

Statement of Views of American Library Association on H. R. 4105 And
S. 1273, To Amend the Foreign Agents Registration Act, As Amended

Mr. Chairman and Members of the Committee:

My name is Edward de Grazia. I am a lawyer with the firm of Kirkland, Fleming, Green, Martin & Ellis, with offices in the World Center Building in Washington, D. C. Our main office is in Chicago, Illinois. We represent the American Library Association -- a membership organization of approximately 20,000 librarians, laymen and institutions primarily interested in the development, extension and improvement of library service. The ALA is incorporated under the laws of the Commonwealth of Massachusetts and is tax exempt. A copy of its charter is attached.

The ALA believes that Section 5 of the proposed bill will generate grave impediments to the flow of needed information to, and perhaps even from, the United States. In its opinion, this flow of information between other countries and the United States is in the national interest. The ALA also believes that Section 5 offers grave dangers to the execution by libraries of their responsibility to collect information, reference, and research materials needed by students, scholars, officials and the general public.

The position of the ALA is based upon its understanding of the intent and operation of the relevant provisions of the Foreign Agents Registration Act, as they would be expanded by the proposed bills. The

Act presently requires that any person residing within the United States who is an agent of a "foreign principal" must, among other things, register with and supply certain information to the Attorney General of the United States. Any such person who transmits or causes to be transmitted in the United States mails or by any other means of interstate or foreign commerce, any "political propaganda" is required to file with the Attorney General one copy thereof within 48 hours after the beginning of the transmittal thereof, with a statement setting forth certain detailed information. All such "political propaganda" must be conspicuously marked at its beginning with a true and accurate statement setting forth that the person sending such propaganda is registered under the Act with the Department of Justice as an agent of a foreign principal, together with his name and address and the name and address of the foreign principal.

The term "foreign principal" is defined by the Act to include not only any foreign government and any foreign political party, but also any person outside of the United States who is not a citizen of and domiciled in the United States, and also any 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. It may be noted that this definition of a "foreign principal" is so broad as apparently to embrace every person who is a citizen of a foreign country and every

organization organized under the laws of, or doing business in, a foreign country.

The term "political propaganda" is defined by the Act to include any oral, visual, graphic, written, pictorial or other communication by any foreign person or organization which may influence a recipient within the United States with regard to the political or public policies, or relations of a foreign government or political party or with regard to the foreign policies of the United States. The breadth of this definition would encompass all but the most abstruse literature in such apolitical fields as the humanities and sciences. It seems obvious that almost any random issue of any foreign newspaper or magazine would come within the Act's definition of "political propaganda."

The Act further provides that any violation of any provision is subject to punishment by a fine of not more than ten thousand dollars or imprisonment for not more than five years, or both.

The bills which are before this Committee would greatly extend the scope of this law by making its provisions applicable to any agent of such a "foreign principal" who disseminates such "political propaganda" in the United States -- even if the agent is not located in the United States. As a result, virtually all political literature coming to the United States from abroad would be subject to surveillance by customs and postal officials. Moreover, the underlying intent of the bills appears to be to permit the

Post Office Department and the Bureau of Customs, in their discretion, to intercept and impound any or all foreign literature which falls within the broad concept of "political propaganda." That this is the intent of the proposed legislation does not, however, appear from the language of the bills, but rather appears upon a reading of the letter dated January 26, 1954, from the Attorney General of the United States to the Vice President, United States Senate, as set forth in Senate Report No. 1996. The Attorney General's letter also suggests that the Post Office Department and the Bureau of Customs are presently acting to seize "political propaganda" upon the basis of a rule issued by the Attorney General, but apparently not upon the basis of any authorization from the Congress of the United States.

The ALA believes that before Congress would grant to government officials such broad powers of summary seizure of literature being disseminated from abroad, Congress would wish to make clear to the American public the nature and extent of the powers being granted. The language of the proposed bills, however, fails to inform the public that there would be granted to certain government officials the authority to seize and impound, without notice or hearing, any "political propaganda" sent from abroad to Americans and American institutions.

The ALA also questions the intent and potential application of Section 5 of the proposed bills for the following reasons:

1. It is contrary to the basic design of the Act which is to compel public disclosure rather than to suppress propaganda. The Foreign Agents Registration Act was not designed to suppress the dissemination of foreign political literature. The proposed bills, if construed as intended by the proponents of the legislation, thus would constitute a radical departure from the basic intent of Congress when it enacted the Act in 1938. As to propaganda disseminated by domestic agents of foreign powers, public disclosure of its origin, and not suppression, was the intent of the Act. If it is deemed desirable now to require public disclosure of the origins of foreign propaganda, it may be observed that such public disclosure may usually be found on the face of the wrapper of literature shipped or mailed from abroad. Presumably all such literature must bear a foreign postmark or shipping label, and much of such material specifies the country of origin and the organization publishing it. The origin will often also be revealed by the language itself. Certainly, a grant to government officials of broad summary powers to seize and impound foreign printed material is far too drastic a method of securing the basic disclosure purpose of the Act.

