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# SUPPLEMENTARY REPORTS ON INTELLIGENCE ACTIVITIES

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## BOOK VI

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FINAL REPORT  
OF THE  
SELECT COMMITTEE  
TO STUDY GOVERNMENTAL OPERATIONS  
WITH RESPECT TO  
INTELLIGENCE ACTIVITIES  
UNITED STATES SENATE



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SENATE SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS  
WITH RESPECT TO INTELLIGENCE ACTIVITIES

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## LETTER OF TRANSMITTAL

On behalf of the Senate Select Committee To Study Governmental Operations with Respect to Intelligence Activities, and pursuant to the mandate of Senate Resolution 21, I am transmitting herewith to the Senate two studies prepared by the Library of Congress which supplement the other books of the Committee's Final Report. The publication of this book completes the record of the Committee's hearings, findings, and reports on the intelligence activities of the United States Government.

The first study is entitled "The Evolution and Organization of the Federal Intelligence Function: A Brief Overview (1776-1975)" and was prepared at the Committee's request and under its direction, by Dr. Harold C. Relyea of the Congressional Research Service. It is published to provide a comprehensive compilation of public, unclassified, sources of information on American intelligence activities, and includes a full bibliography.

The second study is entitled "Executive Agreements: A Survey of Recent Congressional Interest and Action" and was prepared by Marjorie Ann Brown of the Congressional Research Service. This survey is published to help the American people understand an important means used by our Government in the execution of its foreign policy and the efforts made by Congress to ensure that its constitutional responsibilities in foreign affairs are properly executed through the appropriate use of executive agreements and treaties.

On behalf of the Committee and its staff, I would like to express our deep appreciation to the staff of the Library of Congress, and particularly the Congressional Research Service. Their work has been of the highest quality and their prompt response to the Committee's numerous and diverse requests deserves a full measure of praise.

FRANK CHURCH,  
*Chairman.*



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# THE EVOLUTION AND ORGANIZATION OF THE FEDERAL INTELLIGENCE FUNCTION: A BRIEF OVERVIEW (1776-1975)\*

## INTRODUCTION

Four centuries before the birth of Christ, Sun Tzu, a Chinese military theorist, counseled that:

The reason the enlightened prince of the wise general conquer the enemy whenever they move and their achievements surpass those of ordinary men is foreknowledge. . . . What is called "foreknowledge" cannot be elicited from spirits, nor from the gods, nor by analogy with past events, nor from calculations. It must be obtained from men who know the enemy situation.<sup>1</sup>

In this observation is the essence of what modern civilization refers to as "intelligence." As defined by the prestigious and highly respected Commission on the Organization of the Executive Branch, chaired by former President Herbert C. Hoover: "Intelligence deals with all the things which should be known in advance of initiating a course action."<sup>2</sup> But the concept is not synonymous with "information." Admiral William F. Raborn, Director of the Central Intelligence Agency from 1964 to 1966, explained:

"Intelligence," as we use the term, refers to information which has been carefully evaluated as to its accuracy and significance. The difference between "information" and "intelligence" is the important process of evaluating the accuracy and assessing the significance in terms of national security.<sup>3</sup>

Expanding upon the idea of information evaluation preparatory to policy development, intelligence may be understood as "the product resulting from the collection, evaluation, analysis, integration, and interpretation of all available information which concerns one or more aspects of foreign nations or of areas of operations and which is immediately or potentially significant to planning."<sup>4</sup>

Intelligence activities need not rely upon spies and informers to secure "foreknowledge." Information obtained in the open market place of ideas and international communications media can, with

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\* Prepared for the Select Committee by Dr. Harold C. Relyea, Analyst in American National Government, Government and General Research Division, Congressional Research Service, Library of Congress.

<sup>1</sup> Samuel B. Griffith, tr. *Sun Tzu: The Art of War*. New York and Oxford, Oxford University Press, 1963, pp. 144-145; generally, see chapter 13 "Employment of Secret Agents."

<sup>2</sup> U.S. Commission on Organization of the Executive Branch of the Government. *Intelligence Activities*. Washington, U.S. Govt. Print. Off., 1955, p. 26.

<sup>3</sup> Anon. What's CIA? *U.S. News and World Report*, v. 69, July 18, 1966: 74.

<sup>4</sup> U.S. Department of the Army, U.S. Department of the Navy, U.S. Department of the Air Force. *Dictionary of United States Military Terms for Joint Usage*. Washington, Departments of the Army, Navy, and Air Force, 1955, p. 53.

proper analysis, significantly contribute to an intelligence product. Further, the possible utilization of spies and informers raises both the Machiavellian question of ends versus means and a practical question regarding impersonal spying. For some, the righteousness of the cause sanctions clandestine information gathering. Others condone such activity when it is confined to technological devices such as robot spy planes, space satellites, deep sea sensors and listening devices, or code breaking machines.

Intelligence activities were a developed art among the ancients. Practice, experience, and technology have contributed to the sophistication of this pursuit. Today, it may be assumed that every nation, regardless of their form of government or guiding political philosophy, engages in some type of intelligence activity. Minimally, the intelligence function contributes to the preservation and security of the state. Beyond this denominator, the intelligence function variably extends to the cultivation of the most grandiose schemes of international relations and world power.

### *I. Research Limitations*

Because intelligence activities are generally cloaked in official and operational secrecy, research on the evolution, organization, and activities of the Federal intelligence community may be hampered by a scarcity of useful resource material and a plague of inaccuracies effected by a lack of corroborating evidence or reliance upon a common erroneous source.<sup>5</sup>

Other research problems derive from the attitude of Federal officials and leaders of the armed services toward the intelligence function prior to World War I: within the departments and agencies, intelligence activities were viewed as neither necessary nor serious concerns. The naive view prevailed that the major foreign powers of the day made little use of and had little use for intelligence. If this was the case, then the United States need not engage in such efforts. When World War I introduced America to modern warfare, it also provided an opportunity to examine the intelligence activities of the allies. The net effect was one of embarrassment. Much was learned from the war experience with regard to building a useful and effective intelligence structure. Nevertheless, the historical record must necessarily reflect scant consideration being given to intelligence activities at the Federal level prior to the World War. Perhaps as an attempt to compensate for the actual circumstances of the pre-war situation, some accounts of Federal intelligence activity appear to overstate or overemphasize the importance of certain agents or operatives and the significance of certain accomplishments. Thus, a careful effort must be made to maintain a sense of historical proportion with regard to the exploits of individuals and the causation of events in the sphere of intelligence operations.

It should also be kept in mind that very early intelligence activities in the United States were highly sporadic and individualistic.

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<sup>5</sup> Official secrecy refers to some type of legal authority establishing the compulsory withholding of certain types of information from disclosure; operational secrecy refers to nonacknowledgement of actions either by announcement or upon open questioning.

These conditions contribute to research difficulties with the result that very few records were produced or continue to exist.

And one final note must be added regarding the limitations of historical records in this area of research. Some significant developments in the evolution of Federal intelligence operations have escaped written account and useful and important documents for this research have been destroyed for reasons of political sensitivity, embarrassment, security, and personal privacy.

