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HEARINGS RELATING TO REVISION OF H.R. 9120
AND H.R. 5751, TO AMEND THE SUBVERSIVE
ACTIVITIES CONTROL ACT OF 1950

HEARING
BEFORE THE
COMMITTEE ON UN-AMERICAN ACTIVITIES
HOUSE OF REPRESENTATIVES
EIGHTY-SEVENTH CONGRESS
FIRST SESSION

—————
SEPTEMBER 13, 1961
—————

Printed for the use of the Committee on Un-American Activities



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1961

COMMITTEE ON UN-AMERICAN ACTIVITIES

UNITED STATES HOUSE OF REPRESENTATIVES

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PUBLIC LAW 601, 79TH CONGRESS

The legislation under which the House Committee on Un-American Activities operates is Public Law 601, 79th Congress [1946]; 60 Stat. 812, which provides:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, * * **

PART 2—RULES OF THE HOUSE OF REPRESENTATIVES

RULE X

SEC. 121. STANDING COMMITTEES

* * * * *
17. Committee on Un-American Activities, to consist of nine Members.

RULE XI

POWERS AND DUTIES OF COMMITTEES

* * * * *
(q) (1) Committee on Un-American Activities.
(A) Un-American activities.

(2) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (i) the extent, character, and objects of un-American propaganda activities in the United States, (ii) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (iii) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

For the purpose of any such investigation, the Committee on Un-American Activities, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

* * * * *

RULE XII

LEGISLATIVE OVERSIGHT BY STANDING COMMITTEES

SEC. 136. To assist the Congress in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, each standing committee of the Senate and the House of Representatives shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee; and, for that purpose, shall study all pertinent reports and data submitted to the Congress by the agencies in the executive branch of the Government.

RULES ADOPTED BY THE 87TH CONGRESS

House Resolution 8, January 3, 1961

* * * * *

RULE X

STANDING COMMITTEES

1. There shall be elected by the House, at the commencement of each Congress,

* * * * *

(r) Committee on Un-American Activities, to consist of nine Members.

* * * * *

RULE XI

POWERS AND DUTIES OF COMMITTEES

* * * * *

18. Committee on Un-American Activities.

(a) Un-American activities.

(b) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (1) the extent, character, and objects of un-American propagandist activities in the United States, (2) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (3) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

For the purpose of any such investigation, the Committee on Un-American Activities, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

* * * * *

27. To assist the House in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, each standing committee of the House shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee; and, for that purpose, shall study all pertinent reports and data submitted to the House by the agencies in the executive branch of the Government.

HEARINGS RELATING TO REVISION OF H.R. 9120 AND H.R. 5751 TO AMEND THE SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950

WEDNESDAY, SEPTEMBER 13, 1961

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON UN-AMERICAN ACTIVITIES,
Washington, D.C.

EXECUTIVE SESSION

The Committee on Un-American Activities met at 10 a.m., in room 216, Old House Office Building, Washington, D.C., Hon. Francis E. Walter (chairman of the committee) presiding.

Members present: Representatives Walter of Pennsylvania; Doyle of California; Scherer of Ohio; and Schadeberg of Wisconsin.

Also present: Frank S. Tavenner, Jr., director; Alfred M. Nittle, counsel; John C. Walsh, co-counsel; and Robert F. Guthrie, House legislative counsel's office.

Departmental representatives: Louis J. Doyle, General Counsel, and Sidney W. Bishop, Acting Assistant Postmaster General, Post Office Department; Nicholas deB. Katzenbach, Assistant Attorney General, and Charles F. Simms, Office of Legal Counsel, and Nathan B. Lenvin, Chief, Registration Section, Internal Security Division, Department of Justice; D. L. Ritger, Assistant Chief Counsel, Bureau of Customs, Treasury Department.

Chairman WALTER. Gentlemen, at the outset, I want to express the appreciation of those of you who participated in the drafting of this proposed amendment. This is a very serious problem. There is a growing public demand that we do our duty with respect to the influx of tons of unwanted brainwashing material.

I think, and I say this knowing a little bit about the parliamentary revision, that the way to handle this is to come up with what you think is adequate. I know the problem.

I talked with Bob Kennedy and I talked with Mr. White at length and I know how difficult enforcement was under the bill that we have on the calendar. However, we have a place on the calendar and it seems to me that the way to handle this whole thing is to get together on a proposal and then have a committee print prepared.

Mr. TAVENNER. Mr. Chairman, I should like to clarify certain points and also state certain matters of background for the record. The committee has for some time been gathering data and holding hearings on the subject of Communist propaganda. These hearings have been printed and made public. In the 86th Congress, the chairman introduced H.R. 2232, an omnibus bill, which included in section 311 thereof the provisions contained in the original bill, H.R. 5751, introduced by the chairman on March 31, 1961, in the 87th Congress.

H.R. 5751 proposed certain amendments to the Foreign Agents Registration Act of 1938. Among the amendments proposed to that act were those to section 1(b) and section 3(d), which were likewise presented to the Congress in this session in a separate bill, H.R. 470, referred to the Judiciary Committee. H.R. 470 passed the House on May 1. Therefore, these particular amendments no longer concern us.

