

## THE FOREIGN GIFTS AND DECORATIONS ACT OF 1966

SEPTEMBER 21, 1966.—Referred to the House Calendar and ordered to be printed

Mr. HAYS, from the Committee on Foreign Affairs, submitted the following

### R E P O R T

[To accompany S. 2463]

The Committee on Foreign Affairs, to whom was referred the bill (S. 2463) to grant the consent of the Congress to the acceptance of certain gifts and decorations from foreign governments and for other purposes, having considered the same, report unanimously thereon without amendment and recommend that the bill do pass.

#### COMMITTEE ACTION

S. 2463 was passed by the Senate on May 17, 1966, and referred to the Committee on Foreign Affairs. On May 20, 1966, the bill was referred to the Subcommittee on State Department Organization and Foreign Operations. The subcommittee considered the measure on July 25, 1966, and unanimously agreed to report it without amendment to the full committee. The committee ordered the bill reported to the House on September 21, 1966.

#### PURPOSE OF LEGISLATION

The main purpose of this bill is to provide a uniform set of standards and procedures for the acceptance of gifts and decorations offered by foreign governments to persons employed by the Government of the United States.

#### BACKGROUND

The tender of such gifts and decorations is an old and well-established practice that antedates the foundation of the United States. It is made as a mark of esteem and appreciation by a foreign government and signifies that the individual so honored has contributed in some small measure to more amicable relations between the United States and the foreign government. Refusal often is regarded at the

least as a discourtesy and at the most as an insult, thus negating the very purpose for which the token recognition is intended.

The Constitution prohibits an individual "holding any Office of Profit or Trust" from accepting gifts and decorations by foreign governments without the consent of the Congress. In 1881 Congress enacted a law requiring foreign gifts and decorations to be tendered through the Department of State, not to the individual, and prohibiting their delivery to individuals unless authorized by Congress. An act of 1934 directed the Secretary of State "to furnish to the Seventy-fifth Congress and to each alternate Congress thereafter a list of those retired officers or employees of the United States for whom the Department of State \* \* \* is holding decorations, orders, medals, or presents tendered them by foreign governments."

The 1934 act dealt with retired personnel and specified the frequency with which the Department of State should seek congressional authorization. It did not preclude departments and agencies from seeking special legislation in behalf of personnel who had not retired. President Truman issued a directive in January 1950 requesting heads of departments to send to the Secretary of State each December a list "of all active, former, or retired personnel" for whom the Department was holding awards and decorations. These were to be consolidated into a single list which was to be sent to Congress "as the situation requires" but in no case more frequently than once each session of Congress. In the case of retired personnel, however, the provisions of the 1934 act were applicable. President Eisenhower in April 1954 issued a directive closing the loophole that permitted agencies to seek congressional authorization for active personnel by restating the provisions of the 1934 act. He added: "No request shall be submitted hereafter for other than retired personnel."

In 1954, 1958, 1962, and 1964 the Department of State sent to the Congress an omnibus bill authorizing by name retired Government officers and employees to accept gifts and decorations that the Department was holding for them. Only the 1958 measure was enacted, temporarily relieving the Department of a serious storage problem. The 1962 bill was not acted upon by the House. In 1964 another effort was made but failed of enactment because of a difference between the House and the Senate as to the inclusion of other than retired individuals. In all the bills the overwhelming number of intended recipients has been retired military personnel. For example, the 1964 bill comprised 66 pages of names of which only 7½ pages were retired civilians.

The 1934 act has not resolved the problems arising from the award of gifts and decorations. For example, the Department of Defense has had to seek special legislation to permit American military personnel to accept and wear decorations tendered by foreign allied governments for services rendered in a particular conflict. This was the case in World War II and the Korean conflict. Only last year Congress authorized members of the Armed Forces to accept and wear such decorations in connection with their service in Vietnam. This has created some anomalies. A member of the Armed Forces can accept the decoration in connection with his service in Vietnam but must wait until his retirement to accept a decoration given him for service elsewhere. A further complication arises from the fact that by law certain officers of the U.S. Government are deemed never to be retired,

such as generals of the Army. Special legislation has been necessary to deal with such cases.

Congress has not treated uniformly its own Members. They are included in the terms of the 1934 act, but the subsequent Presidential directives do not cover them. Some Members of Congress have been authorized by special legislation to accept decorations while others, active as well as retired, have not been so authorized.

Finally, existing procedures impose unnecessary administrative and storage costs upon the Department of State. The Department has in custody more than 5,000 items of which about 85 percent are decorations. The Office of Protocol estimates that storage costs amount to more than \$2,000 annually. Over \$500 a year is spent on transportation, postage, and storage supplies. Last year the Department spent \$6,200 for personnel to handle the articles, answer the numerous inquiries made of the Department, and prepare periodic omnibus bills requesting congressional authorization to release the articles. In summary, this activity cost \$9,000 last year.

#### SECTION-BY-SECTION ANALYSIS

Section 2 defines "person" as one who occupies an office or a position in the Government of the United States, its territories and possessions, the Canal Zone Government, and the government of the District of Columbia, or is a member of the Armed Forces of the United States, or a member of the family and household of any such person. The definition thus includes members of the legislative and judicial branches.

