

29 June 1948

Mr. William G. Bryan, Publisher
American Cryptogram Association
Burton, Ohio

Dear Mr. Bryan:

Receipt of your letter of 16 June 1948 is acknowledged.

We are aware, of course, of the bill recently introduced by Mr. Gurney in the Senate. I do not think that this bill, should it become a law, will affect the future policies of your organization. It was realized, of course, by those who were assisting in the preparation of this bill that there is a considerable amount of "amateur" interest in cryptanalysis and cryptography among the general public, including members of such organizations as yours, and there has been no thought whatsoever of restricting them in their amateur activities or of limiting the contents of articles such as those which normally appear in the journal of the American Cryptogram Association. It was for this reason, I am sure, that the word "classified" was inserted in the first section of the bill before the word "information" and that the first definition given in Section 2 of the bill was worded as it is. If you will study these two things carefully you will see that it is clear that unless the information contained in an article in your journal, for example, was obtained from governmental sources, was classified information at the time it was obtained, and remained so until it was disclosed by publication in your journal, you have no grounds for entertaining any fears that you or the author might run afoul of the law, if enacted.

To explain a bit further, by example, should it happen that some member of your organization who had been employed in the Government service, during which employment he learned some classified information which at the time of publication is still classified information, he would be liable; but should this not be the case, that is, should the information not have been obtained by virtue of Government employment or by employment with a contractor performing classified work for the Government, the writer of the article would have presumably no knowledge of whether the information was classified or not and therefore would not be liable; or, if the writer had been employed in Government service, had obtained classified information at that time, but the information had been declassified before he wrote his article, he would not be liable.

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You will realize that what I have just indicated puts the burden of responsibility not upon you as publisher of the journal of the Association but upon the individual who submits an article for publication, if he knows that what he is disclosing is classified information. If he has never had access to the information by virtue of his employment, he, too, need entertain no fears of violating the law (if the bill passes); but if he did have access to the information, knows that it was classified at the time he obtained it, then it would be his responsibility to check with the authorities before writing his article or disclosing the information to anybody.

In short, what the bill aims to accomplish is to prevent either willful or inadvertent disclosure of officially classified information and in no way is aimed at the suppression of information obtained from other sources, such as general libraries, periodicals, newspapers, or obtained by independent research.

Sincerely yours,

HAROLD G. FAYES
Colonel, Signal Corps
Chief, Army Security Agency

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Burton, Ohio

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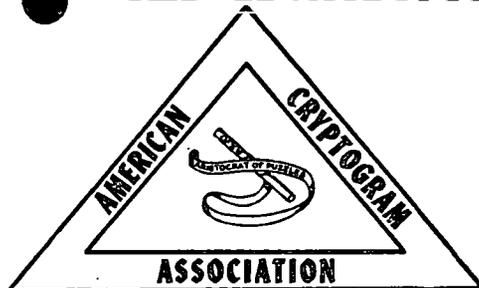
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Sincerely yours,

HAROLD G. HAYES
Colonel, Signal Corps
Chief, Army Security Agency



HEADQUARTERS BURTON, OHIO

PLEASE REPLY TO:

Burton, Ohio
June 16, 1948

Harold G. Hayes
Colonel, Signal Corps
Chief, Army Security Agency
Washington 25, D.C.

Dear Colonel Hayes:

It has recently been brought to my attention, through the efforts of one of our members, a Chicago lawyer, the enclosed bill which was introduced by Mr. Gurney before the Senate of the United States, at their 80th session.

We are now wondering if this bill, should it become a law, in any way effect the future policies of this organization? We hope to continue in the future, as in the past, to publish out-dated systems and methods of cryptanalysis of ciphers, unless, of course, we are held in check by this proposed bill.

Your agency, as well as other governmental agencies are well aware of the contents of our magazine, "The Cryptogram" since you are on our mailing list, and therefore, are in an excellent position to comment, if you will, on this proposed bill, should it become a law.

Perusal of the bill, brings one or two questionable points to view, which have been underlined in your copy. We realize, however, that all of the clauses involved pertain definitely to "in any manner prejudicial to the safety or interest of the United States, or the benefit of any foreign government to the detriment of the United States", but feel obliged to inquire if there can be any misinterpretation of the contents of the bill which will curtail our activities.

Any comment that you care to make, will be deeply appreciated.

Sincerely Yours,

William G. Bryan
William G. Bryan, Publisher
American Cryptogram Association

80th Congress
2nd session

S. 2680
(Report No. 1433)

IN THE SENATE OF THE UNITED STATES

Mr. Gurney introduced the following bill; which was read twice and referred to the Committee on Armed Services.

A 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whoever shall communicate, furnish, transmit, or otherwise make available to an unauthorized person, or publish, or use in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information (1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or (2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or (3) concerning the communication intelligence activities of the United States or any foreign government; or (4) obtained by the processes of communication intelligence from the communications of the United States or any foreign government, shall be fined not more than \$10,000 or imprisoned not more than ten years or both.

SEC. 2. (a) The term "classified information" as used herein shall be construed to mean information, which, at the time of a violation under this Act, is, for reasons of national security, specifically designated by a United States Government agency for limited or restricted dissemination or distribution.

(b) The terms "code", "cipher", and "cryptographic system", as used herein shall be construed to include in their meanings, in addition to their usual meanings, any method of secret writing, and any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications.

(c) The term "foreign government" as used herein shall be construed to include in its meaning any person or persons acting or purporting to act for or on behalf of any faction, party, department, agency, bureau, or military force of or within a foreign country, or for or on behalf of any government or any person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States.

(d) The term "communication intelligence" as used herein shall be construed to mean all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients.

(e) The term "unauthorized person" as used herein shall be construed to mean any person who, or agency which, is not authorized to receive information of the categories set forth in section 1 of this Act, by the President, or by the head of a department or agency of the United States Government which is expressly designated by the President to engage in communication intelligence activities for the United States.

SEC. 3. 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, or joint committee thereof.

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