However, the remaining provisions of H.R. 5751, which dealt with the major problem confronting us, and sought to extend the coverage of the Foreign Agents Registration Act to certain agents of foreign powers acting without the United States, have raised serious practical and legal problems. Moreover, later evidence coming to the attention of this committee has pointed up the necessity of extending the coverage of the labeling and disclosure principle of the Foreign Agents Registration Act to situations where the agency relationship was not involved. This is particularly evident in the extension recently of the Communist propaganda technique of disseminating propaganda directly to residents of the United States and not through the intervention of resident agents. Particularly since instrumentalities of foreign propaganda not within the jurisdiction of the United States present obvious problems of control, it has become apparent that the legislative effort would have to have broader coverage and be less restrictive in operation.

After study and consultation, the committee prepared H.R. 9120, introduced by the chairman September 11, 1961, as a basis for solution of the difficult problems involved. H.R. 9120 adopts the principle of disclosure utilized in the Foreign Agents Registration Act and seems to be a practical solution toward coping with present major propaganda efforts of the Communist world. In the case of foreign agents resident within the United States, the duty of disclosure can be, and is by that act, imposed upon the resident agent. But, in the case of propaganda transmitted by first-class mail without the intervention of a resident agent, there would be no coverage under this act and therefore the disclosure will have to be accomplished through other means. H.R. 9120 accomplishes this through the disclosure duties imposed upon the Postmaster General.

The committee may later offer additional legislation to plug the propaganda loopholes as the situation develops. Meanwhile, today, we have called in the representatives of the Departments of Justice, Post Office, Treasury, and State for the purpose of ascertaining their views on the approach adopted in H.R. 9120. Since H.R. 9120 is certainly germane to H.R. 5751, adopting the same principle and in fact extending its operation, I understand, Mr. Chairman, that it is your suggestion that we work out a final revision of H.R. 9120 to be incorporated as an amendment to H.R. 5751. In such case, following your suggestion, we anticipate striking everything after the enacting clause of H.R. 5751 and substituting such revised provisions of H.R. 9120 as may appear most appropriate and effective. But actually the new bill should have a different title from the title under the old bill.

Chairman WALTER. We can amend the title as well.

Mr. TAVENNER. I now ask that the bills H.R. 5751 and H.R. 9120 be set forth in full in the record.

(The bills referred to follow):

[H. R. 5751, 87th Cong., 1st sess.]

A BILL

To amend the Subversive Activities Control Act of 1950 so as to require the registration of certain additional persons disseminating political propaganda within the United States as agents of a foreign principal, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20 of the Subversive Activities Control Act of 1950 is amended by inserting "(a)" immediately after "Sec. 20." and by adding at the end thereof the following new subsections:

"(b) Section 1(b) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611(b)), is amended by adding at the end thereof the following new clause:

"(6) an individual domestic partnership, association, corporation, organization, or other combination of individuals, supervised, directed, or controlled by a government of a foreign country or a foreign political party;".

"(c) Section 3(d) of such Act (22 U.S.C. 613(d)) is amended to read as follows:

"(d) Any person engaging or agreeing to engage only in private and non-political financial or mercantile activities in furtherance of the bona fide trade or commerce of such foreign principal or in the soliciting and 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 Neutrality Act of 1939 (22 U.S.C. 441 and the following), and such rules and regulations as may be prescribed thereunder;".

"(d) Section 4(a) of such Act (22 U.S.C. 614(a)) is amended to read as follows:

"(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 who imports or causes to be imported, or who transmits or causes to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce, any political propaganda shall, not later than forty-eight hours after the beginning of the importation or 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 importation or transmittal.

"(e) Section 4(b) of such Act (22 U.S.C. 614(b)) is amended to read as follows:

"(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 import or cause to be imported, or to transmit or cause to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce, any political propaganda 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 for that the person importing or transmitting such political propaganda or causing it to be imported or 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 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."

"(f) Section 4 of such Act (22 U.S.C. 614) is amended by adding at the end thereof the following new subsection:

"(e) Any person not within the United States who used the United States mails or any means or instrumentality of interstate or foreign commerce within the United States to circulate or disseminate any political propaganda shall be regarded, for the purposes of this Act, as an agent of a foreign principal who is acting within the United States. This subsection shall have no application to any such person outside the United States when his use of the United States mails

or a means or instrumentality of interstate or foreign commerce within the United States is confined to the transmittal of political propaganda to a person registered under the terms of this Act.”

SEC. 2. The Subversive Activities Control Act of 1950 is further amended by inserting, immediately after section 20 thereof, the following new section:

“COMPTROLLER OF FOREIGN PROPAGANDA

“SEC. 20A. There is hereby established, in the Bureau of Customs of the Department of the Treasury, the Office of the Comptroller of Foreign Propaganda, to be located at the seat of the Government in Washington, District of Columbia. Such Office shall be headed by a Director, who shall be appointed by the Secretary of the Treasury and who shall have rank and compensation equal to that of the Deputy Commissioner of the Bureau of Customs. The Director shall be a citizen of the United States, qualified by at least five years’ experience in the import control of political propaganda, and shall maintain close liaison with the appropriate committee of Congress in order that they may be advised regarding the control of Communist and other foreign propaganda brought to, and sought to be disseminated in, the United States. He shall perform those functions with respect to the control of Communist and other foreign propaganda which are vested in the Secretary of the Treasury, to the extent that the performance of such functions may be delegated to him by the Secretary, and he shall perform such other functions as the Secretary may prescribe.”

[H. R. 9120, 87th Cong., 1st sess.]

