



Fox Rothschild Podcast

The Presumption of Innocence

Episode 54: The Flaws of FARA: Feeble Oversight of Billions in Foreign Influence

Featuring Matt Adams of Fox Rothschild and author Casey Michel

Matt: Hi, everyone, and welcome back to "The Presumption of Innocence," a podcast brought to you by the White-Collar Criminal Defense and Regulatory Compliance Practice at Fox Rothschild.

The Foreign Agents Registration Act, or FARA, was enacted in 1938. And FARA requires certain agents of foreign principals who are engaged in political activities or other activities specified under the statute to make periodic public disclosure of their relationships with the foreign principal-- or principals --as well as their activities, receipts and disbursement in support of those activities and other filings. Those disclosures are intended by FARA to allow the government-- and the American people for that matter --to shed light on these foreign agents. In fact, the Department of Justice has a specific office dedicated exclusively to the administration and enforcement of this federal law.

Our guest today is no stranger to "The Presumption of Innocence." Casey Michel was our guest on episode 50, where we talked about how kleptocrats exploit U.S. financial systems while hiding in plain sight and his work on how the U.S. created the world's greatest money laundering scheme in history, as he puts it in his book, *American Kleptocracy*.

At the conclusion of episode 50, Casey promised me he'd be back. And lo and behold, he is with us today talking about his latest work, entitled *Foreign Agents: How American Lobbyists and Lawmakers Threaten Democracy Around the World*. And the central focus is this thin, poorly constructed piece of now decades-old legislation --nearing 100 years old-- that is supposed to keep foreign influence out of our political system. And really, Casey's work is an expose on how it is precisely failing and failing miserably.

Casey, welcome back to the program. It's so great to be with you again.

Casey: Matt, it's so great to be back.

Thanks so much for welcoming back. Uh, look, we got plenty to talk about today, but very happy to be back with you.

Matt: So, let's take this, as I like to do in a linear fashion, okay? And in your book, you trace the foreign influence in our democracy and the use of foreign agents back to World War II, back to the Nazi regime. And really the pre-war times, before Pearl Harbor. Before we had direct boots-on-the-ground involvement in that war and the lobbying efforts of one particular individual.



But before we get there, I think the real starting place is why we even call foreign or domestic lobbyists lobbyist. And it was a cool history lesson in the book, so talk to us about that. What is the origins of this word lobbyist? And then segue into where things got dicey when foreign powers-- some adversaries of our country-- started using this lobbying concept as a means to achieve political, diplomatic and economic ends here in the United States.

Casey: Yeah, absolutely, Matt. It's a great question. Because this is really, on my end, putting this book together-- which is really, about the history of the foreign lobbying industry and then how it has really exploded in the past few decades. I mean, getting to dive really into the history of this was fascinating on my end because, frankly, it takes us all the way back to the earliest days of the American republic.

When you think of things like the, um, you know, the First Amendment to the American Constitution, of course it has the freedom of speech, freedom of religion, freedom of press, but it also has this freedom for all Americans to petition their government for a redress of grievances. Which is just kind of an old-timey way of saying all Americans have the right to contact their legislators to advocate on behalf of whatever cause they would like, for whatever policy they would like.

Matt: It's a tale as old as time.

Casey: It is a tale as old as time. Absolutely, it is. Now but the thing that they didn't have at the time was the term lobbying. Because what you just asked about was where that term came from and it wasn't until Ulysses S. Grant was president of the United States of America. And I should say, I wasn't planning on this, but I actually have a finger puppet of Ulysses S. Grant. Don't usually talk about him, but he joins me here in my office here in New York. Every day, Ulysses S. Grant liked to take a little midday break and go have a drink at the Willard Hotel. Which for folks who may know a thing, uh, or two realize it's right across the street from the White House itself and --

Matt: A beautiful old building.

Casey: It's a beautiful building. I've had a few drinks there myself. It's a lot of fun.

In order to get to the bar, Grant had to walk through the lobby of the Willard itself, and he had to get through a scrum of guys, a scrum of people who were there trying to bend his ear, trying to talk to him, about what their clients wanted them to talk about, whether this was the railroad industry, the banking industry. You name it, you know, agricultural sector, they were there trying to get a word in with the president of the United States right there in the lobby of the Willard Hotel. That is where the term lobbying came from. Grant was just trying to get a drink but every day, as he described it, he had to deal with these vultures that were trying to talk to him about every issue under the sun.

Matt: And then so lo and behold, World War II begins to break out and expand in the late thirties. It's coincidental that that's when FARA came into existence? Or was it a direct byproduct of the engagement that was going on in Europe?



Casey: So, we really didn't see anything like what we now understand is foreign lobbying until the 1930s, until right into the lead-up of the Second World War. You know, you can't understand that story without understanding the story of a single guy who you were asking about a moment ago, Matt, a guy named Ivy Lee. Uh, if folks remember him at all, they've heard his name he is considered to be the father of the public relations industry. Rightfully so he really helped create that industry unto itself.

