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Conference for Proposed Legislation Against
Unauthorized Dissemination of Communication
Intelligence - II

Present: Lt. (jg) John V. Connorton, USNR
Lt. Floyd W. Tomkins, Jr., AUS

Place of Conference

1. The conference was held at 1400 on Thursday, 18 May 1944 at Arlington Hall Station.

Discussion of Minutes

2. The minutes of the last meeting and comments of superior officers thereon were discussed. It appeared that responsible authorities agreed on the advisability of securing legislation; however, present assignment is to be confined to securing the background and reaching a decision concerning the objectives to be attained, leaving the actual drafting and procuring of legislation to the authorities concerned. Lt. Connorton reported on the progress of his report on the historical background of the proposed legislation. Lt. Tomkins discussed a tentative draft to serve as a sample to be included in the final report.

Conclusions from the Study of Certain Documents

3. It was pointed out that despite the fact that the British Official Secrets Act was in force after the last war violations of the Act had occurred in England, seemingly without penalty to those involved in publicity leaks. This may have been due to the fact that those responsible were men of important position. This would indicate that the preventive effect of the law was not as efficient as censorship.

The fact that the British legislation was framed in general terms and did not mention cryptographic work specifically suggested the expedient of achieving the result we desire by means of similar general legislation, thus disguising the fact of the importance of cryptographic work and giving broader protection for all classified work. In connection therewith the advisability of contacting higher authorities who would coordinate the problem of protecting security with other branches of the Army and Navy was considered.

~~SECRET~~~~SECRET~~Estimate of Number of Persons Connected with Cryptographic Activity

4. Information from sources responsible for the distribution of cryptographic systems and technical instructions in the Army showed that existing records are inadequate to supply an accurate estimate of the number of persons entrusted with cryptographic documents. Distribution within the Army is reported by organizations within which a number of persons having access to the documents varies widely. Besides the armed forces approximately nine executive agencies of the Government receive material of this sort from Army sources in varying amounts. By a rough estimate the number of persons having access to this material exceeds 50,000.

It is estimated that over 3,000 persons connected with the Army and approximately 5,000 with the Navy have had broader training involving cryptanalysis and in connection with their work have had access in varying degree either to information concerning enemy ciphers or codes or information concerning the success of our operations in this field.

Proposed Form of Final Report

5. It was agreed that conclusions arrived at as a result of these conferences should be presented under the following headings:

- A. Purpose of the Report
- B. Historical Background
- C. Deficiency of Present Legislation
- D. Proposed Legislation
 - (1) Necessary Elements to be Contained therein
 - (2) Tentative Draft
- E. Considerations in Procuring Legislation

Interpretation of the Word "Wilfully"

3/ 6. In connection with the word "wilfully" in the Diplomatic Code Act of June 10, 1943, a cursory investigation revealed a general acceptance of the term as meaning "intentionally or designedly without lawful excuse, but not necessarily with an evil intent". Therefore it would seem that the Act as now in force would not require proof of an affirmative intent to injure the United States.

~~SECRET~~~~SECRET~~Continuation of Military Censorship

7. The value of continuing military censorship over all items of military information, particularly the subject with which we are concerned, as opposed to the laws providing penalties for the disclosure of classified information was again considered. In view of the anticipated reluctance of Congress to permit any continuing censorship this method seemed impracticable, but it was suggested that some sort of control might be enacted without the use of the objectionable term "censorship". The advantage of preventing breaches of security rather than punishing them after they occurred has already been pointed out.

Conferees:

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APPROVED:

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