

INTELLIGENCE ACTIVITIES

the uniformed services who were hospital patients on the date of enactment had the right to elect retirement benefits computed in accordance with laws in existence prior to the Career Compensation Act, if such members were retired for physical disability during the 6 months immediately following the date of enactment

Due to the fact that regulations required by other sections of title IV of the Career Compensation Act were not promulgated until after the 6 month period had expired, particularly insofar as they pertain to the payment of retired pay to non Regular personnel, such persons were not able to exercise their election prior to the expiration date

The proposed legislation, therefore would extend the election date to December 31, 1950, but would not create any other new rights or benefits and, in all probability, will not enlarge the number of personnel entitled to the right of election

While the exact number of persons affected by the proposed legislation is not known, the Department of Defense has indicated that there are approximately 200 individuals who may be adversely affected by failure to extend the election period for the proposed additional 6 months

Thus early enactment of the proposed legislation will enable the Departments to retire certain personnel with an election which was originally contemplated under the Career Compensation Act

Pending enactment of the proposed legislation, many personnel are being continued on full pay and, as a result, early enactment of the proposed legislation will undoubtedly result in a saving to the Government

The Committee on Armed Services has been advised by the Department of Defense that it favors the proposed legislation and it has likewise been advised that the Bureau of the Budget has been consulted and offers no objection to the proposed legislation.

**CRYPTOGRAPHIC SYSTEMS AND COMMUNICATION
INTELLIGENCE ACTIVITIES—PREVENTION OF
DISCLOSURE OF INFORMATION**

For text of Act see p 159

Senate Report No 111, Mar 11, 1949 [To accompany S 277]

House Report No 1895, Apr 6, 1950 [To accompany S 277]

The House Report repeats in substance the Senate Report.

House Report No 1895

THE Committee on the Judiciary to whom was referred the bill (S 277) to enhance further the security of the United States by preventing disclosures of information concerning the cryptographic systems and the communication intelligence activities of the United States, having

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considered the same, reports favorably thereon without amendment and recommends that the bill do pass

PURPOSE OF THE BILL

The purpose of this bill is to prevent the revelation of important information about the United States communication intelligence activities and United States codes and ciphers by persons who disclose such information without proper authority and to prescribe penalties to those knowingly and willfully revealing such information

GENERAL INFORMATION

This bill makes it a crime to reveal the methods, techniques, and materiel used in the transmission by this Nation of enciphered or coded messages. It does not control in any way the free dissemination of information which might be transmitted by code or cipher. Further, it makes it a crime to reveal methods used by this Nation in breaking the secret codes of a foreign nation. It also prohibits under certain penalties the divulging of any information which may have come into this Government's hands as a result of such a code breaking. The reason for the latter prohibition is to prevent the indication to a foreign nation that we may have broken their code system.

At present two other acts protect this information but only in a limited way. These are the Espionage Act of 1917 (40 Stat 217) and the act of June 10 1933 (48 Stat 122). Under the first unauthorized revelation of information of this kind can be penalized only if it can be proved that the person making the revelation did so with an intent to injure the United States. Under the second only diplomatic codes and messages transmitted in diplomatic codes are protected. The present bill is designed to protect against knowing and willful publication or any other revelation of all important information affecting United States communication intelligence operations and all direct information about all United States codes and ciphers.

As the matter now stands prevention of the disclosure of information of our cryptographic systems exclusive of State Department codes, and of communication intelligence activities rests solely on the discretion, loyalty and good judgment of numerous individuals. During the recent war there were many persons who acquired some information covered by this bill in the course of their duties. Most of these individuals are no longer connected with the services and are not now prohibited from making disclosures which can be most damaging to the security of the United States. They are subject to the temptations of personal gain and of publicity in making sensational disclosures of the personal information within the purview of this act.

The purpose of the bill is well summarized in the quotation from the Joint Congressional Committee for the Investigation of the Attack on Pearl Harbor which recommended on page 253 of the report, that—

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* * * effective steps be taken to insure that statutory or other restrictions do not operate to the benefit of an enemy or other forces inimical to the Nation's security and to the handicap of our own intelligence agencies. With this in mind, the Congress should give serious study to among other things, * * * legislation fully protecting the security of classified matter.

This bill is an attempt to provide just such legislation for only a small category of classified matter a category which is both vital and vulnerable to an almost unique degree.

