

Comments on H.R. 4220. Report No. 18

Re Section 1:

This attempts to protect our own government's documents against compromise or disclosure of contents. Although the word "code" is not mentioned in this section, the wording is such as to cover the specific case of a codebook. It would probably also cover the case of the disclosure of the details of a cipher system (in which no book or document may be involved), or of cipher keys pertaining to cipher systems. However, attention is directed to the existence of a statute (Sec. 32, Title 50, U.S. Code) which already fairly well covers these cases. The latter is applicable to the disclosure or compromise of "a document, writing, code book, signal book, sketch, photograph, photographic negative, blue print, plan, map, model, note, instrument, appliance, or information relating to the national defense". A copy of this statute is attached.

The latter statute covers the disclosure to "any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly". It would seem also to cover the case of disclosure without the direct intermediacy of any foreign agent, as, for example, disclosure to the general public via the medium of the daily press, magazines, books, etc., since the phrase "either directly or indirectly" also covers this type of indirect disclosure to a foreign government.

Consequently, it seems to me that so far as the War Department is concerned, the proposed legislation in Section 1 of the bill would serve no need not already covered by existing statutes. Moreover, the penalties provided under the proposed legislation are far more lenient than those under the existing statute. In addition, attention is directed to the fact that the section as it now stands would apply only to persons while actually in the employ of the government, and would not be applicable if disclosure were made after resignation or dismissal. This seems to be clear from the wording at the end of the section: ". . . and moreover shall forfeit his office and be forever afterwards disqualified from holding any office under the Government of the United States". Finally, this section is so broad in its wording, and so general in its applicability, that if enacted, this section would be tantamount, in my opinion, to the establishment of a rigid censorship upon the press and the freedom of speech. This is not thought to be the motive behind the proposed legislation.