A BILL To amend the Subversive Activities Control Act of 1950 so as to require the Postmaster General in certain cases to give notice of the use of the mails for the dissemination of Communist propaganda

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Subversive Activities Control Act of 1950 is amended by inserting immediately at the end of section 10 thereof, the following new section:

“NOTICE OF SUBVERSIVE MAIL

“SEC. 10A. (a) As the result of evidence adduced before various committees of the Senate and House of Representatives, the Congress finds, and the Communist parties of the world united in the world Communist movement avow, that the world Communist movement adheres to the doctrines and practices of Marxism-Leninism. Marxism-Leninism adopts the principle that the end—which is the establishment of Communist totalitarian dictatorship in countries throughout the world—justifies any means for the accomplishment of that end, and expressly repudiates the spiritual and moral compulsion for truth and decency to which the United States and other free societies adhere. Marxism-Leninism expressly in doctrine and practice subordinates morality to the interest of its revolutionary movement, and deliberately employs the instrumentality of propaganda in such interest without regard for the truth or falsity of the propaganda. The objective of Communist propaganda is to create within non-Communist societies such a degree of social fission and confusion as will advance the policies and goal of the world Communist movement. It is further found that the postal services of free societies are used as an instrumentality for the dissemination of such propaganda, and vast quantities thereof are conveyed, unsolicited, to recipients in the United States, frequently disguised as to origin and character, raising questions in the minds of the recipients as to its purpose and origin, and in some instances alarming persons resident in the United States who are concerned because of its receipt.

“(b) In the case of all mail originating from without the United States and transmitted through the United States postal service, and which contains, or which the Postmaster General has reason to believe may contain, Communist propaganda, the Postmaster General shall give written notice by mail, in the form of a letter hereinafter set forth, to the addressee of such mail.

“(c) Such notice shall be prepared by the Postmaster General, and shall be transmitted to the addressee under such circumstances and in accordance with such rules and regulations as the Postmaster General shall prescribe for the effective administration and execution of the duties imposed by this section.

“(d) The notice shall include a copy of subsection (a) of this section, and shall also include but shall not be limited to the following language:

“The United States postal service is being utilized, in certain instances, by the world Communist conspiracy to transmit, unsolicited in most cases, propaganda which originated abroad, as well as within the United States. You may, or may not have been, in receipt of such propaganda. Much of this propaganda is transmitted through first-class mail. Having a regard for the preservation of the privacy of your mail, first-class mail is not opened for inspection by the postal service. This propaganda is frequently not marked as to origin or character. It has raised questions in the minds of the recipients thereof as to its purpose and significance.

“Propaganda is regarded by the Communists as an important and necessary means for achieving world subversion, and recently this propaganda effort has been intensified with the result that millions of pieces of mail are being disseminated within the United States by the world Communist movement.

“To clarify any question as to the character and origin of such mail, this letter is forwarded for your information.”

Chairman WALTER. As I stated yesterday, we are to prepare a bill designed to deal with certain aspects of the rather complex problems arising by reason of the influx of millions of pieces of Communist propaganda which have their origin abroad and are now—disguised as to character and origin—disseminated in great part by first-class mail within the United States.

This bill is proposed to amend the Subversive Activities Control Act of 1950 so as to require the Postmaster General in certain cases to give notice.

Within recent months we have observed an acceleration of the Communist brainwashing effort directed at the free world and particularly to residents of the United States.

This increased tempo of Communist propaganda activity, I believe, bears a close relation to the rising temperature of the international situation, which, in turn, is a consequence of the growing power and arrogance of the Communist bloc.

Communist propaganda items from abroad transmitted through the U.S. postal service have increased in the year 1960 to an astounding 137 percent over the year 1959, whereas, the increase in the year 1959 over the year 1958 was only 18 percent.

During the year 1959, the U.S. customs service processed over 6 million packages of Communist propaganda, containing over 10 million items of printed matter.

In 1960, over 14 million packages were processed, containing in excess of 21 million items, such as newspapers, magazines, books, pictures, and posters. During the 2 months of February and March 1961, over 162,000 packages of magazines and 11,000 packages of newspapers were addressed to the United States from Communist Cuba, which is now the base of Communist operations in this hemisphere.

The extraordinary Communist effort in the field of propaganda is further attested by a report of the U.S. Office of Education indicating that in 1959 the Soviet Union published over 30 million books, containing 830 titles, in 26 foreign languages, for dissemination to non-Communist countries and which were either distributed free or sold far below cost mainly to Asia, Africa, and Latin America.

In the above figures of packages of Communist propaganda entering the United States, I did not include in that number the millions of pieces of first-class mail, containing Communist propaganda, also

received from abroad. Such mail is not opened for inspection, and presents certain obvious problems.

It is significant that the Communist conspiracy is now extensively utilizing first-class mailing privileges as a means for disseminating their poison and fiction. I have received reports and complaints from all areas of the United States.

Many people have become annoyed, and some confused, and others alarmed. A good bit of this mail is addressed to foreign-language groups, who sense the possibility of blackmail or harm. The extent of the effort clearly attests the importance with which the Communists regard this propaganda campaign.

George V. Allen, formerly Director of the U.S. Information Agency, previously estimated that the amount expended by the Communists in the year 1957 for propaganda in the non-Communist world was between \$500 and \$750 million.

Present estimates of the amount being expended in this field indicates that the amount may well exceed \$2 billion.