## *II. Intelligence Authority*

The Constitution of the United States is silent regarding any direct reference to intelligence activities. Within Article I, section 8, Congress is granted certain powers which have an implication for the enactment of statutes operationalizing the intelligence function. These include the authority to "support armies," "maintain a navy," and "make rules for the government and regulation of the land and naval forces." Relying upon these provisions, Congress might have directly established armed forces intelligence operations and provided for the restriction of intelligence information by enacting appropriate rules for Federal civilian employees and regulations for military and naval personnel. That the House and Senate did not directly legislate on these matters does not effect the implied constitutional authority. What the Legislature did was provide a more ambitious and sophisticated organizational and administrative structure derivative of these powers—the Department of War, created in 1789 (1 Stat. 49), and the Department of the Navy, established in 1798 (1 Stat. 553). It may be argued that it was within the discretion of the Executive authority of these entities to organize intelligence operations in conformity with the constitutional power exercised by Congress in creating the departments.<sup>6</sup> Modern intelligence operations authority continues to rest upon these basic constitutional provisions, interpreted by Congress to grant power to legislate for the defense and security of the nation.<sup>7</sup>

The President would appear to derive authority for intelligence activities from two constitutional provisions: Article II, section 2, names the President the Commander in Chief of the army and navy and section 3 directs that the Chief Executive "... take care that the laws be faithfully executed. . . ." As these are very vague and general provisions, reliance upon them alone as authority for intelligence activity would depend upon a President's view of his office. A Chief Executive adopting Theodore Roosevelt's classic "stewardship theory" would, undoubtedly, have little reservation in utilizing such implied

<sup>6</sup> A permanent intelligence unit was established in the Navy Department in 1882 and in the War Department in 1885. Both actions were by internal directive. Ad hoc and temporary spy systems of varying sophistication had been utilized by the armed forces since the time of the Revolution.

<sup>7</sup> The principal contemporary intelligence activities' statutes are the National Security Act of 1947 (61 Stat. 495) and the Central Intelligence Act of 1949 (63 Stat. 208) which establish the National Security Council and the Central Intelligence Agency (see 50 U.S.C. 401-404 [1970]). Much of the existing intelligence structure was created at the direction of the President or other Executive Branch officials and therefore has no direct statutory base.

powers to justify intelligence operations. In his autobiography, Roosevelt exemplified his view of the presidency, explaining:

The most important factor in getting the right spirit in my Administration, next to the insistence upon courage, honesty, and a genuine democracy of desire to serve the plain people, was my insistence upon the theory that the executive power was limited only by specific restrictions and prohibitions appearing in the Constitution or imposed by the Congress under its constitutional powers. My view was that every executive officer, and above all every executive officer in high position, was a steward of the people, and not to content himself with the negative merit of keeping his talents undamaged in a napkin. I declined to adopt the view that what was imperatively necessary for the Nation could not be done by the President unless he could find some specific authorization to do it. My belief was that it was not only his right but his duty to do anything that the needs of the Nation demanded unless such action was forbidden by the Constitution or by the laws. Under this interpretation of executive power I did and caused to be done many things not previously done by the President and the heads of the Departments. I did not usurp power, but I did greatly broaden the use of executive power. In other words, I acted for the public welfare, I acted for the common well-being of all our people, whenever and in whatever manner was necessary, unless prevented by direct constitutional or legislative prohibition. I did not care a rap for the mere form and show of power; I cared immensely for the use that could be made of the substance.<sup>8</sup>

Just a few months before leaving office in June, 1908, Roosevelt told Sir George Otto Trevelyan:

While President I have been President, emphatically; I have used every ounce of power there was in the office and I have not cared a rap for the criticisms of those who spoke of my "usurpation of power;" for I know that the talk has been all nonsense and that there had been no usurpation. I believe that the efficiency of this Government depends upon its possessing a strong central executive, and whenever I could establish a precedent for strength in the executive, as I did for instance as regards external affairs in the case of sending the fleet around the world, taking Panama, settling affairs of Santo Domingo, and Cuba; or as I did in internal affairs in settling the anthracite coal strike, in keeping order in Nevada . . . or as I have done in bringing the big corporations to book . . . in all these cases I have felt not merely that my action was right in itself, but that in showing the strength of, or in giving strength to, the executive, I was establishing a precedent of value. I believe that responsibility should go

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<sup>8</sup> Theodore Roosevelt. *An Autobiography*. New York, Scribners, 1920, pp. 388-389.

with power, and that it is not well that the strong executive should be a perpetual executive.<sup>9</sup>

Opposed to this view of the presidency was Roosevelt's former Secretary of War (1905–1908), personal choice for and actual successor as Chief Executive, William Howard Taft. According to America's twenty-seventh President:

The true view of the Executive functions is, as I conceive it, that the President can exercise no power which cannot be fairly and reasonably traced to some specific grant of power or justly implied and included within such express grant as proper and necessary to its exercise. Such specific grant must be either in the Federal Constitution or in an act of Congress passed in pursuance thereof. There is no undefined residuum of power which he can exercise because it seems to him to be in the public interest, and there is nothing in the Neagle case [*In re Neagle*, 135 U.S. 1 (1890)] and its definition of a law of the United States, or in other precedents, warranting such an inference. The grants of Executive power are necessary in general terms in order not to embarrass the Executive within the field of action plainly marked for him, but his jurisdiction must be justified and vindicated by affirmative constitutional or statutory provision, or it does not exist. There have not been wanting, however, eminent men in high public office holding a different view and who have insisted upon the necessity for an undefined residuum of Executive power in the public interest. They have not been confined to the present generation.<sup>10</sup>

Between these two views of the presidency lie various gradations of opinion, as many conceptions of the office as there have been holders. The argument may be advanced, however, that those holding Roosevelt's stewardship theory would be more comfortable with undertaking constitutionally ill defined intelligence activities. Also, a President's view of his office will change with time and circumstances. Though he had argued against the stewardship theory in his Blumenthal Lectures at Columbia University in 1915–16, former President Taft, writing the majority opinion of the Supreme Court as Chief Justice in the *Myers* case, appealed to the opening clause of Article II of the Constitution as a grant of power. He held that the Chief Executive had the right to remove executive and administrative officers of the United States nominated or appointed by him, without the least restraint or limitation by Congress. The Constitution, Taft contended, intended such officers to serve only at the President's pleasure.<sup>11</sup> Following this example, if momentary circumstances suggested such action and neither the Constitution or Congress offered any restraints

<sup>9</sup> Joseph Bucklin Bishop. *Theodore Roosevelt and His Time* (Vol. II). New York, Scribners, 1920, p. 94.

<sup>10</sup> William Howard Taft. *Our Chief Magistrate and his Powers*. New York, Columbia University Press, 1916, pp. 139–140; for a direct response to Theodore Roosevelt's expression of presidential power, see ———. *The Presidency*. New York, Scribners, 1916, pp. 125–130.

<sup>11</sup> See *Myers v. United States*, 272 U.S. 52, 106–177 (1926).

upon same, then a President might enter into intelligence operations under the color of the Commander in Chief clause or the faithful execution of the laws provision.

The Founders of the Republic did not have intelligence activities in their immediate purview when drafting the Constitution and assigning powers and functions to the branches of government established by this instrument. Nevertheless, implied authority for such pursuits appears to have been granted to both the Executive and the Legislature. This situation has permitted each branch to act independently with regard to intelligence organization and policy and has contributed, as well, to conflicts between them on these matters. What follows here is an overview of the evolution and organization of the Federal intelligence function with a view to its origins and development within the context of a constitutional, democratic republic.

## PART ONE

### THE SMALL BEGINNINGS (1776-1914)

Warfare in Europe during the age of New World discoveries was a captive of formalism, an extreme of etiquette and familiarity with the foe tempered by a static condition with regard to weapons technology. On the Continent, this situation probably was radically altered by the increased use of gunpower and the horse. In the Americas, it was challenged by a competing strategy—familiarity with and utilization of natural surroundings in defeating the enemy. This was the technique of the Indian. Devoid of military identification symbols, adept in tracking and skillful observation without detection, and given to making attacks by surprise from the vantage of protective cover, the natives of the Americas constituted a unique and mysterious combatant to those daring to venture into the new land.