2. Since most foreign publishers of newspaper and periodical literature will not register themselves as foreign agents, the requirements of registration under the Act would mean that our libraries would be compelled, in order to receive a wide range of materials from abroad, to

register as foreign agents. It is clear that libraries will not wish, under any circumstances, to register as foreign agents. This will mean that many libraries will be inhibited from obtaining and making useful a broad range of reference, research and information materials from abroad. This in turn will severely handicap the efforts of students, scholars, and practical men of affairs by depriving them of access to materials necessary to the kind of understanding and study that is in the public's interests. The resources of libraries in the United States, which must constantly be built up to meet future needs, will suffer. In the end the real sufferer, however, will be the American citizen who must have access to such materials for his studies or his work.

3. The proposed law does not promise to be effective. The definition of foreign "political propaganda" fails to establish any reasonable or reliable criterion by which obnoxious political propaganda could be distinguished from objective expressions of political opinions. Almost any innocent foreign-disseminated literature could fall under the law's ban, whereas those foreign interests whose specific intent is to propagandize here would be free to do so by registering an agent under the Act.

4. The Act as it is proposed to be amended may very well provoke retaliation by foreign countries. This country had adopted the policy of seeking to promote a better understanding of the United States in foreign

countries. Such a policy would be completely frustrated were foreign countries to be goaded to enact legislation allowing for the seizure of American newspapers, periodicals and books on the ground that they constituted foreign "political propaganda."

For the above noted reasons, the ALA recommends that Section 5 of the proposed amendments not be adopted. If it is deemed essential that American citizens and institutions be warned of the origins of foreign political material, it would seem adequate to this end to empower the Bureau of Customs and the Post Office Department to stamp the name of the originating country upon the face of all such material disseminated from abroad.

C H A R T E R

Commonwealth of Massachusetts

Be it known, that whereas Justin Winsor, C. A. Cutter, Samuel S. Green, James L. Whitney, Melvil Dui, Fred B. Perkins and Thomas W. Bicknell, have associated themselves with the intention of forming a corporation under the name of the American Library Association for the purpose of promoting the library interests of the country by exchanging views, reaching conclusions, and inducing cooperation in all departments of bibliothecal science and economy; by disposing the public mind to the founding and improving of libraries; and by cultivating good will among its own members, and have complied with the provisions of the statutes of this Commonwealth in such case made and provided; as appears from the certificate of the President, Treasurer and Executive Board of said corporation, duly approved by the Commissioner of Corporations, and recorded in this office.

Now, therefore, I, Henry B. Peirce, Secretary of the Commonwealth of Massachusetts, do hereby certify that said Justin Winsor, C. A. Cutter, Samuel S. Green, James L. Whitney, Melvil Dui, Fred B. Perkins and Thomas W. Bicknell, their associates and successors, are legally organized and established as, and are hereby made an existing corporation under the name of the American Library Association, with the powers, rights, and privileges, and subject to the limitations, duties, and restrictions, which by law appertain thereto.

Witness my official signature hereunto subscribed, and the seal of the Commonwealth of Massachusetts hereunto affixed this tenth day of December in the year of our Lord onethousand eight hundred and seventy-nine.

HENRY B. PEIRCE
Secretary of the Commonwealth

Note: The changes in the first paragraph underscored below were approved by Henry F. Long, Commissioner of Corporations and Taxation of the Commonwealth of Massachusetts, on February 6, 1942:

Be it known, that whereas Justin Winsor, C. A. Cutter, Samuel S. Green, James L. Whitney, Melvil Dui, Fred B. Perkins and Thomas W. Bicknell, have associated themselves with the intention of forming a corporation under the name of the American Library Association for the purpose of promoting library interests throughout the world by exchanging views, reaching conclusions, and inducing cooperation in all departments of bibliothecal science and economy; by disposing the public mind to the founding and improving of libraries; and by cultivating good will among its own members, and by such other means as may be authorized from time to time by the Executive Board or Council of the American Library Association, and have complied with the provisions of the statutes of this Commonwealth in such cases made and provided, as appears from the certificate of the President, Treasurer and Executive Board of said corporation, duly approved by the Commissioner of Corporations, and recorded in this office.