How does one cope with this propaganda? Does one collect and destroy such items of propaganda piece by piece? Is this presently practicable, or even desirable? Curiously, Lenin long ago pointed out the absurdity of such an effort.

In his notorious theoretical document "What's To Be Done," Lenin laid down the basic doctrine for the conduct of Communist propaganda, and agitational activities.

While stressing the importance of the distribution of "illegal literature" by his band of secret Communist revolutionaries, he amused himself by pointing out the difficulties which the opponents of communism would find in coping with it.

He said:

The police will soon come to realize the folly and futility of setting the whole judicial and administrative machine into motion to intercept every copy of a publication that is being broadcast in thousands.

Now I would point out that the success of such "illegal literature" depends upon the people to whom it is addressed. Lenin must have assumed the existence of an unsophisticated audience. That will not be the case in the United States.

The antidote for the poison of Communist propaganda is knowledge and truth. We shall counterattack in that way. As Justice Holmes once remarked, "The remedy for speech is more speech," and I believe that applies in this situation. I have no real fear that this absurd Communist propaganda will seduce any appreciable segment of our people, or lead them from the path of reason and loyalty—if our people are adequately informed as to its nature, origin, and character.

In the Internal Security Act of 1950 (title I, cited as the "Subversive Activities Control Act") we there had to deal with the problems involved in the dissemination of Communist propaganda within the United States by Communist action and front groups.

Under section 10, these problems were met in part simply by requiring Communist organizations, against whom a final order to register is in effect, to label all publications transmitted in the mail as being disseminated by a Communist organization, and to announce the sponsorship of any radio or television broadcast conducted by them.

We there felt that if our people were informed of the nature, origin, and contents of such propaganda activity, they would be able to judge and deal with it. The bill H.R. 9120 we consider today, in fact and in effect also supplements section 10 of the Internal Security Act.

While section 10 requires the labeling of Communist propaganda disseminated by internal Communist organizations, we extend the disclosure process to publications transmitted by mail from without the United States to persons resident here.

Moreover, I believe that it is important to strengthen the democratic process, which I believe is the natural effect and result of this type of disclosure and information statute.

If our people are informed of the nature and techniques of Communist propaganda—and this is a responsibility of the educational process and the free press—we shall not need fear that our people will become infected. Knowledge is the most effective immunization against the propaganda virus.

I believe that when all our people understand the degraded and corrupt tactics of Marxism-Leninism, the Communists will find their propaganda effort to be waste of money and paper. They will not undermine our society; they shall only destroy themselves.

Mr. SCHERER. Did the Justice Department draft this language in H.R. 9120?

Mr. TAVENNER. No. This was drafted by the committee staff. This follows the procedure of the Internal Security Act of 1950 which does make certain findings and we thought that the committee thought that the Congress should at this time reassert and reaffirm those very findings.

Mr. SCHERER. Is this language from the Internal Security Act or something similar to it?

Mr. TAVENNER. No. What we did is reaffirm and reassert it by reference. We do not do it by copying the whole thing in here again. We did, however, extend the statement pertaining to Marxism-Leninism.

Chairman WALTER. Let's look at section 10(A), subsection (a). Perhaps this might better be included in the report on the amended bill.

Mr. SCHERER. Do you think it should be put in a report?

Chairman WALTER. Yes; it belongs in a report.

Mr. SCHERER. What does this bill do primarily?

Mr. TAVENNER. This bill requires the Postmaster General to send a notice to everyone—to the recipients of all of this Communist Party propaganda of a character that we set forth here in section D.

Mr. SCHERER. Does somebody have to evaluate this propaganda upon receipt?

Mr. TAVENNER. Let me explain the procedure that was followed. The procedure that was followed was that the Post Office Department selected all of this material they had reason to believe was coming in from Soviet bloc countries and which contained this propaganda. They have turned it over to Customs. Customs made a probably more minute investigation of it but they did not open, of course, any first-class mail.

Then, then would advise the Postmaster General and the Postmaster General would write letters to the addressees as to whether or not they wanted this material.

So the procedure that was followed was far from being an effective procedure. However, this has the advantage of saying we are not trying to keep the American public from receiving this information but we are advising them of the nature of it, the general nature of it, the source of it.

Mr. SCHERER. Do you feel this is more effective than putting teeth into the Foreign Agents' Registration Act as proposed in H.R. 5751?

Mr. TAVENNER. I do not think there is any doubt about it.

Chairman WALTER. On page 2, you have spelled out what the notice should contain. I believe the details of the notice should be left to the Postmaster General, as the particular situation may warrant from time to time.

Mr. TAVENNER. I would like for the representatives present in behalf of the Department of Justice, the Post Office Department, and the Customs Bureau of the Treasury Department to state their names for the record. We will first begin with Justice.

Mr. KATZENBACH. Nicholas de B. Katzenbach. I am accompanied by Mr. Charles F. Simms, attorney in the Office of Legal Counsel and Mr. Nathan Lenvin, Chief of the Registration Section of the Internal Security Division.

Mr. TAVENNER. Post Office Department.

Mr. DOYLE. Louis J. Doyle, General Counsel, accompanied by Sidney W. Bishop, Acting Assistant Postmaster General, Bureau of Facilities.

Mr. TAVENNER. Customs.

Mr. RITGER. Donald Ritger, Assistant Chief Counsel, Bureau of Customs, Treasury Department.