Colonists struggling to found permanent settlements along the Atlantic seaboard ("past the vast ocean, and a sea of troubles before," as William Bradford put it) encountered in the Indian what to them was a new kind of foe—a foe with a remarkable technique of patient subterfuge and cunning device, evolved in surroundings quite different from those of the Old World. By virtue of his training in the Indian mode of war, every brave was also in effect a spy. Through inborn capacity for the finesse of prowling and scouting, he was, in his own environment, so skillful as to make white men seem comparative bunglers. So declared Col. Richard I. Dodge, writing in 1882, while still there was a frontier, regarding the warriors of the western plains and mountains. So said the young Washington, who through frontier service became versed in the ways of eastern redskins.<sup>1</sup>

By the time colonial rivalries began to flare in the New World, an awareness and appreciation of Indian allies, both as warriors and as sources of intelligence information, was fairly well established. In the area of the St. Lawrence River valley, the French quickly established (1609-1627) trade relations and missionary ties with the fierce Iroquois tribes of the region. Occasional reversals were experienced in the course of these diplomatic efforts with the Indians, the most devastating occurring when the Iroquois, supplied with arms by the Dutch, began a decade (1642-1653) of intermittent attacks upon the Hurons with whom the French also had trade and political alliances. While a treaty ended these hostilities, eventually the Iroquois allied themselves with the British. Open conflict between the French and the

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<sup>1</sup> George S. Bryan. *The Spy In America*. Philadelphia, J. B. Lippincott Company, 1943, p. 15.

Iroquois erupted in 1684, reaching as far west as the Mississippi and embroiling the territory surrounding Lakes Erie and Ontario. An ineffectual campaign by the French in 1687 prompted the Iroquois to retaliate the following year in bloody raids throughout the St. Lawrence valley. In August of 1689, the Iroquois slaughtered 200 inhabitants of Lachine (now a suburb of Montreal in Ontario province) and took another 90 as prisoners.

On the eve of the intercolonial wars (King William's War, 1689–1697; Queen Anne's War, 1702–1713; King George's War, 1740–1748; French and Indian War or Seven Years' War, 1754–1763), the French counted Indian alliances, extending from the Abenakis in Maine to the Algonquin in Wisconsin and north toward Hudson Bay, and a number of *coureurs du bois*, familiar with forests and trails in the area of conflict, among their intelligence resources. The English were assisted by the powerful Iroquois alliance. That the French were resourceful in their use of Indian spies and scouts is evidenced by the circumstances surrounding the disastrous expedition to Fort Duquesne led by General Edward Braddock in 1755. Himself disdainful of Indians and their services as scouts, Braddock and his forces were surprised by a smaller but better-positioned French unit a few miles away from Duquesne. The battle was one of confusion and terror within the British ranks. A great number of officers were killed, adding to the disorder among the troops. Braddock died three days after the battle from wounds he received in the fray.<sup>2</sup> And to what may the success of the French for this action be attributed?

From the "Life and Travels" of Col. James Smith we know what the French had been doing. Smith (then a youthful Pennsylvania frontiersman), while at work on a military road from Fort Loudoun westward, was captured by Indian allies of the French and taken to Fort Duquesne. There he fell to talking with a Delaware who had a smattering of English. "I asked him," Smith wrote, "what news from Braddock's army. He said *the Indians spied them every day*, and he showed me by making marks on the ground with a stick that Braddock's army was advancing in very close order and that the Indians would surround them, take trees, and (as he expressed it) 'shoot um down all one pigeon.'"<sup>3</sup>

Of course not everyone within the British military forces was adverse to the utilization of Indians in their cause. In a routine communicate to Colonel Henry Bouquet, dated July 16, 1758, George Washington acknowledged the dispatch of certain Indian bands with the observation that

. . . I must confess, that I think these Scalping Parties of Indians we send out, will more effectually harass the Enemy

<sup>2</sup> For Washington's account of the events see his letter of July 18, 1775 to Robert Dinwiddie in John C. Fitzpatrick, ed. *The Writings of George Washington From the Original Manuscript Sources, 1745–1799* (Vol. 1). Washington, U.S. Govt. Print. Off., 1931. pp. 148–150.

<sup>3</sup> Bryan, *op. cit.*, p. 16; see James Smith. *A Narrative of the Most Remarkable Occurrences in the Life and Travels of Colonel James Smith . . . During His Captivity Among the Indians in the Years 1755, '56, '57, & '59 . . .* Philadelphia, J. Grigg, 1831.

(by keeping them under continual Alarms) than any Parties of white People can do; because small parties of ours are not equal to the undertaking, (not being so dexterous at skulking as Indians); and large ones will be discovered by their spies early enough to give the Enemy time to repel them by a superior Force; and at all events, there is a greater probability of loosing many of our best men, and fatiguing others before the most essential Services are entered upon and am afraid not answer the proposed end.<sup>4</sup>

The influence of the Indian upon intelligence activity is undeniable, effecting both information gathering and interpretation techniques as well as troop deployment practices (which were accordingly modified to confuse intelligence operatives). The intelligence skills of the Indians were continued and refined by the frontier scouts who guided wagon trains and cavalry across the plains with the westward migration. It may be argued that by the time of the "Jessie Scouts" (a name applied to Federal scouts masquerading in Confederate uniforms) and their southern counterparts, the Indian tradition of field intelligence, surprise attack and sabotage had penetrated the Federal armed services and, in one form or another, has remained operative within that institution through guerrilla units, marauder groups, rangers, and special forces.

### *I. Revolution and Intelligence*

With the advent of a revolutionary war against the British, the American colonists demonstrated a willingness to utilize certain intelligence techniques familiar from the intrigues of the Continent. As repressive trade and economic measures began to kindle opposition to the King's policies in the New World, various secret societies were formed, aiding the cause of liberty with both intelligence and mischievous deeds. The most famous of these clandestine organizations, the Sons of Liberty, was formed in the summer of 1765 to oppose the Stamp Act. Active through the provincial towns and settlements, they constituted an underground information network and resorted to violent actions in their protestations. The Sons were thought to be responsible, for example, for the burning of the records of the vice-admiralty court in Boston and the ransacking of the home of the comptroller of the currency there in August. These and lesser feats were of sufficient impact that, before the effective date (November 1, 1765) of the Stamp Act, all of the royal stamp agents in the colonies had resigned.

By the time of the signing of the Declaration of Independence, a variety of partisans—revolutionaries and loyalists—were providing intelligence for *the* cause.<sup>5</sup> Also, at this early date, perhaps as a consequence of prior exposure to spy activities during the intercolonial hostilities or even as a result of some familiarity with the prevailing espionage situation, initial policies regarding defense information

<sup>4</sup> Fitzpatrick, *op. cit.* (Vol. 2), p. 237.

<sup>5</sup> Generally, on the activities of British intelligence, operatives, see: Bryan, *op. cit.*, pp. 18-50; Allen French. *General Gage's Informers*. Ann Arbor, University of Michigan Press, 1932; Carl Van Doren. *Secret History of the American Revolution*. New York, Viking Press, 1941; C. H. Van Tyne. *The Loyalists in the American Revolution*. New York, Peter Smith, 1929.

security appeared.<sup>6</sup> Articles of war adopted in 1775 forbid any unauthorized correspondence with the enemy on the part of the Continental armed forces. The following year the Continental Congress enacted an ordinance against spying by civilians in time of war. Executions for spying were public affairs, designed to further reinforce the legal prohibitions established by the revolutionaries and in international law.

Nevertheless, the Crown recruited and maintained an effective and highly important espionage organization in the colonies.

Had it not been for the clandestine service rendered by loyalists, the British would hardly have been able to prolong the struggle for eight years. The Revolution has in that sense to be viewed as a domestic war in far greater measure than had been perceived until the twentieth century, when research threw convincing light on the subject.