Earlier versions of this same bill (S 805, 79th Cong., S 1019, 80th Cong. and S 2680 80th Cong.) would have penalized the revelation or publication not only of direct information about United States codes and ciphers themselves but of information transmitted in United States codes and ciphers. This provision is not included in the present version. Under the bill as now drafted there is no penalty for publishing the contents of United States Government communications (except, of course those which reveal information in the categories directly protected by the bill itself). Even the texts of coded Government messages can be published without penalty as far as this bill is concerned whether released for such publication by due authority of a Government department or passed out without authority or against orders by personnel of a department. In the latter case, of course, the Government personnel involved might be subject to punishment by administrative action but not it is noted under the provisions of this bill.

The bill while carefully avoiding the infringement of civil liberties extends the protected field covered by the extremely narrow act of June 10 1933 (48 Stat 122), the latter being of far too limited application to afford to certain highly secret Government activities the protection which they need. The need for protection of this sort is best illustrated by an account of the very circumstances which surrounded the enactment of the act of June 10, 1933. In 1931 there had been published in the United States a book which gave a detailed account of United States successes in breaking Japanese diplomatic codes during the decade prior to publication. In 1933 it was learned that the same author had already placed in the hands of his publishers the manuscript of another book which made further detailed revelations of United States success in the breaking of foreign diplomatic codes. Immediate action secured the passage by the Congress of the measure of June 10 which effectively stopped publication of the second book. Unfortunately, the first book had done and continued to do irreparable harm. It had caused a furor in Japanese Government circles and Japanese diplomatic codes had been changed shortly after its appearance. The new codes were more complex and difficult to solve than the old ones and throughout the years from then until World War II not only the Japanese diplomatic cryptographers but the military and naval cryptographers as well were obviously devoting more study to cryptography than they ever had before. In 1934 they introduced their first diplomatic machine cipher

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Year by year, their codes and ciphers improved progressively by radical steps, and United States cryptanalysts had more and more difficulty and required more and more time to break them. It can be said that United States inability to decode the important Japanese military communications in the days immediately leading up to Pearl Harbor was directly ascribable to the state of code security consciousness which the revelations of a decade earlier had forced on Japanese officialdom.

ANALYSIS OF THE BILL

The bill would make it a crime punishable by not more than \$10,000 fine or 10 years' imprisonment, or both, to knowingly and willfully reveal two categories of information, namely (1) information which would nullify the efforts of United States communication intelligence agencies and (2) information which would permit foreign governments to read the secret official communications of the United States. Information of the first category is covered by the following phrases (qualifying "information")

- * * * concerning the nature preparation or use of any code, cipher, or cryptographic system of * * * any foreign government
- * * * concerning the design construction, use, maintenance or repair of any device, apparatus or appliance used or prepared or planned for use by * * * any foreign government
- * * * concerning the communication intelligence activities of the United States or any foreign government
- * * * obtained by the processes of communication intelligence from the communications of any foreign government

Information of the second category is covered by inclusion of the words, 'the United States or' in the first, second, and third of the phrases quoted above. The bill does not prohibit the publication or disclosure of United States Government messages in general.

In addition it should be noted that the restrictions on disclosure apply only to the types of classified information defined in the phrases quoted above. The bill specifies that the classification must be in fact in the interests of national security.

RECOMMENDATIONS OF THE DEPARTMENTS

There are printed below, letters from the Secretary of Defense and from the Acting Secretary of the Navy to the Speaker of the House of Representatives recommending the enactment of this legislation.

THE SECRETARY OF DEFENSE
Washington, December 31, 1948

The honorable the SPEAKER OF THE HOUSE OF REPRESENTATIVES
Washington, D. C.

DEAR MR. SPEAKER: Attached is a letter addressed to you by the Acting Secretary of the Navy recommending the enactment of a proposed draft of legislation also attached bearing the title to enhance further the security of the United States by preventing disclosures of information concerning the cryptographic systems and the communication intelligence activities of the United States."