Mr. TAVENNER. This same group has met and discussed prior to this the problems relating to H.R. 5751.

In connection with these matters, the Department of Justice, through the letter of Byron R. White, Deputy Attorney General, bearing the date of June 12, 1961, set forth the objections to H.R. 5751, and the matters and questions raised by this letter were discussed recently in a staff conference held by those present. H.R. 9120 has been prepared by the staff of the Committee on Un-American Activities and is being presented at this time for hearing and discussion. I would like first to call upon the Department of Justice to express such views as it is advised should be expressed regarding its provisions and whether or not it is considered by the Department of Justice that such a bill should be substituted for H.R. 5751.

Mr. KATZENBACH. Mr. Tavenner, I have prepared a very short statement here which supports the general objectives of H.R. 9120 prior to our discussion this morning. I think it might be helpful if I simply submitted that for the record. It expresses the support of the Department of Justice for a program of this kind and points out very briefly that other approaches have serious legal and constitutional difficulties.

The comments in this statement would be applicable as well to the points that I would raise with regard to this revision this morning. That is to say, the statement makes the point that we regard it as unwise in the statute to attempt to tie the notice which is proposed therein to any finding on the part of the Postmaster General that the material mailed from abroad may contain Communist propaganda. This appears to put the Postmaster General in the position of evaluating material rather than delivering it—delivering the mail.

Therefore, we believe that it would be preferable to give the Postmaster General a somewhat broader authority to publicize by poster and by notice the fact that mail received from abroad may be of this kind without in any way characterizing or attempting to characterize the particular mail as being Communist propaganda and without being required by the statute to make any such judgment whatsoever.

Otherwise, we fear that it may raise thoughts at least that the Postmaster General is engaged in the business of censoring, characterizing mail and some people may even believe that he is opening mail and reading their mail, and this, of course, would be offensive to most people.

Apart from that, the only additional comment that I would make would be that we believe that the particular form of the notice should be left to the discretion of the Postmaster General. It is perfectly appropriate for the Congress to suggest in general the contents if it so desires but it seems to me in a program that is being legislated the Postmaster General should have the discretion from time to time to change the language in order to meet new contingencies and new developments and this would give a more flexible program of information.

Mr. TAVENNER. Let me interrupt you at this point. If you will examine the revised bill, you will see it does provide specifically that which is required as stated in that section.

Mr. KATZENBACH. That is right, but it does insofar as it makes it mandatory to include certain provisions of law which if that is the desire of the Congress to have included in the notice, I would not object to but would simply make the comment that perhaps the longer the notice, possibly the less effective it may be. I think the committee should give that point consideration and make its own judgment in that regard.

I do have one comment with regard to the notice as set forth in paragraph d of the revised form and that is with regard to the last eight words in the second paragraph, "except as may be otherwise authorized by law." While I would support this language in the statute itself, I have some concern that its inclusion in the notice may lead people to believe that there is in fact a Government program of censorship whereby mail is opened, inspected, and censored and I would propose the elimination of that particular language even from the notice, as suggested by the statute, but not from paragraph f, let me emphasize, of the legislation itself.

I believe those are all the comments I can make in addition to this short statement that I have prepared and which is directed, as I said, to the original H.R. 9120, as introduced, which I submit for the record, should you wish it.

I have talked informally with the representatives of the Department of State who are unable to be here this morning. They feel that H.R. 9120 in general is an internal matter without great foreign policy significance. They do point out as this committee would be well aware that anything done in this area will of course be publicized in the worst possible light by the Communist press. That is to say to the extent possible, it will be characterized as a program of censorship, opening of mail, surveillance, and so forth. They felt for this reason while these comments will be made in any event in all likelihood, it is desirable in the legislation to include the provisions which now

appear in the provision explicitly stating that this is not the purpose and objective of the Act.

Mr. TAVENNER. I would like to confirm that statement. I received a call just a little while ago from the State Department expressing the same views and asking that I transmit them to the chairman of the committee and express their regret at not being able to be represented here this morning.

It is noted on page 4 of your report that you make reference to adding a provision specifically disclaiming that the new legislation confers any new authority upon the Postmaster General to open, inspect, or censor the mail. This provision does appear, does it not, in the revision of H.R. 9120?

Mr. KATZENBACH. That is right, Mr. Tavenner.

Mr. TAVENNER. Mr. Chairman, I suggest that the report from the Department of Justice be made a part of the record.

Chairman WALTER. The report of the Department of Justice will be read into the record.

REPORT OF THE DEPARTMENT OF JUSTICE

Mr. KATZENBACH. I appreciate this opportunity to appear before this committee in connection with its consideration of H.R. 9120.

During recent years, large quantities of unsolicited Communist propaganda have been mailed into this country. I know of no authoritative estimates of the precise magnitude or recent trend of those importations. There is some indication that in recent months the amount of printed matter so imported is less, but this may have been compensated for by an increase in other means such as first class mail. In any event, accurate figures would be difficult to arrive at.

Communist propaganda, is not, of course, accurately labeled as such or described as to its origin or character. If it originates from behind the Iron Curtain, then one can indulge in presumptions in this respect. But often this is not the case, and insofar as its origin is evident to the recipient, there may be nothing to indicate its true nature save an examination of its contents. And as this committee knows, it would be extremely difficult to formulate a program, compatible with our Constitution and our traditional concepts of a free exchange of ideas and information, which attempts to label written material as Communist propaganda.