As *agents provocateurs*, whose function was that of all-round trouble-making; as informers and sly correspondents; as dispatch-bearers; as military spies, civilian intelligence agents, and go-betweens, the Tories labored and dared for the side to which in the majority of instances they were honestly attached, upon whose victory they confidently reckoned, and which had dangled before them the encouragement of final reward. To British commanders in America, this aid was indispensable.<sup>7</sup>

It is not certain as to when the Continental armed forces began utilizing the services of undercover operatives but, with the leadership of George Washington, they had a strategist well aware of ways to foil and enhance the intelligence function.

No other commander of his time knew better than did Washington the necessity of being constantly informed about the enemy. If there were a surprise, he chose to spring it, as he did at Trenton—not to be the victim of it. He employed light horse, mounted and dismounted, for reconnaissance; he had “harassing parties” to annoy the enemy and, more important, to return with prisoners, from whom valuable intelligence might be obtained. He ordered that the north shore of Long Island, especially the bays, be constantly watched from high ground on the opposite shore by lookouts with good spy-glasses, who could note unusual movements of enemy shipping.<sup>8</sup>

One of Washington’s first actions after taking command of the army in July, 1775, at Cambridge, was to dispatch an agent to Boston to establish a secret correspondence network to report on enemy movements and activities. He preferred intelligence in writing and to safeguard such communiques a variety of codes and an invisible ink were utilized at different times. The British had no personnel schooled in decoding and reasonably complex ciphers withstood various efforts of

<sup>6</sup> The evolution of information security policy and practice is discussed in Appendix II.

<sup>7</sup> Bryan, *op. cit.*, p. 18.

<sup>8</sup> *Ibid.*, p. 51.

translation. Washington also established fixed terms of service for secret agents and specific matters of importance upon which he sought precise details.<sup>9</sup>

Among major topics of intelligence, Washington listed arrivals, troop movements, signs of expeditions by land or water, shifts of position, localities of posts and how fortified, strength and distribution of corps, and the state of garrisons. In addition to such things there were all kinds of minor particulars whose interest and value would, he felt, be obvious to a competent agent.<sup>10</sup>

Washington made regular but guarded use of spies. His caution was prompted by the precarious division of allegiance which transversed familial, religious, and regional ties and a variety of lesser human loyalties. Still, he knew the value of clandestine operatives.

On the basis of results, he said after some four years of war: "The greatest benefits are to be derived from persons who live with the other side. It is with such I have endeavored to establish a correspondence, and on their reports I shall most rely." These people had a chance to examine freely without attracting suspicion, and they could report more literally not only on factual details but also on the enemy's morale.<sup>11</sup>

The most sophisticated and enduring spy system—in good running order for five years—maintained by Washington was led by Major Benjamin Tallmadge and operated in the environs of New York City and Long Island. A commissioned officer in the Second Light Dragoons of Connecticut (also known as Sheldon's Dragoons) and the Yale classmate, and closest personal friend, of the martyred Nathan Hale, Tallmadge recruited his agents from among his friends.

The organization consisted of Tallmadge, [Robert] Townsend, Abraham Woodhull, Austin Roe, and Caleb Brewster—all young men of imagination, daring, and social position. Their operations were conducted by a method that was both devious and secure. Townsend lived in New York where he ran a general store which attracted British customers who were adroitly pumped for information. Roe was an active horseman who liked to ride from the heart of New York over Long Island country roads in all kinds of weather. He carried the reports to Woodhull. Woodhull then hurried to a point on the north shore of Long Island to look for a black petticoat and handkerchiefs on a clothesline. If they were hanging, it signaled that the boatman Brewster, who sailed his boat from one side of Long Island Sound to the other, had landed in a small cove on Long Island. Brewster then took the coded

<sup>9</sup> *Ibid.*, pp. 52–53.

<sup>10</sup> *Ibid.*, p. 53.

<sup>11</sup> *Ibid.*, p. 52; generally on the activities of Washington's intelligence operatives, see: John Bakeless, *Turncoats, Traitors, and Heroes*. Philadelphia, J. B. Lippincott Company, 1959; H. P. Johnston, *The Secret Service of the Revolution*. *Magazine of American History*, v. 8, February, 1882: 95–105; Morton Pennypacker, *General Washington's Spies*. Brooklyn, Long Island Historical Society, 1939.

messages across to Connecticut to Tallmadge who transmitted them to General Washington.<sup>12</sup>

In this venture, as in all of his spy arrangements, Washington had certain particulars of information which were of priority importance.

It was Washington's request that he be specifically informed as to:

The health and spirits of the British army and navy in the city;

The number of men allotted to the defense of the city and its environs (the corps to be specified, and where posted);

The guarding of transports (whether by armed vessels or with chains, booms, etc.);

The works crossing York Island at the rear of the city (the redoubts, and the number of guns in each);

The works (if any) between these and Fort Knyphausen and Washington;

The works (if any) on the Harlem River, near Harlem town—also on the East River, facing Hell Gate;

The character of the defenses (whether, for example, they included pits in which stakes had been fixed);

Existing supplies of forage, provisions, and wood;

Movements by land or water.

He also wished intelligence regarding vessels and boats on Long Island Sound. Somebody in the vicinity of Brooklyn could, he thought, under pretext of marketing obtain daily admission to the garrison there. Always he stressed the importance of concrete details, the value of accuracy, the worthlessness of rumors.<sup>13</sup>

The employment of spies and informers was an expensive prospect which Washington managed quite well. His first appeal for an intelligence fund appears to have been made on August 25, 1778.<sup>14</sup>

Congress sent 500 guineas, which would, he said, be used with discretion as it might be required. He added that the American intelligence service had been far from satisfactory, either because swift decline in the value of Continental currency had rendered the terms of service extravagantly high, or because in some instances any offer whatever of paper money had been refused. When he accepted his commission, it was with the distinct proviso that no salary would attach to it, but that he would keep a record of his expenses. On July 1, 1783, he drew up in his own handwriting a detailed statement of these accounts, from which we learn that in eight years the total expenditure for "secret intelligence" was £1,982 10s [the Continental Congress had authorized an

<sup>12</sup> Monro MacCloskey. *The American Intelligence Community*. New York, Richards Rosen Press, 1967, pp. 33-34; a personal account of the activities and operation of the Tallmadge organization may be found in Benjamin Tallmadge with H. P. Johnston, ed. *Memoir*. New York, Gilliss Press, 1904.

<sup>13</sup> Bryan, *op. cit.*, pp. 78-79; see Washington's letter of March 21, 1779, to Tallmadge in Fitzpatrick, *op. cit.* (Vol. 14), pp. 276-277.

<sup>14</sup> See Fitzpatrick, *op. cit.* (Vol. 12), p. 356.

amount not to exceed 2000 guineas in gold specie to be drawn from the Treasury by Washington for secret services]. Here is sufficient evidence of how frugally he must have dealt out guineas in those pinching times.<sup>15</sup>

In terms of the development of intelligence techniques, the period of the Revolutionary War witnessed two innovations: the introduction of special devices—in this case, an invisible ink—and counterintelligence arrangements.

This particular ink and its re-agent or counterpart (the formulas for which remain unknown) were invented by Sir James Jay, John Jay's elder brother, a physician living in England, where in 1763 he had been knighted. Sir James, by the account he later gave Thomas Jefferson, believed, from what he had learned of certain curious experiments, that "a fluid might possibly be discovered for invisible writing which would elude the generally known means of detection, and yet could be rendered visible by a suitable counterpart." When war in America seemed inevitable, he saw that in forwarding secret intelligence this method would possess great advantages. Accordingly he sent from England to his brother John in New York "considerable quantities" of the liquids he had hit upon.<sup>16</sup>

Counterespionage efforts appear to have begun around July of 1776 and soon developed into an effective organized effort. However, it fell to the sub-national jurisdictions to cultivate these actions. This course of initiative created certain problems and confusion for Washington's intelligence program. Typical of these frustrations was a case where New Jersey authorities had mistakenly jailed three of Washington's agents working in the New York City area.