Section 3 provides that no person shall request or otherwise encourage the tender of a gift or decoration. The committee expects the fullest compliance with this provision. At the same time it recognizes that persons in the service of the Government are sometimes placed in a position where to refuse is to be discourteous or offensive to the donor.

Section 4 states that Congress gives its consent to the acceptance and retention of gifts of minimal value tendered or received as a souvenir or mark of courtesy. Gifts of more than minimal value may be accepted only when refusal to do so would result in offense and embarrassment or adversely affect the foreign relations of the United States. These gifts would then become the property of the United States for use and disposal in accordance with rules and regulations issued under the act.

While minimal value is not defined in the bill, the Department of State expects to fix by regulation the value at \$50 or less. Some departments and agencies may want to establish a lower minimum for their personnel. Most of the gifts now in the custody of the Department would be well within this figure.

Section 5 grants the consent of Congress to the acceptance and retention as well as the wearing thereof of decorations tendered in recognition of active field service in time of combat operations or which have been awarded for other outstanding or unusually meritorious performance, subject to the approval of the department, agency, office, or other entity in which such person is employed and the concurrence of the Secretary of State. As in the case of gifts of more than minimal value, decorations not so approved will become the property of the

United States to be disposed of in accordance with the rules and regulations issued pursuant to this act.

Section 6 authorizes the release, upon the approval of the Secretary of State and the appropriate office, department, agency, or other entity, of gifts and decorations on deposit with the Department of State on the date of enactment of this act. Gifts and decorations not so approved for release become the property of the United States.

Section 7 provides that rules and regulations to carry out the purposes of this act may be prescribed by or under the authority of the President. The Department of State, AID, and USIA already have a regulation covering gifts of minor value. This reads, in part:

\* \* \* where there is no indication of improper interest on the part of the giver, the article has only minor intrinsic value, such as a photograph or other memento or souvenir, is not a decoration, emolument, office or title, and refusal or return would be offensive and might injure good international relations, such gift may be received. If there is any question or doubt, a ruling should be obtained from the Office of Protocol, Department of State. \* \* \*

The Department of Defense prohibits individuals performing duty in connection with the military assistance program from accepting any decoration, award, or gift from foreign governments for duty under that program. The committee expects that these rigid requirements will form the basis for the rules and regulations that will be issued on this subject. It should be noted, moreover, that the concurrence of the Secretary of State as well as that of the agency or department in which the individual serves or has served is necessary before a gift or decoration may be accepted.

Section 8 repeals earlier provisions of law that will be superseded by the provisions of this bill.

The Foreign Gifts and Decorations Act has a number of advantages to commend it to the Congress. It meets the requirement of the Constitution that gifts and decorations offered by foreign governments have the approval of the Congress. It treats equally all officers and employees in the executive, legislative, and judicial branches of the Government. It is applicable to military as well as civilian personnel. It relieves Congress of the time-consuming and sometimes embarrassing task of passing special legislation. It saves the Department of State the cost of handling and storing gifts and decorations that now represent an accumulation of 8 years.

The committee urges favorable action on S. 2463.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**SECTIONS 2 AND 3 OF THE ACT OF JANUARY 31, 1881 (21 STAT. 604; 5 U.S.C. 114, 115)**

**[SEC. 2.** That no decoration, or other thing, the acceptance of which is authorized by this act, and no decoration heretofore accepted, or which may hereafter be accepted, by consent of Congress, by any officer of the United States, from any foreign government, shall be publicly shown or exposed upon the person of the officer so receiving the same.

**[SEC. 3.** That hereafter any present, decoration, or other thing, which shall be conferred or presented by any foreign government to any officer of the United States, civil, naval, or military, shall be tendered through the Department of State, and not to the individual in person, but such present, decoration, or other thing shall not be delivered by the Department of State unless so authorized by act of Congress.]

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**SECTION 2 OF THE ACT OF JUNE 27, 1934 (48 STAT. 1267; 5 U.S.C. 115A)**

**[SEC. 2.** That the Secretary of State is hereby directed to furnish to the Seventy-fifth Congress and to each alternate Congress thereafter a list of those retired officers or employees of the United States for whom the Department of State under the provisions of the Act of January 31, 1881 (U.S.C., title 5, sec. 115), is holding decorations, orders, medals, or presents tendered them by foreign governments.]

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**SECTION 1002 OF THE FOREIGN SERVICE ACT OF 1946 (60 STAT: 1030; 22 U.S.C. 804)**

## AGAINST ACCEPTING PRESENTS

SEC. 1002. **[An officer or employee of the Service shall not ask or, without the consent of the Congress, receive, for himself or any other person, any present, emolument, pecuniary favor, office, or title from any foreign government.]** A chief of mission or other principal officer may, **[however,]** under such regulations as the President may prescribe, accept gifts made to the United States or to any political subdivision thereof by the government to which he is accredited or from which he holds an exequatur.