLAUGHLIN,
House of Representatives.

MY DEAR MR. McLAUGHLIN: I have duly received a letter of November 21, 1941, from the Hon. Hatton W. Summers, chairman of the Judiciary Committee concerning H. R. 6045, a bill 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."

I take pleasure in enclosing herewith a copy of the Department's letter of July 19, 1941, to the Hon. Harold D. Smith, Director of the Bureau of the Budget, concerning this proposed legislation in which, as you will note, the Acting Secretary states that he believes the proposed legislation is desirable, and I have to inform you that this remains the view of this Department.

Sincerely yours,

CORDELI HULL

(Enclosure: Copy of letter to the Hon. Harold D. Smith, July 19, 1941.)

DEPARTMENT OF STATE
Washington, July 19, 1941.

Hon. HAROLD D. SMITH,
Director of the Bureau of the Budget.

MY DEAR MR. SMITH: The receipt is acknowledged of Mr. Bailey's letter of June 23, 1941, requesting an expression of my views in regard to the enactment of legislation submitted by the Attorney General 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.

I believe that the proposed legislation is desirable. It is suggested, however, that subsection (a) of section 2 should be amended by inserting after the words "Attorney General" in the seventh line a period and by substituting for the words "which shall include" the following provisions: "The statement shall be filed in duplicate and a copy thereof shall be transmitted promptly by the Attorney General to the Secretary of State for such comment, if any, as he may desire to make from the point of view of the foreign relations of the United States. The statement shall include:"

It is also suggested that subsection (c) of section 3 of the draft should include language which would require the approval of the Secretary of State before any diplomatic representative of a foreign country is required to file a registration statement as a public relations council, publicity agent, or information service employee or otherwise. It is felt that complications might be created were any Ambassador, Minister, or accredited diplomatic or consular official required to file a registration statement; and that such statement, if required, should be required only with the approval of the Department of State.

In compliance with Mr. Bailey's request, copies of the enclosures with his letter are returned herewith.

Sincerely yours,

SUMNER WELLES,
Acting Secretary.

OFFICE OF THE ATTORNEY GENERAL
Washington, D. C., November 24, 1941.

Hon. HATTON W. SUMMERS,
Chairman, Committee on the Judiciary, House of Representatives,
Washington, D. C.

MY DEAR MR. CHAIRMAN: This acknowledges your request of November 19, 1941, for my views relative to a bill (H. R. 6045) 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.

Under existing law, every person who is an agent of a foreign principal is required to file a registration statement with the Secretary of State, setting forth certain information disclosing the nature of his relationship to such foreign principal (52 Stat. 631, U. S. Code, title 22, secs. 223a-223g).

The exigencies of the national emergency and the experience under the present law indicate the desirability of broadening and clarifying amendments to the existing statute.

The main features of the proposed bill, which would extend and strengthen the provisions of the existing law, may be summarized as follows:

The definitions of "foreign principal" and "agent of a foreign principal" are made more specific so as to include all organizations and persons whose activities should properly subject them to the registration requirements of the bill because of their being engaged in dissemination of political propaganda (secs. 1 (b), 1 (c)).

The registration statement of an agent of a foreign principal engaged in the dissemination of political propaganda would require full information as to his relationship, status, activities and financial transactions (sec. 2 (a)). This provision of the bill is merely declaratory with respect to the requirements of the registration statement of foreign agents as now prescribed or may be prescribed by the Secretary of State under section 2 of the existing statute (U. S. Code, title 22, sec. 233b).

The existing law provides exemptions for duly accredited diplomatic and consular officers, nonpolitical private agents of foreign principals, and persons engaged as agents of foreign principals in the furtherance of bonafide religious, scholastic, academic or scientific pursuits (sec. 3). A further exemption is provided by the bill for bonafide news agencies, newspapers and periodicals by excluding them, if properly entitled to such exclusion, from the scope of the term "agent of a foreign principal" (sec. 1 (d)).

The bill would require registered agents to file copies of political propaganda material with the Library of Congress and the Attorney General, and prior to the transmission of such propaganda in interstate commerce or through the mails, to label it in such manner as to disclose and identify its source and contents (sec. 4).

The bill would transfer administration of the act from the Secretary of State to the Attorney General, because such activities impinge on the functions of the Department of Justice rather than on those of the Department of State (sec. 2).

I am of the opinion that the proposed legislation would be in the interests of national defense and internal security, and, accordingly, I recommend its enactment.

It is my understanding that the proposed legislation meets with the approval of the Post Office Department and the Department of State. I am also informed by the Director of the Bureau of the Budget that the proposed legislation is in accord with the program of the President.

Sincerely yours,

FRANCIS BIDDLE,
Attorney General.

Mr. McLAUGHLIN. Mr. McCormack has advised the committee that his arrangements make it impossible for him to appear, but he desires to be shown as favoring the bill. We will let the record so show.

If there are no further witnesses, thank you very much.

The subcommittee thereupon adjourned subject to the call of the chair.)

Caplin & Drysdale