"I hope," wrote Washington to the Governor, "you will put a stop to the prosecution, unless other matters appear against them. You must be well convinced that it is indispensably necessary to make use of such means to procure intelligence. The persons employed must bear the suspicion of being thought inimical; and it is not in their power to assert their innocence, because that would get abroad and destroy the confidence which the enemy puts in them."

He later mentioned to the President of Congress the annoyance occasioned through intermeddling by state officials. There had been instances, he said, of prosecution in the civil courts when it had been necessary for headquarters to reveal the true character of the accused men. "This has served to deter others from acting in the same capacity, and to increase the dread of detection in our confidential friends." Once in a while it happened that a man who undertook to get intelli-

<sup>15</sup> Bryan, *op. cit.*, p. 74; see Washington's letter of September 4, 1778, to the President of Congress acknowledging receipt of the 500 guineas, in Fitzpatrick, *op. cit.* (Vol. 12), pp. 399-400; also see Washington's letter of June 11, 1779, to Michael Hillegas, Treasurer of the United States, noting the authorization of upwards of 2000 guineas for secret service, in *Ibid.* (Vol. 15), p. 263.

<sup>16</sup> Bryan, *op. cit.*, p. 75.

gence under the subterfuge of trade did seem to devote more attention to his own profits than he did to intelligence; but it wasn't best to be too severe with him.<sup>17</sup>

The most vigorous counterintelligence program was in New York where, in May of 1776, the Provincial Congress established a panel on "intestine enemies" which is often referred to as the Committee on Conspiracies. Under the authority of this body, John Jay, future Chief Justice, diplomat, and *Federalist Papers* author, and Nathaniel Sackett, another leading figure of the time, directed as many as ten agents in ferreting out British spies and informers. Among these heroes was Enoch Crosby who is generally thought (Cooper's protestations to the contrary) to have been the model for James Fenimore Cooper's character Harvey Birch in *The Spy* (published in 1821).<sup>18</sup> This network was superseded by a more ambitious unit, the Commissioners for Detecting and Defeating Conspiracies, which was created in February, 1778, and lasted until 1781.<sup>19</sup> Washington was assisted in his counter-espionage efforts by such state initiatives and by his own agents operating behind British lines. Also, in this regard, it should not be forgotten that Washington's intelligence system extended beyond the shores of the Americas to England and the Continent. Thus, for example, when Lord Cornwallis returned to his homeland in the waning days of 1777 and reported that the conquest of America was impossible, a secret agent in London passed this information on to Benjamin Franklin at Passy by January 20, 1778.<sup>20</sup> Other bits of intelligence and counterintelligence made their way across the Atlantic to Washington through similar routes.

With the congressional ratification of the articles of peace on April 15, 1783, and the subsequent disbanding of the army over the next few months, Washington's intelligence corps went out of existence. Of those spies employed by the revolutionaries and the British, only one is thought to have re-entered such secret activities ever again.<sup>21</sup> The vast majority of Washington's operatives settled back into normal business pursuits and relative obscurity. Only one or two of these indi-

<sup>17</sup> *Ibid.*, p. 54; the letter to Governor Livingston appears in Fitzpatrick, *op. cit.* (Vol. 10), p. 329; the letter to the President of Congress appears in *Ibid.* (Vol. 15), pp. 42-45.

<sup>18</sup> Generally, on counter-intelligence activity during the Revolution, see Bakeless, *op. cit.*, pp. 125-153; on the career of Enoch Crosby, see H. L. Barnum, *The Spy Unmasked; or Memoirs of Enoch Crosby*. New York, J. J. Harper, 1828.

<sup>19</sup> Generally, on the efforts of inquisitorial bodies in New York, see Alexander Clarence Flick, *Loyalism in New York During the American Revolution*. New York, Arno Press and The New York Times, 1969; originally published 1901; also see Victor H. Paltsits, ed. *Minutes of the Commissioners for Detecting and Defeating Conspiracies in the State of New York* \* \* \* Albany, State of New York, 1909.

<sup>20</sup> Bakeless, *op. cit.*, p. 220; also, of general interest is Michael Kammen, *A Rope of Sand: The Colonial Agents, British Politics, and the American Revolution*. Ithaca, Cornell University Press, 1968; a provocative comment upon Franklin's activities may be found in Cecil B. Currey, *Code Number 72—Benjamin Franklin: Patriot or Spy?* Englewood Cliffs, Prentice-Hall, 1972.

<sup>21</sup> This was the British agent John Howe who settled in Canada after the Revolution and was reactivated during the War of 1812 when he made a tour of the United States reporting on military preparations and popular mood. His model report was discovered by American historians long after his mission was completed.

viduals received any special commendation or decoration for their service and intelligence officers in the armed services received only their regular promotions, nothing more. The prevailing attitude seems to have been that the intelligence services rendered by these individuals were necessary, were gratefully appreciated by Washington and the Nation, but were not to be glorified or publicly discussed. A few—Tallmadge and Crosby, among others—had their exploits captured in print, but not always in a format with any visibility. Captain David Gray, for example, published a pamphlet on his adventures but the last copy was destroyed in a fire at the State library in Albany in 1911; he had also told his story to the Massachusetts legislature but his petition there also vanished; however, his pension claim of 1823 did survive, complete with his personal account of wartime activities, and remains with the National Archives.<sup>22</sup>

## II. *The New Nation*

With the conclusion of hostilities with Great Britain, the new nation turned its attention to preparing, and then ratifying, a written constitution establishing a new Federal Government. The document itself, as noted previously, contained provisions which appear to be conducive to the cultivation and development of the intelligence function, but, with the disbanding of Washington's forces, the nation's leaders would actually organize intelligence operations in an ad hoc manner and on an extemporaneous basis during the course of the next century.<sup>23</sup>

Of great importance, as well, for the evolution and operationalization of the Federal intelligence function are certain of the guarantees in the Constitution's Bill of Rights. Among these are prohibitions against Congress enacting any law abridging the freedom of speech or of the press, or of the right of the people to peaceably assemble, or of the right of the public to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. These strictures on governmental power could have special significance in the event an ambitious and zealous intelligence program were attempted to protect the citizenry from itself (or enemies of the state imperceptible to the people).

Indeed, shortly after the Federal Government was instituted, circumstances might well have prompted an enthusiastic intelligence endeavor. When France, an old ally of the United States, was seized by the winds of revolution, the French Republic, in 1793, dispatched an agent, Edward Charles Genet, to Charleston in South Carolina. Before presenting his diplomatic credentials, Genet commissioned four privateers and dispatched them to prey upon British shipping as France had declared war on England. He also sought to recruit an expedition to conquer Louisiana which was then controlled by Spain, another declared enemy of France. While the United States sought to remain neutral in the conflict between France and England, President Washington was faced with an *agent provocateur* of a foreign power recruiting ships and men to engage in hostilities off the American coast and possibly marching through American territory to engage

<sup>22</sup> Generally, on the post-war lifestyles of former spies and intelligence operatives, see Bakeless, *op. cit.*, pp. 359-365.

<sup>23</sup> See Introduction, pp. 5-9.

Spanish authorities. Washington received Genet with cool formality and subsequently informed him that his grants of military commissions on American soil constituted an infringement on the national sovereignty of the United States. Notice was also given that Genet's privateers would have to leave American waters and that their prizes could not be sent to ports of the United States. Although he initially agreed to comply with these demands, Genet was soon attempting to arm *The Little Sarah*, a recently captured prize. When warned against dispatching the ship, Genet threatened to mobilize opinion against Washington. Ultimately, the vessel escaped to sea and efforts were made to have Genet recalled. By this time, however, the Jacobins had seized power in France and a new minister to the United States had been dispatched with orders for Genet's arrest. Washington refused to extradite Genet and he subsequently became an American citizen.