He invented the first press release. He, uh, created kind of the crisis management playbook that a lot of very prominent Americans at the turn of the century, early 20th century, began using. Folks like Woodrow Wilson, folks like the Rockefellers, Charles Schwab. He was very much a prominent individual.

But what he realized by the 1920s and the 1930s is that he didn't have to work only with Americans. He could take that skill set to foreign governments, to foreign regimes. Most especially those in the lead-up to World War II that were forming the kind of totalitarian axis that the United States would then be facing off against in either World War II or the Cold War. He traveled to Rome to work with Benito Mussolini and the fascist regime in Italy. He traveled to Moscow to work with the Soviets. And then most notoriously he traveled to Berlin to work with Adolf Hitler and the Nazis and advised them on how to target and influence and sway Americans and American policymakers, how to lobby Americans to get the kind of policies they wanted to see implemented.

Matt: And on the one hand, I mean, just to set the stage, we're talking about loyalty to one's country, and balancing that with the freedom to contract and work for some of the worst of the worst in terms of the Nazis and, and, and all of these despotic regimes that were emerging at around that time.

But go on and tell the story of this guy, because it wasn't just that he was giving them insights on how to make nice. I mean, this really was a gray area of foreign relations, wasn't it?

Casey: I think one of the most striking thing is looking back to the historical record at this-- which you just alluded to right now, Matt-- is that Ivy Lee, as far as anyone could tell at the time, and since, he didn't break any laws. There were no regulations surrounding what Americans or American firms could do in terms of lobbying on behalf, even the worst regimes the world has ever seen and of course, things like the Nazis and the fascists in Italy. There were no crimes he was committing. He was simply creating a new, a new blueprint, new playbook for how Americans could go about servicing these regimes, opening doors for them in Washington without any Americans-- again, either the American body politic or American politicians themselves --having any idea that Ivy Lee was actually working for these regimes. Because he wasn't broadcasting.

He wasn't going to folks in Congress or going to members of the media and saying, I'm being paid by --whether it's Benito Mussolini or those surrounding Adolf Hitler-- to do this and this and this. He wasn't telling them that. But again, he didn't have to because there was no legal architecture at the time. And what ended up happening is that Congress got wind of the fact that Ivy Lee might be Adolf Hitler's spokesperson in the United States of America. And they wanted to bring him in for a congressional hearing, for congressional questioning. And again, it's worth reminding folks that at



the time, Ivy Lee was a very well-known figure. He wasn't some no-name, up-and-coming PR professional. He was almost a celebrity unto himself as well at the time. And a lot of folks in Congress knew who he was.

Now, they brought him in for a hearing in 1934, and they started asking him what he was doing and who he was meeting with, and how much money he was making, and why he was doing this, and what he was hoping to achieve. What they ended up realizing is that Ivy Lee was exactly what some of them suspected he was, a mouthpiece for Adolf Hitler, advising the Nazi regime on how to best target and sway Americans and create a kind of American pro-Nazi policy that would benefit the regime in Berlin and would, of course, make Ivy Lee staggering amounts of money along the way.

Now, this was 1934. Of course, this was years before World War II, but folks in America were still getting a good idea of what Hitler and the Nazis were doing in Germany. And this ended up blowing up into a massive scandal when it was revealed that, as the New York Times headline described it, Ivy Lee was Adolf Hitler's mouthpiece.

Matt: So, the law was passed shortly after this hearing. Is that right?

Casey: That's exactly right. So, this ends up sparking the kind of legislative reform, the Foreign Agents Registration Act, the single piece of legislation, the single bill that, as you said, a moment ago, is still with us nearly a century later. This was the congressional response. They realized they could not ban foreign lobbying outright because of clear Constitutional concerns and Constitutional provisions for Americans to be able to lobby on behalf of whatever they would like, but there could be some kind of regulatory architecture around it. And that centered on transparency.

Again, they're not banning any of these practices, but what Congress decided in the Foreign Agents Registration Act is that these Americans that are acting on behalf of these foreign governments, these foreign regimes, if they are lobbying on behalf of these foreign clients, they have to disclose what they are doing. They have to share the contracts, share the meeting notes, share the details of payments of what they are doing on behalf of these foreign governments and foreign oligarchs and foreign entities themselves. They had to disclose that to the American Department of Justice, which then discloses that to the American body politic.

The theory was that if these networks were exposed, you know sunlight being the best disinfectant, then the American body politic could shame some of these lobbyists into no longer working for the Nazis or the Soviets or whomever it might be. It's a nice notion in theory but as we have seen in practice, it has not worked out quite that well.

Matt: Yeah, and after you set that historical stage, your book really does take a deep dive into what happened after FARA came about and brought us really as current as contemporary times.