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This legislation has been approved by me for inclusion in the National Military Establishment legislative program for the Eighty-first Congress, first session and responsibility for handling it on behalf of the Establishment has been placed in the Department of the Navy

Sincerely yours,

JAMES FORRESTAL

NAVY DEPARTMENT
Washington December 23, 1948

The honorable the SPEAKER OF THE HOUSE OF REPRESENTATIVES
Washington D C

DEAR MR SPEAKER There is transmitted herewith a draft of a proposed bill to enhance further the security of the United States by preventing disclosures of information concerning the cryptographic systems and the communication intelligence activities of the United States

The purpose of the proposed bill is to insure further the military security of the United States by providing that the unauthorized disclosure by any person of classified information concerning the cryptographic systems and the communication intelligence activities of the United States shall be a statutory offense

During the war it was necessary to make a great many matters of a confidential nature accessible to a considerable number of service personnel and employees who have since been severed from their wartime duties and who may fail to safeguard official information which is within their knowledge Existing laws do not adequately protect the security of information of this character and it is considered of utmost urgency and importance from the standpoint of national security that legislation be enacted which will fully protect the security of classified matter The Joint Congressional Committee for the Investigation of the Attack on Pearl Harbor recognized this fact and in its report recommended that Congress give serious study among other things to legislation fully protecting the security of classified matter' (p 253)

The proposed bill represents the combined views of the Army Navy Air Force, Central Intelligence Agency and the Department of State as to the legislation which is necessary to prevent the unauthorized disclosure of such classified information The Navy Department is sponsoring this legislation on behalf of all of the foregoing organizations The proposed bill is identical with S 2630 (80th Cong 2d sess) as reported from the Armed Services Committee

Earlier versions of the proposed legislation (S 805 79th Cong and S 1019 80th Cong) would have penalized the revelation or publication not only of direct information about United States codes and ciphers themselves but of information transmitted in United States codes and ciphers This provision is not included in the present version

The proposed bill extends the protected field covered by the extremely narrow act of June 10 1933 (48 Stat 122 22 U S C 815) which act is of far too limited application to afford to certain highly secret Government activities the protection which they need The proposed legislation does not in any way control the free dissemination of information which might be transmitted by code or cipher unless the information has been obtained by clandestine interception and cryptanalysis

At present there are two acts affording limited protection to cryptographic information These are the Espionage Act of 1917 (50 U S C 31 et seq) and the above mentioned act of June 10 1933 Under the Espionage Act unauthorized revelation of information can be penalized only if it can be proved that the person making the revelation did so with the intent to injure the United States Under the 1933 act only diplomatic codes and messages transmitted in diplomatic codes are protected The proposed legislation is designed to protect against publication or any other revelation regardless of intent of all important information affecting United States communication intelligence operations and all direct information about all United States codes and ciphers

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The Navy Department, in conjunction with the Army, Air Force, Central Intelligence Agency, and the Department of State, strongly recommends the enactment of the proposed bill

The Navy Department has been advised by the Bureau of the Budget that there is no objection to the submission of this proposed legislation to the Congress

Sincerely yours,

W JOHN KENNEY,
Acting Secretary of the Navy

The Senate has amended the bill as recommended by the Departments by including in section 1 of the bill the words "knowingly and willfully" The purpose of this amendment is to make it clear that it would not be an inadvertent, idle, indiscreet disclosure, but one which was made for the purpose prohibited

The committee recommends that the bill, S 277, as amended by the Senate, do pass

ARMY AND NAVY NURSES — APPOINTMENTS

For text of Act see p 160

Senate Report No 1267, Apr 19, 1950 [To accompany H R 5876]

House Report No 1375, Oct 10, 1949 [To accompany H R 5876]

The Senate Report repeats in substance the House Report

Senate Report No 1267

THE Committee on Armed Services to whom was referred the bill (H R 5876) to amend the Army Navy Nurses Act of 1947, to provide for additional appointments and for other purposes, having considered the same report favorably thereon with amendments, and recommend that the bill, as amended, do pass

PURPOSE OF THE BILL

This bill proposes to reopen for a period of 1 year the integration program for the Regular Army Nurse Corps and the Women's Medical Specialist Corps of the Regular Army and to raise (also for a period of 1 year) the age limit for appointment in the Army and Navy Nurse Corps It also effects a number of technical changes in the Army-Navy Nurses Act of 1947 which are rendered necessary because of the enactment of the Officer Personnel Procurement Act of 1947 and the Reserve Retirement Act of 1948

EXPLANATION OF THE BILL

The majority of the provisions of this bill are of a technical nature and are best understood by referring to the section by section analysis which follows The most important substantive provision has to do with