Conditions continued to remain tense with regard to America's relations with France. In 1797, with the French Directory in power, harassments and seizures were made on American shipping. The American ambassador to France, Charles Pinckney, was refused an opportunity to present his diplomatic credentials. In an attempt to smooth the situation—the French were basically disturbed by the terms of Jay's Treaty which, in part, granted American ships entry to the British East Indies and West Indies while placing British trade with the United States on a most-favored nation basis—President Adams dispatched a special mission to Paris. Delayed on a pretext from beginning official negotiations, the American delegation was approached by three agents of the Foreign Ministry. Described in diplomatic dispatches as X, Y, and Z, these operatives suggested an American loan to France and a bribe of \$240,000 to settle matters. When this "offer" was refused and the failure of the negotiations reached Adams, he informed Congress of the clandestine effort and submitted the XYZ correspondence to the Legislature for inspection and public disclosure. The dispute with France was settled by an undeclared naval war (1798–1800). This incident and the Genet affair set off a variety of conspiracy theories and fears of foreign intrigue in America. But, rather than creating any countervailing intelligence organization, the response of the Federal Government appears to be that of restrictive law—the Alien and Sedition Acts. These consisted of four statutes enacted by Congress in June and July of 1798 which changed the residency period for citizenship from five to fourteen years (1 Stat. 566); authorized the President to order all aliens regarded as dangerous to the public peace and safety or suspected of treasonable or secret activities out of the country (1 Stat. 570); authorized the President, during a declared war, to arrest, imprison, or banish aliens subjected to an enemy power (1 Stat. 577); and made it a high misdemeanor, punishable by fine or imprisonment, for citizens or aliens to enter into unlawful combinations to oppose the execution of the national law, or to impede a Federal officer from performing his duties, or to aid or attempt any insurrection, riot, or unlawful assembly (1 Stat. 596).

Under these circumstances the spy-fever raged. Federalist Noah Webster said that "in case of any fatal disaster to England, an invasion of America may not be improbable." A

Congressional document held that France and her partisans in America would unite for "the subversion of religion, morality, law, and Government." Her means, the report said, "are in wonderful coincidence with her ends; among these and not the least successful is the direction and employment of the active and versatile talents of her citizens abroad as emissaries and spies." Federalist journals babbled of conspiracy, and hurled insults at Anti-Federalists.

William Cobbett ("Peter Porcupine" of *Porcupine's Gazette*) announced that on May 9th, 1798 (ordained as a national fast day) "desperate villains" would set fire to Philadelphia—but nothing happened. When the innocent Dr. George Logan of that city went abroad, "Porcupine" smelled a rat. "Take care," he raged; "when your blood runs down the gutters, don't say you were not forewarned of the danger." Volney, the historian, whose journeyings had carried him to America, was branded as a French spy darkly maneuvering to return Louisiana to France. Genet, who settled peacefully on Long Island as a naturalized American, was said to be in correspondence with "the Tyrants."<sup>24</sup>

### III. *Mission to Florida*

Spy-fever remained rampant in America as Napoleon Bonaparte emerged from the political turmoil in France as a new unifying force on the Continent. The ambitions of the new French regime soon became apparent to President Jefferson. The Treaty of Fontainebleau (1762) ceded the Louisiana Territory to Spain but the secret Treaty of San Ildefonso (1800) returned the province to France at the behest of Napoleon who projected the revival of a colonial empire in North America. The Treaty of Madrid (1801) confirmed the retrocession and shortly thereafter the matter came to Jefferson's attention, prompting him to begin efforts for the purchase of New Orleans and West Florida. The result of these actions was the acquisition of the entire Louisiana area and a heightened sensitivity to the intrigues of Bonaparte.

The French were not the only threat to the security and sovereignty of the infant United States at this time. The phobias about spies and espionage within America were kindled anew with the disclosure of the so-called Burr Conspiracy. Shortly after the duel in which Alexander Hamilton was fatally wounded (July 11, 1804), Aaron Burr began his efforts at organizing a movement for separating the western territories of the Mississippi region from the United States. After being refused financial assistance for his cause by the British, Burr obtained a small sum from the Spanish and began focusing upon lands of the Southwest and Mexico for establishing a western empire. It is still unclear if his intent was treasonable or merely a filibustering expedition against his benefactors in the Spanish dominions. Nevertheless, Burr is known to have made a tour of the Mississippi River valley (May-September, 1805) and to have conferred with General James Wilkinson, commander of the armed forces in that region. At the end of August, 1806, he stayed at Blennerhasset's Island on the

<sup>24</sup> Bryan, *op. cit.*, pp. 106-107.

Ohio River where he recruited some sixty to eighty men and ten boats. In the meantime, Wilkinson warned Jefferson of Burr's activities and the President issued a proclamation on November 27, 1806, warning citizens against participating in an illegal expedition against Spanish territory.<sup>25</sup> Unaware of this declaration, Burr and his company began their journey down the Mississippi, passing several American forts without interference. When they came within thirty miles of Natchez, Burr learned that Wilkinson had betrayed him and he fled toward Spanish Florida but was captured and arrested in Alabama. Indicted for treason, Burr's trial before Chief Justice Marshall presiding over the U.S. Circuit Court ended in an acquittal. Burr went into European exile to escape further prosecutions for murder (in New York and New Jersey in the case of his duel with Hamilton) and for treason (in Ohio, Kentucky, Mississippi, and Louisiana.)

In spite of the confusion about the exact nature of Burr's expedition popular sentiments against France and Spain remained fixed. The Louisiana Purchase of 1803 left the status of Spanish ruled East and West Florida unsettled. Jefferson supported the view that Louisiana included the portion of Florida between the Mississippi River to the west and the Perdido River to the east (the most southern portions of the current states of Alabama and Mississippi). In 1810 a group of expansionists led a revolt in the Spanish dominion, captured the fortifications at Baton Rouge, and proclaimed the independent Republic of West Florida. On October 27, a month after its liberation, the Republic was proclaimed a U.S. possession and its military occupation as part of the Orleans Territory was authorized.<sup>26</sup> There were also designs on West Florida (which Congress ultimately incorporated [2 Stat. 734] into the Mississippi Territory on May 14, 1812) and scattered outbursts of opposition to Spanish authority within the Florida peninsula.

Into this situation President Madison dispatched George Matthews as a political emissary and intelligence agent. Ordered to proceed "secretly" to Florida, Matthews was to present himself to the Spanish authorities as an American commissioner authorized to accept such territory as might be turned over to the United States by Spain.

The Peninsular War was then cauterizing Spain, and the colonial office in Madrid had neither funds nor power. A new war between Britain and the United States was foreseen in 1811, and President Madison believed that the English would probably seize Florida as a base of operations. To prevent this, he appointed Matthews and Colonel John McKee, an Indian agent, to negotiate with the Spanish governor and secure if possible a cession of the provinces. They were to "fix a date for their return, if desired." In case the commissioners were successful, a provisional government was to be established; but if unsuccessful, it was understood from the beginning that forcible possession was to be taken, should

<sup>25</sup> See James D. Richardson, comp. *A Compilation of the Messages and Papers of the Presidents* (Vol. 1). New York, Bureau of National Literature, 1897, pp. 392-393.

<sup>26</sup> See *Ibid.*, pp. 465-466.

there be any reason to suppose a foreign Power was moving to capture the Floridas.