I have to ask because I think I know the answer to this question, but a lot of what you write about centers more on contemporary times. After you give that historical background, you really jump forward to the 80s. In between World War II and the 80s was foreign lobbying, like, a thing or was it just that in the 80s that's when it really took off? Because I can see why these despotic regimes



would want to understand what Americans think about them, right? But the way that this body of foreign lobbyists began to sort of materialize... in my view, there could be an argument that this was far afield from that real sense of just getting an understanding, having a boots-on-the-ground eyes and ears. There really have been some pretty terrible examples of this gone terribly wrong, right?

Casey: Uh, there absolutely are. And certainly the book goes into some of the details of those, those campaigns and those regimes where things have gone absolutely terribly. Some of which we're still dealing with the aftermath of, and who knows what the future holds. But, you know, to your question of what happened after the second World War, and why was it that it was really the 1980s and through the 1990s when this industry really began coming into its own and certainly by the 21st century, kind of, getting this jet fuel accelerating, exploding in terms of impact and net worth.

You know, I think it's worth considering the kind of geopolitical realities of the post-World War II American foreign policy in the state of the world writ large. It was frankly, for much of the Cold War that foreign lobbying, it still, it existed. There were foreign lobbyists, there were foreign governments that were interested in lobbying in Washington. But there was very much a kind of stasis that emerged in the 1950s, 1960s, 1970s.

It's not that regimes didn't want to improve their image or see certain policies passed for their benefit in Washington, but there was a certain almost ossification. People kind of knew where things were, knew what the lay of the land was, and knew that there wasn't necessarily a lot of room for movement one way or the other.

But by the 1980s, and certainly through the early 1990s, when you get to the end of the Cold War, the disintegration of the Soviet Union and the emergence of the post-Cold War period, that is when you really have the emergence of both post-colonial and post-Soviet states, especially, realizing that the geopolitical sands are kind of shifting underneath them. And they don't know where things are going, and it's going to be in their best interest to have a team in Washington, in the United States of America, both helping them navigate the new contours of power, and of course, Washington emerging as a victor from the end of the Cold War. But also to get a footprint in the United States of America, to keep things like military aid and economic aid flowing, as well as to improve their image and to claim the mantle of being a democratizing force or a pro-free market force that a lot of the regimes in the late Cold War period weren't necessarily.

This is where you have the kind of marriage of these Americans on the ground also realizing there are all these brand-new clients emerging in the foreign sphere, in the foreign space. And you have those two brought together where, by the end of the 1980s, early 1990s, you really see these partnerships begin to bloom, begin to blossom and have only taken off in the three decades since. Which is why the regime, excuse me, why the industry itself is now worth billions of dollars, significantly more than it ever was during the Cold War or even the late Cold War period.

Matt: Yeah, I was really struck by the way that you kind of, in a historical sense, talk directly to the origins of this phenomenon. But I want to dive into a couple of particular individuals that you described in the book as you explain what happened in the 30s, 40s, 50s, 60s, 70s and that stasis that



ultimately set in. And then with the Reagan administration, we saw folks that came on the scene who are really in the contemporary spotlight today.

Talk to us about a few of those, namely Paul Manafort.

Casey: Yeah, sure. I think a lot of folks are familiar with Paul Manafort these days, probably because they know him best being Donald Trump's 2016 campaign manager. Uh, he ended up getting accused of and convicted on charges relating to foreign lobbying crimes among a raft of other crimes that he was convicted. And then, uh, eventually pardoned by, by Donald Trump, uh, at the end of Trump's first term.

But a lot of folks maybe don't realize is that he had this entire career before joining Trump's 2016 campaign, both as a domestic, but especially as a foreign lobbyist himself. I mean, the book goes into great detail of his early career. Because as far as, as far as I'm concerned, as far as I see it, he was really, one of the originators and one of the kind of inventors of the modern foreign lobbying industry.

He's very much a kind of a modern iteration of what Ivy Lee was back in the 1920s and the 1930s. And he's kind of carrying Lee's legacy here into the 21st century. He began as a domestic lobbyist, domestic political consultant, found incredible success working with Gerald Ford and Ronald Reagan. But by the mid-1980s, again, he realized there were brand new clients abroad that he could sign up to represent. Perhaps most notoriously at the time-- well, I don't know about most notoriously, there are a few that come to mind-- one of those was Ferdinand Marcos, who through the 1980s was the U.S.'s key ally in East Asia. He was the longstanding leader and eventually dictator of the Philippines itself. And in 1985, 1986 was trying to cling on to power amidst a whole wave of pro-democracy protests, and he enlisted Paul Manafort's help to try to get the Reagan administration to continue recognizing and supporting Marcos.

And again, this was amidst vote rigging and massacres of pro-democracy protesters in the Philippines. Now, that eventually ended up failing. Of course, Manafort got paid but Marcos was eventually run out of the Philippines and protesters eventually discovered not only his exorbitant wealth, but Matt, as you may remember his wife Emelda Marcos' entire wing, she had hundreds of thousands of pairs of shoes. There's an infamous photo of her walking through it, which I still think of fondly. But that was one example.