The great bulk of Communist propaganda is unsolicited, and there is no connection between its receipt in this country and any sympathy whatsoever by the recipient to Communist goals or objectives. I am sure that the committee would agree that it is important in any legislative program by the Congress in this respect to avoid any inference that recipients are in any way associated with, or sympathetic to, the international Communist movement. After all, such propaganda, to be most effective, must be aimed at those who do not already have views or opinions of a Communist nature. Its objective often is to confuse specific issues, obfuscate facts, and cause doubts among people completely loyal to the United States.

I am confident that this barrage of Communist propaganda constitutes no real threat to our form of government and that it in no way compels us to abandon our traditional concepts of free speech and free press. I am sure that the members of this committee agree

that the American people will not be influenced by Communist propaganda no matter how insidious that propaganda may be. At the same time it is often possible to promote Communist causes with arguments which, to the nonexpert, are difficult to tie to the Communist movement. For this reason, it seems to me that we should publicize the existence of such propaganda—without characterizing specific instances—so that persons receiving unsolicited mail from abroad will be aware that it may have originated as a part of the Communist effort. To do so seems to me completely consistent with our basic constitutional principles and has the merit of indicating that the Government, while aware of the efforts of the Communist Party and its sympathizers, has confidence in the judgment of the American people.

H.R. 9120 is designed to accomplish this purpose. It would require the Postmaster General to provide recipients of foreign mail, which contains or appears to contain Communist propaganda, with a statement concerning Communist activities and objectives, and a notice of the probable character or origin of the mail involved.

I agree with the purpose and approach of H.R. 9120—which seeks to inform the American public while avoiding all semblances of censorship, prior restraints, or withholding of mail. I believe, however, that this proposed legislation could be made less burdensome and more flexible without impairing its basic purpose. Specifically, I feel that it would be advisable to revise subsection (b) so as to vest the Postmaster General with greater discretion in determining when and to whom notices will be sent. Similarly, it would keep the Post Office Department out of the difficult business of characterizing political information.

I would add a provision to that subsection specifically disclaiming that the new legislation confers any new authority upon the Postmaster General to open, inspect, or censor the mail, except as authorized by existing law. This would avoid any misunderstanding in this respect.

Finally, I would delete subsection (c), which prescribes, in part, the type of notice which shall be used and, as noted above, I would vest the Postmaster General with discretionary authority in this regard. This would permit the Postmaster General to alter the form of the notice from time to time to fit varying conditions and in the light of experience. In addition, I feel that the proposed notice should be concise, perhaps in the form of a post card, in order to enhance the likelihood that the notice will be read by the individual concerned and in order to confine the administrative burden and cost of this program to a minimum.

If H.R. 9120 is amended as I have suggested, the Department of Justice would favor its enactment.

MR. NITTLE. Mr. Chairman, may I point out that, in response to the request of the committee staff, Mr. Katzenbach has submitted today a proposal for the revision of H.R. 9120, as an amendment to H.R. 5751. I ask that it be made a part of the record at this point for purposes of discussion.

CHAIRMAN WALTER. Let it be made a part of the record.

(The material referred to follows:)

PROPOSED AMENDMENT TO H.R. 5751, AS REPORTED

Strike out all after the enacting clause and insert in lieu thereof the following:

"In order to alert the general public to the fact that large quantities of Communist propaganda are being mailed into this country from abroad, the Postmaster General is authorized (1) to publicize such fact by appropriate notices to be posted in post offices or sent to recipients of foreign mail, and (2) to permit the return without cost to the recipient of unsolicited foreign mail to local post offices. Nothing in this section shall be deemed to authorize the Postmaster General to open, inspect, or censor any mail except as otherwise authorized by law. The Postmaster General is authorized to issue such rules and regulations as he may deem to be appropriate to carry out the purposes of this section.

"SEC. 2. Section 1(b) of the Foreign Agents Registration Act of 1938, as amended (56 Stat. 248), is amended by adding thereto a new paragraph (6) to read as follows:

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

"SEC. 3. Section 3(d) of such Act is amended to read as follows:

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

Amend the title to read as follows:

"To provide for notification that foreign mail may contain unsolicited Communist propaganda, and for other purposes."

NOTICE WITH RESPECT TO COMMUNIST PROPAGANDA

Unsolicited Communist propaganda is being mailed to persons in this country from the Soviet Union, the Soviet bloc countries, and other places outside the United States. Such propaganda is one means of attempting to promote the objectives of the international Communist movement.

In order to achieve maximum impact, this material is generally sent to unsuspecting addressees in no way associated with, or sympathetic to, Communist objectives. Since it is not labeled as to its true source or content, it is not always easy to identify.

If you have received unsolicited mail from abroad, it may contain such propaganda. If you wish, you may return it to your local post office without charge.

Further information concerning Communist propaganda activities may be obtained by writing to the Postmaster General or to your Senator or Congressman. (NOTE.—The foregoing is a suggested sample notice which might have to be varied in accordance with new developments and experience.)

Mr. NITTLE. Mr. Katzenbach, in the proposal for revision of H.R. 9120 which you have submitted, you approached this matter from the standpoint of an authorization to the Postmaster General to publicize the fact that certain quantities of Communist propaganda are being mailed into this country from abroad. Would you have any objection to the substitution of the word "directed" for "authorized"? That would seem to have the effect of making it mandatory upon the Postmaster General to take certain action, which appears in the draft to be merely an authorization.