McKee seems to have abandoned this enterprise, leaving Matthews to carry on alone, which was very much to that gentleman's taste. He was a native of Ireland, had fought in the Revolutionary War, and had risen to the rank of general. No celebrated exploit of that struggle is connected with his name, but he was described as a man of "unsurpassed bravery and indomitable energy, strong-minded but almost illiterate." Moving to Georgia in 1785, his indomitable energy won him election as governor the very next year. In 1794-95 he was again elected governor of the state, and some time thereafter, though entitled to be called both Honorable and General, he did not disdain to work for the War Department as a special agent on the Florida frontier.<sup>27</sup>

As an *agent provocateur*, Matthews took it upon himself to recruit former Americans residing in Spanish Florida to revolt against their foreign ruler. When the colonial governor indicated opposition to these activities, Matthews returned to Georgia where he gathered a private army of sharpshooting frontiersmen and Indian fighters and once again entered the Spanish territory on a mission of espionage.

A number of Georgian frontiersmen, preparing for a descent upon Florida, assembled on the opposite bank of the St. Mary's River. Uniting with the border settlers on the Spanish side, they proceeded to organize an independent "Republic of Florida," with Colonel John McIntosh as president and a Colonel Ashley as military chief. Ferdandina, on Amelia Island, had become in 1808 a port of free entry for foreign vessels. On the excuse of protecting American shipping interests, General Matthews determined to occupy Ferdandina and Amelia Island, and to that end sent nine armed vessels into the harbor. Forces of the "Republic of Florida" he enlisted in his project, and, commanded by Ashley, they approached Ferdandina by water and summoned the Spanish commander, Don Jose Lopez, to surrender. Lopez was forced to sign articles of capitulation March 17, 1812, possibly a delicate compliment to the Irishman, Matthews. These articles—which added to the political apoplexy of the Spanish minister in Washington—provided that Ferdandina should remain a free port, but in case of war between Britain and the United States, British ships could not enter the harbor after May 1, 1813.<sup>28</sup>

In Washington the Spanish minister maintained a vehement protest of Matthews' activities even though the Ferdandina settlement constituted something of a compromise of his diplomatic position. Reluctantly President Madison and Secretary of State James Monroe announced that Matthews had "misunderstood" his instructions.

<sup>27</sup> Richard Wilmer Rowan with Robert G. Deindorfer, *Secret Service: Thirty-three Centuries of Espionage*. London, William Kimber, 1969, pp. 241-242.

<sup>28</sup> *Ibid.*, p. 705n.

Governor Mitchell of Georgia was appointed to replace him and directed to assist Estrada [the Spanish colonial governor] in enforcing order. Because of his unwanted versatility Matthews was dismissed; but his successor seems to have been given instructions no less opaque. Mitchell, it is said, was to obtain safety for the "revolutionists" in Florida, aid them as much as possible, and withdraw "troops as slowly as might seem feasible." No better way of pursuing Matthews' imperial aim could have been contrived; and Mitchell made so much of his opportunities that the armed force Matthews had organized and commanded did not retire from Florida for fourteen months. Then—in May 1813—it moved to join the army of Andrew Jackson, who was himself presently ordered to renew the invasion and march upon Pensacola. Only a Congressional outcry checked this expeditionary thrust, and Old Hickory turned aside to the timely defense of New Orleans.<sup>29</sup>

How far astray had Matthews actually gone in interpreting his instructions? Was he isolated from changing policy developments or the architect of a self-styled soldier of fortune escapade?

It was known at the time that George Matthews reported regularly to Washington. While discussing the necessity of occupying Florida to prevent the British from seizing it as a base, the American Congress sat in secret session, and many precautions were taken to keep the matter from becoming known. Matthews was in no sense, therefore, a filibuster or private plotter acting from selfish motives. Instead he typified the land-hungry American frontiersman of his age, who regarded himself as an agent—not a bit secret—of divine interposition and looked upon no boundary of the United States as final until it vanished into a sea, gulf or ocean. Matthews' conduct, as a government commissioner, was indefensible; and it is easy to understand why his project, carried on by his successor, has no forward place in the annals of the day. A blunt instrument adding one more note of apology to the sorry record of events surrounding the War of 1812, he has had to be ignored as he was formerly disowned.<sup>30</sup>

And with regard to the evolution and advancement of the intelligence function, the following conclusion seems appropriate.

There was very little secret service of a professional mold in the three-year War of 1812 and not much effective work of the Intelligence on either side. This is surprising, for there were any number of living Americans who had been officers in the Revolutionary War, and some of them ought to have remembered General Washington's profitable dependence upon systematic espionage. And it is all the more surprising as a fault of the British, for Napoleon was beaten and exiled

<sup>29</sup> *Ibid.*, pp. 242-243.

<sup>30</sup> *Ibid.*, p. 243; also see David Hunter Miller, *Secret Statutes of the United States: A Memorandum*. Washington, U.S. Govt. Print. Off., 1918, pp. 4-6.

to Elba, and in 1814 the government in London could afford to train its heaviest guns upon the weaker American adversary.<sup>31</sup>

#### IV. Mexican War

Insensitivity to intelligence needs persisted in Washington during the next three decades. When General Zachary Taylor marched into the recently annexed Republic of Texas, he had little useful information about the terrain or natural defenses of the territory. When Texas was admitted to the union in December, 1845, Taylor advanced to the Rio Grande to repel an anticipated Mexican attack. On February 6, 1846, the army received notification that field maneuvers might be ordered on short notice.

For six months, while at Corpus Christi, although he had engineers, and although traders were streaming through the place from beyond the Rio Grande, Taylor did not even know the way to Matamoros—so wrote Lieut. Col. E. A. Hitchcock, then commanding the 3rd infantry, whose diary and papers are now in the Library of Congress. It was not until February 24th that the necessary data were procured, not until March 8th that the army began to move. A light unit for scouting purposes was an obvious need; and [William L.] Marcy, the secretary of war, had given Taylor express orders to call for assistance from the Texans, “by whom legs were valued chiefly as the means of sticking to a horse.” Yet nothing of the kind was done.

There was no intelligence service. Dense ignorance reigned at headquarters as to topography or local conditions. Taylor had been instructed to learn all he could regarding both, and to keep the War Department informed; but in spite of Marcy’s earnest requests, he appears to have forwarded nothing whatever and to have had no useful ideas about the campaign. Napoleon had said that any general who, when taking the field in a peopled country, neglected intelligence service, was a general “ignorant of his trade.”<sup>32</sup>

Contrary to the advice of General Winfield Scott, who was about to enter the field, Taylor made no effort to recruit disgruntled *contrabandistas*—Mexican border-folk skilled in smuggling and otherwise unhappy with their own government—as spies or informers. He marched to Monterey without utilizing scouts, without almost any precautions against surprise attack, and, assuming he would encounter no serious resistance in seizing the city, without any real information as to the fortifications or defenses he would encounter.

When General Scott landed at Vera Cruz with his army in March, 1847, Lieut.-Col. Hitchcock, previously serving with Taylor in the

<sup>31</sup> Rowan and Deindorfer, *op. cit.*, p. 244; there is evidence that Andrew Jackson had a secret agent in Pensacola, Florida, who was instrumental in informing Jackson of the size and armament of his opposition at the battle of New Orleans and it is also thought that Jackson had utilized the services of the notorious pirate Jean Lafitte for intelligence purposes but these were very crude and elementary endeavors; see *Ibid.*, pp. 244-246.