There was another example out of the country of Angola which had been mired in civil war for years and years. And there was like a truly bloody warlord, a guy named Jonas Savimbi, who was leading one of the forces in Angola at the time. Uh for years he had had a weapons blockade put on him by the Americans, all the doors in Washington were closed to him -- until he hired Paul Manafort and all of a sudden all of the doors opened up. And the next thing, you know there is footage of, there are photos of Savimbi in Washington meeting with not Ronald Reagan himself but Vice President George H.W. Bush, applauding one another. And you know, leading voices in the United States of America saying Savimbi-- who is accused of gross sexual violence using child soldiers-- I mean the whole raft of horrific crimes --folks in Washington suddenly saying he is leading the freedom fighters



in Angola, we need to support him. This was one of Manafort's clear success stories and really set the stage for the success he found since.

Matt: Yeah, and I know that you as a journalist and a person who is deeply ingrained in studying these issues about the way that foreign governments have brought influence into the United States - and in some instances for the worse corrupting American political figures-- I know that you went back to the FARA records as part of your reporting on this subject and attempted to understand what they were telling the public and the government. And if we're going to, you know, think that FARA is a statute that sheds light and disinfects, as you put it, by shedding light. If you go to the Foreign Agents Registration Act portion of the Department of Justice website there's a picture of the Assistant Attorney General for National Security and contact information for the FARA unit. Well, what'd you find from searching the public records about the efficacy of FARA in shedding light on things like you're describing?

Casey: You know, it's funny because I'm kind of two minds, right? It's very much a, you know, an opposing response that I've had. Because on the one hand, this book would not exist without all of the documentation, all of the details contained in the FARA filings. Because again, I think it's worth reminding folks, I don't know if we've mentioned this already, all of this documentation is available online. It's all digitized. You just have to google Foreign Agents Registration Act database, it'll take you to the Department of Justice website. And it's all right there. Folks can look through what certain countries are doing. They can look through what certain firms or certain individuals are doing. And you can find plenty of information. You can track, you can trace, you can see who they're meeting with. You can see how much money is exchanging hands. You can also see what the impacts on the ground actually are.

And on the one hand, if you look at it from that vantage, it has been a resounding success, especially if you look at what other democratic countries-- places like Canada, or the United Kingdom, or even places like the European Union-- which have all dragged their feet on transparency tools like this. On the one hand, that makes it seem like a remarkable success. But on the other hand, I cannot tell you the amount of times where some documentation was missing or wasn't properly filed or wasn't filed on time. Or even if the information was misfiled, there was no follow-through, there was no prosecution, there was no investigation, there was no concern.

Because this is really the, the kind of the tragedy at the heart of something like this is, even though we saw this implemented in 1938 is when this legislation was passed, it was for almost 75 years later that it was just completely forgotten, completely overlooked. It wasn't until the rise of a figure like Donald Trump and the fact that he brought Paul Manafort, as well as a range of other foreign lobbyists, with him into the highest rungs of American power. That's when prosecutors first finally started paying attention to the Foreign Agents Registration Act. But of course, at that point, the horse had kinda left the barn, and these foreign lobbyists were running all around Washington. Sometimes they were filing things, sometimes they weren't. But of course doing all the while realizing that they were never going to be prosecuted. And certainly before 2016, they had every reason to think they would get away with this scot-free.



So look, you know, I found plenty of information within it, but there's still plenty of information that was missing. And of course, there were plenty of opportunities for either prosecution or other further investigation that would have thwarted, would have stopped a lot of these networks. And of course, at the end of the day, I would like to think stopped the rise of this industry in the first place, or at least kept it in check far more. But folks in Washington were just asleep at the wheel.

Matt: Yeah, I think one of the most damning indictments that you yourself have researched and write about in the book really brings us to a very current, tragic, explosive situation in Ukraine. Talk to our listeners a little bit about what you're reporting in your research found about the foreign lobbying ties to Ukraine, the impact on Russia's interference with the 2016 election and contemporary events.

Casey: Yeah, look, there's, we can spend the rest of the conversation talking about this Matt, but I'll, I'll just-- and, of course, the book has far more details on this-- but I think it's worth bringing things in this response back to the figure of Paul Manafort in particular. Because this is one of the reasons I ended up writing so much about him in the book. It wasn't just his attachment to Donald Trump in 2016 or his history as a foreign agent, as a foreign lobbyist writ large, but really what he did in Ukraine that, in many ways, we're still, still dealing with the aftermath of.

So just as a quick little bit of history: Folks may remember in the mid-2000s, there was a Ukrainian election that elected a gentleman named Viktor Yanukovich, who was very kind of a Soviet-era, very pro-Russian figure. They elected him to the presidency, but Ukrainian protesters took to the streets and they ended up having a revote after which Viktor Yanukovich was, um, you know, he was voted out. He lost office. And he realized he needed to bring someone in who could help reform his image, help improve his electability, and of course tamp down on concerns about Kremlin interference or pro-Russian interest. And so what he did is he brought in Paul Manafort. And what Manafort did in the late 2000s was really recreate this guy, so instead of these kind of boxy suits and this silly bouffant hair I mean he was, it was a slick, complete makeover, right? He had the tailored suits. He had the fresh cut. He taught Yanukovich how to speak in punchy sentences and how to get reelected. And that's exactly what happened in 2010. Viktor Yanukovich was elected to the presidency of Ukraine.

And all of a sudden Paul Manafort was best buddies with the sitting Ukrainian president. He could go into the guy's office whenever he wanted. And what we ended up seeing in 2010, 2011, 2012, 2013 is that Yanukovich began dragging Ukraine right back to the Russian orbit. He had plenty of personal connections there with President Putin and with Russian oligarchs, and was bringing Ukraine right back to where President Putin wanted it to be, which was fully embraced by Russia itself.

And of course, Manafort and Yanukovich were both making staggering amounts of money along the way, much of which was never reported and some of which Manafort himself ended up being convicted on. But the Ukrainian populace would not go with them. And again, if folks probably remember this 2013, 2014, the Ukrainian revolution, the Euromaidan revolution, which ended up toppling Yanukovich himself, primarily because of how much he was dragging Ukraine back into Russia's orbit. That results immediately in Putin sending troops into Crimea and into Eastern Ukraine. That was 10 years ago. I don't need to go through the entire history of everything since then, but of



course, Ukraine remains front and center in terms of tragedy, war, geopolitical instability and setting the stage for something potentially far worse.

Much of this, look, I'm not saying Paul Manafort was solely responsible for this, but he played a very key role in setting the stage for all that followed. I should also though highlight what he did in the 2016 campaign, not just for Donald Trump himself, but because of what we know from things like Senate intelligence reports-- which were GOP-led Republican-led reports. He was conducting back-channel conversations with a known Russian intelligence asset, having meetings, having conversations, discussing peace plans in Ukraine, sending proprietary internal documentation. We don't know what the Russians did with all of that information, I certainly have my guesses, but there is a reason that the Senate Intelligence Committee described Manafort as a grave counterintelligence threat. And again, this is while he was managing Donald Trump's 2016 campaign.

So that is the longwinded way of saying much of this is at the feet of Paul Manafort, this modern history that we are living through, and which is why I ended up writing so much about him in the book itself.

Matt: Yeah. I mean, I think it's pretty remarkable that it's been widely reported that a day before your book was released, you were placed on Vladimir Putin's blacklist. Essentially you were sanctioned by the Russian regime.

Casey: I guess I was. They did not give me a heads up, so that was a nice, uh, notification to wake up to. I assume Vladimir Putin read my book and did not enjoy it, which is why I ended up on the Russian sanctions list, although I'm sure he's busy with a few other things these days.

But look, my publisher was happy to get a little bit of a free promotion there. But no, I don't think I'll be going on a book tour in Moscow or Saint Petersburg anytime soon, unfortunately.

Matt: Yeah, for your sake, I hope you don't. I gotta ask you: What is it that continues to drive U.S. citizens to work on behalf of foreign governments and for our government to seemingly be satisfied with superficial reporting at best?

Casey: So there's kind of two ways to respond to that, Matt. On the one hand, why do Americans continue doing that? There's sometimes an ideological--

Matt: Is it all money?

Casey: I'm not going to say it's all money. There are times where there is an ideological element to it. So you see this with governments like Hungary-- to a lesser, significantly lesser extent-- places like China. You do see folks that either believe in Hungarian or Chinese foreign policy and want to do what they can to support them. Or they are, you know, simpatico with whatever the kind of ideological underpinnings.

And I'm reminded --I wasn't going to mention this-- but one of the funniest elements of the book was, there was a gentleman he was kind of a just like a social media troll, who was hired by the Hungarian government to post on their behalf. He ended up disclosing this in the Foreign Agents



Registration Act database. But one of the tweets that he disclosed in the database --and again, this guy is uh, he's a very conservative guys, a lot of ideological overlap-- but he tweeted, um, something to the effect of, I love Victor Orban. I love what he's doing in Hungary. I don't even need to be paid to do any of this. Now, of course, what we now know, because he filed it in the Department of Justice database is he was being paid to tweet that. And I imagine someone in Hungary looked at that and said, well, what the hell are we actually paying you for if you're willing to do this for free?

But, um, but yeah, I would say at the end of the day, a lot of it is money. And a lot of it is not just the money itself, but the knowledge that this is not illegal and that if they do not agree to sign up to work for the Saudis or the Emiratis or the, you know, whatever the regime may be, if they don't do that, then one of their competitors will. Another firm will, another individual will. So why shouldn't it be them?

I mean, this is the sense that I have gotten time and time and time again, is it really is the financial interest driving so, so, so much of this. As it pertains to why the U.S. government hasn't taken a, kind of a keener look at this or expressed more concern about it... Of course, after 2016, we did see a number of prosecutions. And we really saw this elevated to a part of public discourse that had never been before-- Although that has certainly faded a little bit-- but my sense is also that a lot of members of Congress, dozens and dozens, hundreds at this point, leave office and immediately become foreign lobbyists.

There is no prohibition. There is no limitation on what former members of Congress or former members of the Cabinet, former administration officials, could do once they actually leave. They can sign up, to represent foreign regimes almost immediately after they leave office. And they know that they are going to make significantly more money doing that than they would have ever done so in, uh, in public office.

So I, I, um, unfortunately, and very cynically suspect that also plays a significant role in their lack of willingness or concern around tackling some of these issues.

Matt: One of the other things that I thought was really fascinating about your book is the exposure that you gave to cut out companies, shell companies and foundations and not-for-profits in the whole schema of foreign lobbying. Because -- just as you exposed when we talked in episode 50 about these kleptocratic regimes taking advantage of various states that allowed for anonymous shell companies and things like that-- this is occurring as well with this foreign lobbying concept in so much as, I mean, if we, if we want to go back to Ivy Lee, it wasn't that he had a contract with the German government, was it? It was that he had a contract with a cutout of the German government who ostensibly was private industry.

Casey: Yeah, yeah. This is another element of the clear shortcomings of something like the Foreign Agents Registration Act. Because, Matt, I cannot tell you how many times I have seen lobbyists representing not the government itself or not foreign officials themselves, but some kind of nominally independent company or foundation to lobby on their behalf, do exactly what they would have been doing on behalf of the foreign governments, but instead are doing it on behalf of another organization.



Of course, this is what, as you just said, Ivy Lee was doing back in the 1930s. This is not a new playbook. But unfortunately, in the 1990s in the United States, Congress decided that they wanted to create a new loophole, a new separate piece of legislation for foreign lobbyists that are representing foreign companies. It's called the Lobbying Disclosure Act. And so long as a foreign lobbyist is representing not a foreign government or a foreign official, so long as they're representing a foreign company itself or a corporate entity, they don't have to register with the Foreign Agents Registration Act. They can register with the Lobbying Disclosure Act, which is significantly more watered down. There's significantly less information you have to actually disclose. And it's a significantly worse tool for those of us that are trying to research and report on how some of these networks operate. Because as you mentioned just a moment ago, all too often these companies are just cutouts. Especially in dictatorships, especially in those kleptocratic countries in which a single individual or a small number of individuals have grabbed all the levers of power and have completely taken over the financial industry or the corporate industry what have you in these countries themselves. That is who these Americans are now lobbying on behalf of, and now they have a loophole they can use to disclose even less information than they would have otherwise.

Matt: Yeah, and the same holds true for foundations and not-for-profits, right?

Casey: That's exactly right. And this is something that we've seen especially in the 21st century in the United States is that these foreign governments are sometimes not even necessarily using lobbyists themselves but are simply using high-level donations, uh, and grants, uh, and philanthropy to American foundations and American nonprofits. These are things like think tanks in Washington, D.C., which, of course, are key parts of the policymaking community, but do not have to disclose the financing they receive from foreign governments, especially foreign dictators. These are things like universities, including the U.S.'s leading universities, right? The Harvards, the Yales, the Stanfords of the world, which were supposed to disclose significant donations and receipts from foreign governments, but, similar to foreign lobbyists never did so until the late 2010s when the Department of Education finally investigated a small number of them and realized there were just billions of dollars these universities had never disclosed to the American public.

I mean, look, the list goes on and on and is used to affect policy. It's used to improve the image of these regimes. It's used to access students for proprietary research. I mean, there's all kinds of avenues. But, yes, this whole schema of opportunity is widely, widely available to foreign regimes around the world.

Matt: Well, we're talking with Casey Michel, the author of *Foreign Agents*, a repeat guest here on, uh, the program. He's exploring how American lobbyists and lawmakers threatened democracy around the world. And if we take that title of your work as sort of the central premise of your investigation, it begs the question: What needs to be reformed about our foreign lobbying policy and legislation in this country to prevent the types of examples that you outline in the book?

I mean, you prominently put on --and this is not any partisan, hit job that you do. You take issue with people on the left people, on the right, members of Congress from both major political parties leaving office and becoming multi-millionaires beyond their wildest imagination, because they start working for foreign governments. And at its core, there seems to be something antithetical to it.



Now, I get it. I'm a defense lawyer. I can appreciate the idea of the freedoms that we hold true in this country, the freedom to lobby for redress, the freedom of speech to talk about these issues, for you and I to laugh about the fact that you are sanctioned by a foreign adversary of the United States and likely-- not to put it too dark-- but like, if you were to step foot on Russian soil, you'd get probably kidnapped and incarcerated. In an extrajudicial way, let's be flat about that, right? And I'm sure that peeks into your consciousness here and there, but like, if we want a more perfect union, right? We hear political talking heads in our country. The lawmakers frequently talk about creating this quote more perfect union, acknowledging our flaws and moving forward towards perfecting the structure of government that we've elected to have in this country. How do we change the structure of how we deal with foreign agents for the better? Or can we?

Casey: I have been accused of being too optimistic in the past. I'm happy to be accused of that moving forward. I would like to think we can. And of course, I don't know that I would have written the book in the first place if I didn't think that we could change things for the better. Now, I don't think on my end-- and Matt, you have a far more well-versed legal mind than I do-- but my understanding is that approaching this with the idea that you can ban foreign lobbying outright is not necessarily impossible, but it is an uphill climb. Both constitutionally as well as just kind of structurally. That is to say, going at it with the idea that we can simply prevent any and all Americans from lobbying on behalf of foreign governments, foreign regimes, foreign oligarchs, foreign companies: in theory, that may be a valid approach, but in practice, that's going to be an uphill climb, which leaves us with things like reformulating the Foreign Agents Registration Act, which again, structurally is a perfectly fine approach to bringing transparency to this sector. Of course, it had been ignored. It had been overlooked. It turned into a backwater for decades--

Matt: And it's almost 100 years old.

Casey: And it is almost 100 years old. And of course, now that what I mentioned just a moment ago, also riddled with loopholes. So it's a matter of actually enforcing it. It's a matter of funding the investigations. It's a matter of making the online digital database more accessible, more streamlined. It's a matter of closing things like the Lobbying Disclosure Act loophole. There's a whole litany of things that you can do. Of course, the book details some of this as well as further resources for folks that want to go about actually reformulating this. I should say that as the book was being written in 2022 and early 2023, there were a number of bills that had proposed reforming the Foreign Agents Registration Act, strengthening some of the provisions, ending some of the loopholes. There were some fantastic bills that were being put forth, none of which ever ended up being signed into law.

It was always a little bit, I didn't really have the bandwidth to do a lot of reporting on that because, again, I was writing the book at the time. And my wife had also just had a baby, which sucked up a lot of oxygen and energy, so things were a little bit tight in terms of what I was investigating at the time. But what we now know is that those bills, almost all to a T, ended up getting into the Senate Foreign Relations Committee and then dying. They never made it out of the Senate Foreign Relations Committee. And the chairperson of that committee was a gentleman named Bob Menendez, who Matt you may recall, was up until very recently the long-standing senator from the great state of New Jersey. Who as we also now know was acting as, or conspiring to act as, a foreign agent on behalf of the government in Egypt. He was convicted just a few months ago, the very first time in



American history of conspiring to act as a foreign agent, as a foreign lobbyist. This was one of the most powerful figures in Washington, D.C., the most powerful senator in terms of American foreign policy who was blocking these Foreign Agents Registration Act reforms all on behalf of the government in Egypt. It was a, um, something I never anticipated going into actually writing the book, but it made for an interesting afterward, which-- I don't know if you got to that part-- but never thought I'd see Bob Menendez convicted on foreign agents-related charges, but that's the world we live in right now.

Matt: Yeah, and in fact, in October of 2023, you wrote a piece for the *Atlantic*, it was entitled "We've Never Seen Anything Like the Menendez Indictment: The Case Against the New Jersey Senator has the Potential to Reshape How America Deals With Foreign Agents." Do you still believe that, sitting here in 2024? The case is over, he's been convicted, sentencing is pending, there's some appellate rights being explored, but is he the poster child for everybody getting their act together when it comes to this?

Casey: I may have been a little bit too optimistic when I wrote that article, at least with that framing in particular, because there's a couple of things we have seen since. One, I believe it was early this year, maybe late last year, there was another indictment of another member of Congress. A member of the House of Representatives, a gentleman named Henry Cuellar, uh, from the great state of Texas, who like Menendez, is a Democrat-- and again, just to reinforce what you said a moment ago, Matt, this is, this is not a partisan screed, I did not intend it as it, this is very much a bipartisan issue. And I don't think it's any necessarily surprise that Menendez and Cuellar, are the two indicted-- and in Menendez's case convicted-- members of Congress on foreign agents -related charges are both Democrats. Cuellar is indicted on acting outright as a foreign agent on behalf of the government of Azerbaijan, taking tens of thousands of dollars in payment. His case is supposed to go to trial early next year.

You know, you, you asked me if the Menendez case was going to be a turning point. I thought at the time, yes, I think maybe now, no. Because voters in Cuellar's district in Texas, even with the indictments, reelected him to Congress. The first time in American history American voters have reelected an indicted foreign agent into Congress.

Now, of course, he's innocent until proven guilty. We'll see what happens with the trial. But, um, that put a dent in my optimism moving forward. And then of course the, uh, the reelection of Donald Trump, and all of the foreign lobbyists he has brought with him, has, you know, uh, raised certain concerns on my end about how his administration would, if at all, prioritize the fight against foreign lobbying and foreign lobbying networks themselves.

Of course, I will see what happens, but I think my optimism has been tamped down a little bit since that article.

Matt: Is this really about following the money?

Casey: In many ways, yes. I mean, this is this is, um this is the thing that tethers all of these regimes together, because we're no longer in the Cold War-era, where there were very clear ideological



comports, ideological differences between the Communist bloc and the capitalist West. Now, in the 21st century, every authoritarian, every kleptocratic, every oligarchic and every dictatorial regime is united around the pursuit of self-enrichment, enrichment of their friends and family members, are clinging to power for the sake of that enrichment. And, of course, immiserating populations underneath them, stealing from education budgets, health budgets, infrastructure budgets solely for the sake of making money themselves and keeping that spigot open.

And this is where the lobbyists come in, because those are their mouthpieces in Washington pushing for policies that will keep those regimes in power to keep that money flowing. And of course, these foreign lobbyists are taking a relatively small slice of this themselves, uh, in many ways, it's kind of pennies on the dollar, what they're being paid compared to what these regimes are actually making along the way. But for these lobbyists, still significant money. I mean, \$5 million here, \$10 million there, it all adds up. And unfortunately they have proven themselves successful time and again and, uh, more than what they're being paid more more worth than what they're being paid by these regimes. So yeah, I would say unfortunately all too often it is um, it's all about the money

Matt: Yeah, and and I and I think when you, when you, when you juxtapose what you have, I would refer to what you've done here as a scathing expose of the foreign lobbying infrastructure in our country and you, and you backstop that against the constitutional rights to lobby and the competing interests of national security that kind of layer into that ice cream sundae, the cherry on top really was the 2020 election. And I think you spend a serious amount of time in the book exposing that it really was a wildest imagination that there would actually be foreign interference with an election, a democratic election in our country until 2020. And I think you do a good job of exploring how FARA was basically inadequate in protecting our country from that. And is that going to be the high watermark for showing the warts of FARA, for showing the inadequacies of FARA as a legislative structure in our country? Or is this destined to become something that is really here to stay?

Casey: Look, Matt, thank you for the kind words, of course, obviously, thank you again for the opportunity to join you on this podcast to talk about some of these, these topics. Look, I'll cling to my optimism, if I can do that. I think that what we have seen over the past decade-- and again, I think it's worth remembering that if you go back even 10 years ago, like I was working on foreign lobbying-related stuff back in graduate school 10 years ago, and it was a lonely space, right? You could count on one hand, the other other researchers and even other academics that were working on any of these topics.

And at the time, it was bizarre for me. I don't know why, I didn't know why more people weren't interested in this. I didn't know why more people weren't concerned about this. And of course, fast forward to 2016, 2020, and here we are in 2024. Look, I've written a book about it. Plenty more folks are interested. There have been plenty of prosecutions, exposés, plenty of public discourse in ways that we would have never seen 10 years ago. And so I have to try to remind myself of the progress we have seen in that relatively short span of time. I would like to think that things will ebb and flow, but generally move in the direction of more concern, more public pushback and eventually more policy solutions surrounding things like the Foreign Agents Registration Act, as well as foreign lobbying. And I should say there has been-- one of the reasons that I am relatively optimistic about



this-- is that there is bipartisan, maybe not consensus, but certainly elements of bipartisan support on closing some of the loopholes that do exist.

So, there have been bills that haven't been signed into law, but there have been bills have been proposed on a bipartisan basis to take further aim at things like think tanks or other nonprofits as well as shoring up the Foreign Agents Registration Act in the first place. You know, it might not be until we get beyond the kind of Trump-era that we are in right now, just because the figure of Donald Trump sucks up so much of the oxygen in Washington. But I would like to think that in the not-too-distant future, we will finally begin seeing some of these policy solutions implemented. Because the alternative is something I don't even want to consider.

I mean, the alternative is simply selling American foreign policy to the highest bidder. It is the complete erosion of whatever sanctity remains of American democracy, and it is the complete degradation of all kinds of ways of life for the rest of us as dictators around the world just kind of feast on the carcass of the United States.

I would like to think we still have some life in us yet.

Matt: Yeah, well, uh, I think... that's a stark way to end, but, uh, that's all the time we have with Casey Michel. We're talking about his book, *Foreign Agents*. And it's a great read, I encourage everybody to pick it up and take a look at it. Casey, I hope that the next time we talk about FARA, we talk about some of its successes and that we can actually point to some successes with FARA

But for now, that's all the time we have on "The Presumption of Innocence." I'm your host. Matt Adams. We'll see you next time. Take care.