Mr. KATZENBACH. I would have no objection to that.

Mr. NITTLE. If we were to suggest that the form of the notice should include a copy of subsection (a) of H.R. 9120, together with a copy of section 2, title 1, of the Internal Security Act of 1950, would you find that proposal satisfactory?

Mr. KATZENBACH. I would have no objection to that proposal. I assume, Mr. Nittle, that your reference there is merely to the notice which is given to the recipients, not the notice which is posted. I think all of that contained on the notice which was posted would be rather more than would be desirable in a poster.

Mr. NITTLE. That is correct.

Mr. TAVENNER. Are there any other views that the Department of Justice desires to present?

Mr. KATZENBACH. No, I think not, Mr. Tavenner.

Mr. TAVENNER. We will be pleased to have the views of the Post Office Department.

REPORT OF THE POST OFFICE DEPARTMENT

Mr. DOYLE. Mr. Chairman, we adopt and support the views expressed by the Department of Justice. If either the bills H.R. 5751 or H.R. 9120 are amended as suggested by the Department of Justice, we would support the legislation. We are all, I think, agreed on the principle involved in these bills as of today, and the only apparent disagreement is on language. We think that the Department of Justice's views and versions granted to us a flexibility which we need. We prefer not to be bound to sending this notice to every person who receives a publication from a Communist-bloc country. We would prefer, if at all possible, to be in a position of determining that there is an unusual concentration of this mail addressed to a given locality in the country, to be in the position of blanketing the same area with this notice under routines which we have available to us. This type of program and scheme would make it unnecessary for us to prepare a huge mailing list, each day of the year and cover that mailing list. We know that in our service a letter carrier serves a certain number of patrons. We could give these letter carriers enough of these notices so that they could deposit one in each letter box that they serve during the day. This would blanket the country eventually instead of just concentrating on those people who have been sent this material, much of which they do not want.

The Justice Department version would give us that flexibility. It would permit us to publish notices on bulletin boards and mail specific notices to specific addresses if we want to.

Mr. TAVENNER. Under the suggestions made by the Department of Justice, you could, and nevertheless would, transfer or transmit the type of notice agreed upon where the foreign mail was being consistently received by individuals?

Mr. DOYLE. Certainly.

Mr. TAVENNER. Even though it might not be in an area of the country where there is any special or unusual movement of this foreign material?

Mr. DOYLE. Yes.

I would also say, too, that we subscribe to the answers that Mr. Katzenbach made to Mr. Nittle's questions to a revision of some of the language. If the committee directs that we send certain portions of the law itself, we would not find that objectionable. We do not object to being directed to do this rather than merely being authorized.

Mr. TAVENNER. Do you have any comment to make upon the form of the notice suggested in the revised bill, H.R. 9120?

Mr. DOYLE. I find very little difference, frankly, in the notice or the form of notice suggested in the revision of H.R. 9120, and the form of the notice suggested by the Department of Justice. There are one or two sentences that vary but in general I think these notices are in effect the same and we could adopt those.

Mr. NITTLE. I would like to note that in the proposal for revision of H.R. 9120, presented by the Department of Justice, the Postmaster is authorized to publicize the facts "by appropriate notices to be posted in post offices or sent to recipients of foreign mail." It seems to be an alternative authorization to the Postmaster. Is it not the thought that the posting of notices in all post offices should be mandatory in any event, but that notification to recipients of mail should also be sent under certain appropriate circumstances? Is it not contemplated that notices should be posted in post offices, and also some form of notice transmitted to the recipient of such mail in appropriate cases?

Mr. TAVENNER. That was my view of what was proposed to be done. How would you make certain that that is the proper interpretation?

Mr. KATZENBACH. In view of the fact that it becomes a directive rather than an authorization as suggested in the language of Mr. Nittle, I think that should perhaps be cleared up with some additional language, making the posting of notices mandatory because leaving the Postmaster General the kind of discretion we already discussed regarding the time, person, and so forth, of the sending of notices. I think in view of the word "directed" we should clarify that language accordingly.

Mr. NITTLE. Would you suggest appropriate language that would be acceptable to your Department?

Mr. KATZENBACH. Yes. I hate to try to do it immediately off the top of my head but I will suggest that to the committee.

Mr. TAVENNER. We would like to hear from the Bureau of Customs.

REPORT OF THE BUREAU OF CUSTOMS, TREASURY DEPARTMENT

Mr. RITGER. I have a department report on H.R. 9120 which we had prepared yesterday after I received the copy yesterday morning. I think the operative paragraph in this report which I would be glad to give to you applies to both the draft of H.R. 9120 and the Justice Department amendment. If I could read that one paragraph, I think that would suffice for this point:

Since the bill does not require any functions to be performed by the Treasury Department, it is not a matter of our primary interest. To the extent if any that our facilities may be called upon to assist in administration of the bill, the Treasury Department of course will be pleased to cooperate.

Mr. TAVENNER. Mr. Chairman, we would like to file the report of Robert H. Knight, General Counsel of the Treasury Department, presented by Mr. Ritger.

Chairman WALTERS. Without objection, the report will be made a part of the record. It will be read into the record at this point.

(The statement referred to is as follows:)

REPORT OF THE GENERAL COUNSEL, TREASURY DEPARTMENT

This refers to your informal request for the views of this Department on H.R. 9120, to amend the Subversive Activities Control Act of 1950 so as to require the Postmaster General in certain areas to give notice of the use of the mails for the dissemination of Communist propaganda.

The bill would amend the Subversive Activities Control Act of 1950 to require the Postmaster General in certain cases to give written notice by mail of the use of the mails for the dissemination of Communist propaganda to the addressees of material which contains, or which the Postmaster General has reason to believe may contain, such propaganda. The notice is to be prepared by the Postmaster General and transmitted to addressees under such circumstances and in accordance with such rules and regulations as the Postmaster General shall prescribe.

Since the bill does not require any functions to be performed by the Treasury Department, it is not a matter of our primary interest. To the extent, if any, that our facilities may be called upon to assist in administration of the bill, the Treasury Department, of course, will be pleased to cooperate.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Mr. TAVENNER. Mr. Doyle, will you state for the record, please, what in your opinion the cost of the execution of such a statute would be to the Government as compared with the expense of administering the duties performed by the Government prior to March 7, 1961?

Mr. DOYLE. I have no facts with me this morning which would enable me to make anything other than an estimate. I do not know whether that would be good or bad. I do believe, knowing the volume of work that was performed under the program as it existed prior to March 17 by Customs and Post Office—I do believe that this type of program would not be more costly.

Mr. TAVENNER. Justice has presented for consideration revised language to cover the point raised by Mr. Nittle regarding the posting of notices in post offices and sending notices to recipients of foreign mail.

It is in the following language:

(1) to publicize such fact (A) by appropriate notices to be posted in post offices, and (B) by notifying, whenever he deems it appropriate to promote the purposes of this section, recipients of mail, that unsolicited foreign mail may contain such propaganda and (2) to permit—

And so forth.

If there are no further comments or questions, that will conclude our session today.

Mr. SCHERER. I suggest that the final draft be drawn so as to be broad enough to cover all situations where domestic mail is utilized to convey foreign propaganda—to cover, for example, such cases as where foreign propaganda is shipped by freight from abroad and then here introduced into the domestic mail.

Mr. TAVENNER. That is an excellent suggestion and will be incorporated in the final draft.

(The committee recessed at 11:35 a.m., to reconvene subject to the call of the Chair.)

APPENDIX

After further consideration, the Committee on Un-American Activities prepared a final draft of the proposed legislation, to which there was no objection, by the appropriate executive departments, as set forth in a supplemental report, Report 309, part 2, filed by the chairman, Mr. Walter, on September 14, 1961. This supplemental report proposed an amendment to the bill H.R. 5751, which was passed by the House September 18, 1961. Portions of the report follow for ready reference:

Mr. WALTER, from the Committee on Un-American Activities submitted the following

SUPPLEMENTAL REPORT

[To accompany H.R. 5751]

Since the filing of the Report No. 309, on April 26, 1961, to accompany H.R. 5751, changes have been suggested in the bill which are proposed to be incorporated by way of amendments.

For the information of the Members of the House of Representatives the amendments are as follows:

Strike out all after the enacting clause and insert:

"That the Subversive Activities Control Act of 1950 is amended by inserting immediately after section 10 thereof the following new section:

" 'NOTICE WITH RESPECT TO COMMUNIST PROPAGANDA DISTRIBUTED BY MAIL

" 'SEC. 10A. In order to alert the recipients of mail and the general public to the fact that large quantities of Communist propaganda are being introduced into this country from abroad and disseminated in the United States by means of the United States mails, the Postmaster General shall publicize such fact (1) by appropriate notices posted in Post Offices, and (2) by notifying recipients of mail, whenever he deems it appropriate in order to carry out the purposes of this section, that the United States mails may contain such propaganda. The Postmaster General shall permit the return of mail containing such propaganda to local Post Offices, without cost to the recipient thereof. Nothing in this section shall be deemed to authorize the Postmaster General to open, inspect, or censor any mail. The Postmaster General is authorized to prescribe such regulations as he may deem appropriate to carry out the purposes of this section.' "

Amend the title so as to read:

"A bill to amend the Subversive Activities Control Act of 1950 so as to provide for notification that the United States mails may contain Communist propaganda introduced into the United States from abroad, and for other purposes."

* * * * *

COMMITTEE RECOMMENDATIONS

Upon publication of notices required by this amended bill, and as a result of notification to recipients of mail, members of the public may make inquiry of the Post Office Department for further information concerning Communist propaganda activities. It is suggested that the Postmaster General prepare and make available appropriate pamphlets or material for this purpose which may

include information contained in this committee report. It is also suggested that the notice to recipients of mail may include the following language:

"Unsolicited Communist propaganda is being disseminated by mail and other means to persons in this country from the Soviet Union, the Soviet-bloc countries, Cuba, and other places outside the United States. Such propaganda is one means of attempting to promote the objectives of the international Communist movement. Propaganda is regarded by the Communists as an important and necessary means for achieving the subversion of the free world. In order to effect maximum impact, this material is generally sent to unsuspecting addresses in no way associated with or sympathetic to, Communist objectives. Since it is not labeled as to its true source or content, it is not always easy to identify. The privacy of your mail continues to be respected by your Government and by the postal service. This letter is forwarded for your information.

"If you have received unsolicited mail from abroad, it may contain such propaganda. If you wish, you may return it to your local post office without charge.

"Further information concerning Communist propaganda activities may be obtained by writing to the Postmaster General or to your Senator or Congressman."



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