<sup>32</sup> Bryan, *op. cit.*, pp. 116-117.

north, had joined his expedition serving as assistant inspector general. By his own account, it would appear that it was Hitchcock who recruited and organized the spy forces which had been urged on Taylor and subsequently served Scott so well. On June 5, 1847, Hitchcock noted in his diary that he had taken into service "a very celebrated captain of robbers" who "knows the band and the whole country." This was Dominguez whom Hitchcock tested with the delivery of a communiqué "and if he performs the service faithfully, I shall further employ him."<sup>33</sup> Two weeks later Hitchcock recorded his return with a letter of response—thus was the Mexican Spy Company (or Spy Company, or "the Forty Thieves"), as it came to be known, established,

Dominguez, leader of the Spy Company, had been an honest weaver, it was said, but on being robbed by a Mexican officer, took to the road and became a brigand chief. When the Americans reached Puebla he was living there quietly with his family; but, knowing the insecurity of his position, he accepted Hitchcock's offer to become a scout. His band consisted at first of five men but rose to about 100, and probably might have been increased to 2000. He and men of his even entered the capital in disguise. While he was at the head of the company, the actual captain was a Virginian named Spooner, who had been a member of his band; and the two lieutenants were also foreigners. The men seem to have served and obeyed orders faithfully, and their leader refused very advantageous terms offered by Santa Ana.<sup>34</sup>

Eventually, Hitchcock obtained the release of some of Dominguez's compatriots from local jails, arranged to pay each recruit \$20 a month, organized the band into companies, and placed them under the direct orders of General Scott with Dominguez acting as leader of the forces.<sup>35</sup> While the Spy Company was most useful to Scott, its members were regarded as loathsome and immoral by many of the officers and men of the army. Dr. Albert G. Brackett, a lieutenant with General Joseph Lane's forces under Scott's command, has penned the following first-hand observation:

The contra-guerrillas under Dominguez were a rascally set of fellows, and I never could look upon them with any degree of sympathy. Traitors to their own country in the darkest hour of stern trial, they aided the Americans against their own countrymen, and covered themselves with lasting infamy. There is an old saying "we love the treason but despise the traitor," which did not hold good with us. We loathed the treason and cursed the traitor. Every man in the company was a "jail bird," and a worse body of men could not have been collected together.

<sup>33</sup> W. A. Croffut, ed. *Fifty Years In Camp and Field: Diary of Major-General Ethan Allen Hitchcock, U.S.A.*, New York and London, G. P. Putnam's Sons, 1909, p. 259.

<sup>34</sup> Justin H. Smith. *The War with Mexico* (Vol. 2). New York, Macmillan Company, 1919, p. 362n.

<sup>35</sup> Croffut, *op. cit.*, pp. 263-265.

I once rode from the National Bridge to En Cerro with a squadron of these chaps, and was the only American with them. I had been carrying an order down from En Cerro to the Bridge, and was on my return. They rode along singing ribald songs, discharging their escopettes [a short rifle or carbine] every few minutes, and behaving in the most unsoldier-like manner. They had a few women along with them who seemed to be as thoroughly steeped in vice as the men. Each man carried a lance and wore a wide red band around his hat. Mexican treachery is proverbial, and these contra-guerrillas were a complete embodiment of it. On first seeing them, I thought very much, as one of our Irish soldiers did, "may the devil fly away wid'em for a set of ragamuffins."<sup>36</sup>

Undoubtedly those in the Spy Company were aware of these resentments and prejudices and a trace of that feeling can be detected in this brief passage in a letter from Captain Robert Anderson, Third Artillery, to his mother.

We have in our pay a Company of Mexicans who are called the Forty Thieves; they are, I expect some of the gentlemen robbers Thompson mentions. They were asked, the other day, if they would not be afraid of being murdered by their countrymen for acting with us, after we left the Country, and their Captain's answer was: "That is our business, we will take care of ourselves." They are very useful in getting information, etc., and are used individually or collectively, as their services are required. The Captain says he can increase his band to 1500 or 2000, if a greater number be wanted than he now has.<sup>37</sup>

Indeed, what was the fate of the Spy Company as an American victory became apparent?

As danger diminished so did the need for the irregulars' services. Promises of payment remained promises only. Apparently President Polk had an appropriation he could utilize for such things, and it would seem that he drew on it. But either the commitments were made by irresponsible people, or the political and military machines simply were not set up to administer such unorthodox operations despite the official-sounding name of Spy Company. Some officers of high personal integrity paid out of their own pockets. When they did, it was their own decision, and their own loss, as far as the government was concerned.

With the signing of peace, even these amenities stopped. The once sought-after irregulars were bandied about, even ordered from camps. Doubtless the qualities which had been found useful to the army now posed threats or at least em-

<sup>36</sup> Albert G. Brackett. *General Lane's Brigade in Central Mexico*. New York, J. C. Derby, 1854, pp. 186-187.

<sup>37</sup> Eba Anderson Lawton, ed. *An Artillery Officer in the Mexican War, 1846-7: Letters of Robert Anderson*. New York and London, G. P. Putnam's Sons, 1911, p. 266; abbreviated words appearing in the original have been reproduced in full in the above quotation.

barrassment, and their possessors were classed as undesirable. Some were ordered to get out of the country. Others still in the United States were advised that the best that could be done for them was an offer of transportation to the border and freedom to cross into Mexico, the one area on the face of the globe where they could not live, at least not for long.<sup>38</sup>

In his diary entry of June 5, 1848, Hitchcock records he was to discharge the Spy Company "with their own consent, by paying them \$20 per man at Vera Cruz—except the chief, Domingues, who will go to New Orleans." Those electing to remain in service "expect to go to Compeachy on an expedition proposed by General Lane 'on his own hook . . .'"<sup>39</sup> As it does not appear that the Compeachy mission was realized, the remnants of the Spy Company probably were dispersed into the countryside, without any further American payments, to pursue their old craft as bandits.

Another account regarding the fate of the Spy Company says simply that its members "were offered \$20 apiece and a trip to Texas."<sup>40</sup> Thus, it remains uncertain as to how many in the Mexican Spy Company received final compensation for their services and, beyond this, how many were left to fend for themselves in their homeland or were removed to the United States. While the Spy Company is generally thought to have provided useful intelligence for General Scott, its unique nature and the experience of United States armed forces in the Mexican hostilities prompt agreement with the conclusion that:

The War with Mexico gave many American officers a certain practical training for Civil War marches and battlefields. But from its extempore secret service little of positive value could have been derived.<sup>41</sup>

## V. Civil War

In 1860, following the election of Abraham Lincoln to the presidency, the South Carolina legislature, by a unanimous vote, called for a state convention. It assembled at Columbia and passed without dissent an ordinance declaring that "the Union now subsisting between South Carolina and the other States, under the name of the 'United States of America,' is hereby dissolved." Seceding on December 20, 1860, South Carolina was followed by Mississippi (January 19, 1861), Louisiana (January 26, 1861), and Texas (February 1, 1861). The seceding states called for a convention. Meeting in Montgomery, Alabama, it framed a constitution resembling the U.S. Constitution, and on February 8, 1861, set up a provisional government. Thus was the Confederacy born.

President-elect Lincoln was unable to halt the cataclysm of a dissolving Union and open warfare among the states. By the time of his

<sup>38</sup> Allison Ind. *A Short History of Espionage*. New York, David McKay Company, 1963, p. 79.

<sup>39</sup> Croffut, *op. cit.*, p. 330.

<sup>40</sup> Smith, *op. cit.*, p. 476n.

<sup>41</sup> Bryan, *op. cit.*, p. 118; of passing interest is the difficulty President Polk had in protecting his secret diplomatic efforts and the lack of any intelligence organization to assist on this security problem; see Anna Kasten Nelson, *Secret Agents and Security Leaks: President Polk and the Mexican War*. *Journalism Quarterly*, v. 52, Spring, 1975: 9-14, 98.

inaugural (March 4, 1861), the Confederate Provisional Government had been established (February 8, 1861), Jefferson Davis had been elected (February 9, 1861) and inaugurated as President of the Confederacy (February 18, 1861), an army had been assembled by the secessionist states, and Federal forts and arsenals within the South had been seized, beginning with the Charleston weapons installation (December 30, 1860).

Confronted with a civil war, the Federal Government lacked any centralized intelligence organization and, in desperation, scrambled to establish a piecemeal makeshift secret service. