SAFEGUARDING MILITARY INFORMATION

Mr. SUMMERS of Texas. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 805) to insure further the military security of the United States by preventing disclosures of information secured through official sources.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, S. 805, with Mr. Forand in the chair.

The Clerk read the title of the bill.

Mr. SUMMERS of Texas. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the bill being considered, may I say for the benefit of those who were not here when we were discussing the rule resolution, is S. 805. The title of the bill is, to insure further the military security of the United States by preventing disclosures on information secured through official sources.

That title is not very clear. As a matter of fact, the purpose of the bill is to prevent those who have acquired information with regard to the contents of code messages by reason of and in connection with their employment by the Government, or who have acquired information with regard to the mechanical things which are used in decoding these messages, from imparting that information except as authorised by this bill.

The Secretary of War and the Secretary of the Navy say that this is especially important and urgent now, because many people who have been connected with decoding messages are being released from the employ of the Government, and we are advised that after their release there is no legislation and nothing else that can prevent them from giving away or selling this information which they acquired by reason of that employment.

The bill has as its final proviso that the provisions of the bill shall not operate against the committees of the House and the Senate seeking to acquire information.

If there are any questions that any Member would like to ask me in this rather informal discussion of the matter, I would be very glad to yield.

Mr. SMITH of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SUMMERS of Texas. I yield to the gentleman from Ohio.

Mr. SMITH of Ohio. Was it necessary after the other war to pass legislation of this kind, or was such legislation passed?

Mr. SUMMERS of Texas. I cannot advise the gentleman about that. I do not know.

Miss SUMNER of Illinois. Mr. Chairman, will the gentleman yield?

Mr. SUMMERS of Texas. I yield to the gentlewoman from Illinois.

Miss SUMNER of Illinois. This matter disturbs me very much from the standpoint of the press and the Congress trying to find out about the mistakes that are being made abroad. Is it not true that practically all the information we get about what our Government is doing with respect to Russia, England, and other countries comes in code and comes through our Government, and is found out by reporters and others from bureaucrats?

Mr. SUMMERS of Texas. I am not advised as to how they get the information. To be entirely candid, I assume that most of the important information on a great part of it acquired by the Government comes to the Government by code. The most vital secrets dealing with the security of the Government and dealing with the operations as to troops and other important problems come by code. Reports, discussions, and so forth, from our diplomatic agents I assume come by code.

Miss SUMNER of Illinois. You could pass a law that would cover that without taking this whole field. This way, it seems to me that we have in the Congress and the press will have no way to find out the terrible mistakes that are made by our bureaucrats in foreign countries.

Mr. SUMMERS of Texas. I appreciate the difficulty of the problem. It is tremendously difficult in dealing with questions of national safety to separate in legislation those things that can be given out by the people who are employed in the Government may not be given out by those employed in the Government. May I call the attention of the gentlewoman to the final section of the bill which is as follows:

Nothing in this act shall prohibit the furnishing upon lawful demand of information to any regularly constituted committee of the Senate or House of Representatives of the United States of America.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. SUMMERS of Texas. I yield.

Mr. WALTER. Does not the gentleman feel that in order to eliminate any question at all, an amendment should be inserted providing that the joint committees be included?

Mr. SUMMERS of Texas. That is perfectly satisfactory. I say to my friend, the gentleman from Pennsylvania, that in the report on the bill it is stated that it was intended by the Committee on the Judiciary that the joint committees be included. I think they are included and how in effect, but if anybody has any question about that we would be very glad to have that amendment. I would
be very glad personally, as I have indicated to my distinguished friend, the gentleman from Indiana, when he indicated an amendment which he wanted to move in order to harmonize the two sides of the House, to accept that amendment. In other words, may I assure the gentlewoman that information that certainly is not on my part, and I do not believe there is any disposition on the part of anybody on the Democratic side, not to do this thing.

Miss SUMNER of Illinois. I do not think there is either.

Mr. SUMNERS of Texas. I think we are trying to do the job right.

Miss SUMNER of Illinois. I think it is a difficult thing, but I want to call the attention of the gentleman to this point, that even if you have that amendment you do not have your investigations by your congressional committees, and some Member would have to find out, perhaps from some bureaucrat, of some of those egregious mistakes that are made and expose them here on the floor of the House. I look back at my speeches since I have been in Congress. Half of them have been obtained through some bureaucrat or somebody in the military. I think it is extremely important.

Mr. SUMNERS of Texas. I appreciate the importance of it.

Mr. SCRIVNER. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. SCRIVNER. One thing that disturbs me is this possibility. There are many men now in the military or naval service who have personal knowledge of some things which were done that we know should not have been done.

Mr. SUMNERS of Texas. If the gentleman will permit me to interrupt him, that information would not be affected by this legislation.

Mr. SCRIVNER. The reason I say it might be is because some of that material or something with reference to it might have been transmitted by cryptograph and therefore I think that the things that are said in subsection 3 on page 3 it might act as a gag upon those men to prevent them from telling me or giving me some information that I think the public should have. They would be fearful of the possibility of a penitentiary offense for disclosing to me something that did not come to them through cryptograph but through the agencies of government was transmitted in another way. If that were true, they would not feel free to permit the disclosure of that information.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. SUMNERS of Texas. Mr. Chairman, I yield myself five additional minutes.

That has to happen when a country is protecting the secrets of the Government.

Mr. SCRIVNER. I agree with the gentleman, in time of war that is true, but in this case and I think some mistakes which were made, which, if brought to light now, might not be repeated.

Mr. SUMNERS of Texas. The war is over in a sense, but the clean-up is not over. I think the situation is just as black in the world today as it can possibly be. That is my judgment about it. Do not think this country ever faced a situation where the thing that we are doing, should we be pretty careful right now.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. MICHENER. Just what I want to emphasize what my distinguished chairman has just said, that we ought to be protected we can not do this thing equally the same as that of my chairman, as he knows.

Mr. SUMNERS of Texas. I know that.

Mr. MICHENER. Do not Mr. National really think, in view of the questions that have already been asked, and considering the uncertainty of the committee itself as to what this language means, that it would be well to take this bill back to the Committee on the Judiciary, to have the committee at once, have the people who drafted the bill before the committee and tell us what they do, at least, have the committee and the gentleman think that would be good legislation? Then we could all get back of the thing that we understand, because we want to prevent leaks, which this bill attempts to prevent, without bringing in any extraneous of political matters.

Mr. SUMNERS of Texas. I think it is highly important to prevent the thing which the Army and Navy is trying to prevent. I think it is highly important to do it now. My distinguished friend from Michigan and make this statement publicly: If this bill is enacted, and it develops that the danger grows out of the legislation, which seems to be the apprehension on the part of some, the Judiciary Committee would immediately take cognizance of that fact and be in its remedial legislation. That is what I believe.

Mr. ROBSION of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield to my friend from Kentucky.

Mr. ROBSION of Kentucky. I am in full accord with the provisions of the bill on page 2. The bill has been designed concerning the nature and preparation or use of any code, cipher, and so forth is concerned, the mechanics of it. That ought to be protected. But what I do object to is on page 2, where it precludes the use of any information which has been or purports to have been derived from code messages. In other words, let the mechanics be protected, but the messages should be given to the public.

Mr. SUMNERS of Texas. What is the use of protecting the machine if you do not protect the material that goes through the machine?

Mr. ROBSION of Kentucky. But the messages.

Mr. SUMNERS of Texas. The only importance of the machine is that it has to do with the message.

Mr. ROBSION of Kentucky. No. They claimed in our committee that the purpose was to prevent the disclosing of how the code was made.

Mr. SUMNERS of Texas. No. It was both.

Mr. ROBSION of Kentucky. But when a message has been translated into English, it ought to be available to the people.

Mr. SUMNERS of Texas. If you are going to permit people to peddle around what is there? No. If you are going to them have the machine. What is the use having the machine?

Mr. JONKMAN. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. JONKMAN. The gentleman has said that, due to the fact that a great many employees and left the Government, these codes will become public property. Would it not be simpler to change the codes? When a trusted employee leaves a bank, they change the combination.

Mr. SUMNERS of Texas. No. What they are trying to do is to prevent publicity on many important codes. We are not through with this war. We are sitting on dynamite right now.

Mr. HANCOCK. The time of the gentleman has expired.

Mr. HANCOCK. Mr. Chairman, I yield myself 10 minutes.

Mr. JONKMAN. The gentleman from New York is recognized for 10 minutes.

Mr. HANCOCK. Mr. Chairman, I hope this debate will not degenerate into a party issue because there should not be any politics in it. That is what has been thus far. This bill involves the Army, the Navy and the State Department, the FBI, various other departments of the Government, and the national safety; we are all interested alike, regardless of party, this debate goes far beyond the Pearl Harbor controversy.

As the bill stands now I cannot go along with it. There are certain glaring defects which ought to be corrected, and I think you will agree that they should be if you will follow the debate closely and put any partisan ideas you may have over your principles.

Mr. BUFFETT. Mr. Chairman, will the gentleman yield?

Mr. HANCOCK. Let me finish, please.

It is important this bill be considered either in the Senate or in the House Judiciary Committee. It passed the Senate without debate. It was this debate and held by the Committee by subcommittee No. 2 after hearing only two witnesses, one from the War Department and one from the Navy Department. When it reached the full committee it was considered very briefly. Although opposition was expressed the bill was reported out. Let us see what the bill does.

It is divided into two sections. Section 1 applies to members of the armed forces of the United States and employees of the Government performing services for the United States. Section 2 applies to members of the armed forces of a foreign nation or employee of the Government of a foreign nation. Our committee section 1 and section 2 are practically identical.

I believe that clauses 1, 2, and 4, of both sections are section 2 of Ohio. They are highly important in war and peace and are designed to protect and preserve the secrecy of our codes and our methods of cryptography, and it would be suicidal to do otherwise.
At the same time they are designed to protect the secrecy of our cryptanalysts, our war planners, and the billion dollars we are breaking down and interpreting the codes of foreign nations. These two things are advisable at any time; in time of peace especially. The story of the thousands of cryptographers in the war with Japan did as much to bring that war to a successful and early close as did any other thing.

Their work saved thousands of precious lives. They are entitled to glory and national gratitude which they will never receive. We broke down the Japanese code almost at the beginning of the war, and we knew it at the finish of the war. Because of that knowledge we were able to intercept and destroy practically every supply ship and convoy that tried to reach the Philippines or any Pacific island. We knew, for example; that shortly after MacArthur landed on Leyte a large convoy with 40,000 Japanese troops was dispatched to reinforce the Japanese forces on Leyte. The convoy was shadowed by our airplanes at sea and was totally destroyed. Not a Jap reached Leyte.

Another example of the way in which certain high-ranking Japanese admiral was headed for a certain spot at a certain time. When he arrived there our planes were on hand to receive him. I mention these two instances—they could be multiplied many times—to show how important it is to keep the secret of the codes of the other nations secret. If anyone, our friends or our enemies, could trace the progress of what has been done before; and if you read them carefully, I doubt if you give your approval. Let me read these clauses to you in condensed form.

That means that anyone in the Government service who, by reason of his employment, obtains any knowledge of any kind derived from a code message of this or of a foreign country cannot communicate it to anyone whatever, for any purpose, except our own messengers and our system of sending secret messages and of intercepting and interpreting the secret messages of a foreign nation.

But when we come to clauses 3 and 5 of both sections 1 and 2, I believe the bill goes way beyond the real reason for the law. I believe the bill goes far beyond anything that has been done before; and if you read them carefully, I doubt if you give your approval. Let me read these clauses to you in condensed form,

By virtue of his employment—having obtained or having knowledge of any material which has been or purports to be obtained under the authority of this or any other code, cipher, or cryptographic or cryptanalytical system of the United States or any other country, such knowledge has been or purports to have been derived from cryptanalysis of messages transmitted by the United States or any other foreign government, shall truthfully, without authorization by the head of the department or agency by which such person was employed, communicate, publish, furnish, transmit or in any other manner publish, any such information or material shall be fined not more than $10,000 or imprisoned not more than 10 years or both.

That means that anyone in the Government service who, by reason of his employment, obtains any knowledge of any kind derived from a code message of this or of a foreign country cannot communicate it to anyone whatever, for any purpose, except our own messengers and our system of sending secret messages and of intercepting and interpreting the secret messages of a foreign nation.

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Mr. HANCOCK. Mr. Chairman, I yield 5 minutes to the gentleman from California, Mr. DACAMO.

Mr. DACAMO. Mr. Chairman, I am extremely hopeful that this bill will be recommitted to the committee whence it came for further study. I am sure that the committee, as it is constituted, is as careful as we ought to be in legislating on this day that will be the result of our deliberations. I wonder whether any one here who does not realize that if the measure which is now under consideration had been on the law books of France following World War I, that Clemenceau would not have been able to write his new celebrated memoirs; that if similar legislation had been on the statute books of England that Lloyd George would not have been permitted to write his informative memoirs; and if it had been on the statute books of the United States at that time, the Secretary of State Lansing would not have been able to write his memoirs, all three of which, with hundreds of others from the pens of ranking statesmen of different days, have contributed so much to the writing of the true history of World War I.

We have been told, also, that there is some material of a secret nature in the immediate placing of this bill upon the statute books, even though, as the record discloses, the measure has been prepared in this building, in the gentleman’s office, in the little room near the post office, and the material which has been secured has the disquieting interest of the report from the Pearl Harbor Investigating Committee, in the hope that he might in some way contribute to the news of war. It may be that the devolution of duties, or the failure to have carried out my committee responsibilities with such enthusiasm up to this date if I had thought that any letters such as are contained in this bill were to be placed upon it.

If this bill had been enacted earlier, we would not have received to date all the reports which have been referred to by my distinguished colleague from Pennsylvania, the top secret reports which have come to us from the War Department, the Secretary of State, and the government agency would have had to run and get permission from all sorts of high officials before they could have released the information. Of course, that same bill on the statute books tomorrow and there are still further reports to come to us, still further reports that we are seeking and will be released to us with such facility and so freely as the ones that have already been placed in our hands, because there will be a procedure to follow, there will be regulations that will have to be complied with, authorities which will have to be secured from this House. There would be no end to that type of work that would have to be untangled before all the regulations to be promulgated by the Secretary of State, the Secretary of War, and the Secretary of the Navy under this legislation could be complied with.

I ask you to defeat this legislation, or, better than that, send it back to the committee on a motion to recommit for further consideration.

Mr. SUMMERS of Texas. Mr. Chairman, I yield the gentleman from Tennessee (Mr. KEFAUVER).

Mr. KEFAUVER. Mr. Chairman, it is unfortunate that there is any misunderstanding about this legislation. Very frankly I think it would have been better if we could have had a hearing and brought out these points that have been raised here and he had settled in the committee. Full hearings would probably have prevented this uncertainty and misunderstanding on the floor.

I did not think at the time the bill left the committee there was much question about it or opposition to it. I am sure everybody is speaking with the best of motives, because in the first place, I am certain that everyone wants to protect the codes on which we have spent so much money, on which we have worked so hard. We have built and spent our protection. I am also certain that no one here wants an official of the Government who in a secret capacity or in a confidential capacity, get information which might still prejudice or endanger the lives of our soldiers in the far-flung spaces of the world, to divulge that information.

On the other hand, I fully appreciate the concern that some Members may have about one section of this bill. No one is more eager than I to protect our freedom of speech and of the press. Whenever the course of the matter takes a form that will prevent it, I think it should. Referring to this, I will look at the bill under consideration while I read the section of that bill which pertained to diplomatic codes you will see that there is not very much difference. I read:

Whoever by virtue of his employment by the United States shall obtain from another or shall have custody of a book or other writing containing any official diplomatic code or any matter prepared in any official diplomatic code and shall not have been authorized to receive such a code or matter, or any other such code or matter, or any index which was obtained while in the process of translating or converting the said government and its diplomatic mission in the United States, shall be fined not more than $100 or imprisoned not more than 2 years, or both.

I think you will find that is about the substance of this bill. The only difference is that this bill applies to official diplomatic codes in connection with the armed services.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. KEFAUVER. I yield to the raising.

Mr. WALTER. When was that statute enacted?

Mr. KEFAUVER. This statute was enacted on June 10, 1933. It is 48 Statutes 122. It was enacted after full debate and after an argument was made that it might stifle the press and interfere with the freedom of the press and might not be able to publish information which should be in the public interest be published. Yet, I have read no one complaining that this act, which is this act of June 10, 1933, has done anything of that sort.

Mr. SMITH of Ohio. Mr. Chairman, will the gentleman yield?

Mr. KEFAUVER. I yield to the gentleman.

Mr. SMITH of Ohio. What would prevent the Army or Navy from putting any of its contracts in code?

Mr. KEFAUVER. I must confess I am not, enough of an expert on code or how the Army and Navy handles its matters to say.

Mr. SUMMERS of Texas. May I suggest to my friend that common sense would prevent it probably.

Mr. KEFAUVER. I think so.

Mr. HALE. Mr. Chairman, will the gentleman yield?

Mr. KEFAUVER. I yield.

Mr. HALE. Would the gentleman enlighten me as to the meaning of section 27? Could he cite an example or a case in point?

Mr. KEFAUVER. I just do not understand what it means.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.
Mr. SUMNERS of Texas. Mr. Chairman, I yield four additional minutes to the gentleman from Tennessee.

Mr. KEFAUVER. I will say to the gentleman I was not on the subcommittee when we voted on the bill, but I suppose if someone who is employed or working on the code system of a foreign government gave out information concerning the nature of the preparation of the code or the cryptographic system as provided in section 2 or the apparatus or transmitter or any information which he received as a result of working with the code, he would be subject to this section.

Mr. SPRINGER. Mr. Chairman, will the gentleman yield?

Mr. KEFAUVER. I yield.

Mr. SPRINGER. Is it not a fact that section 2 relates to those who are employed by or perform services for foreign governments, while section 1 relates to those who are employed by and perform services for the United States of America?

Mr. KEFAUVER. Yes; that is correct.

Mr. HALE. I think I understand that. My point is that, of course, we would not have any jurisdiction to punish anybody who is not within the jurisdiction of the United States. It would not do any good for us to legislate with reference to a person in the employ of a foreign government unless we could have some jurisdiction over him. This simply relates to citizens of the United States. I do not see why section 2 is necessary if it relates to aliens. I would not expect an alien would be able to divulge the code of the United States, or that if he did we could catch him.

Mr. KEFAUVER. I assume, in answer to the question of the gentleman, that we have a lot of citizens who are working with foreign nations in Washington, in their decoding section.

Mr. HANCOCK. Mr. Chairman, will the gentleman yield?

Mr. KEFAUVER. I yield.

Mr. HANCOCK. We also have many Americans who are serving in foreign armies.

Mr. KEFAUVER. That is correct. I do not see anything to be terribly concerned about in connection with this legislation, but I do think it is most important that the country understand it and that the Congress understand it. It is most important that we get something passed very quickly. In view of the fact that some Members seem to have many doubts about the matter, and that we have not had hearings, it seems to me it might be wise to give us a few days and have hearings on this legislation and then bring it back and submit it to the Congress again when the committee can have more unanimity. I think it would be disastrous if this measure were defeated because we cannot allow all of these employees, who in the confidence of the United States Government or the armed services received this information, to go out and endanger the lives of our people and our relations with foreign countries.

Mr. HINSHAW. Mr. Chairman, will the gentleman yield?

Mr. KEFAUVER. I yield.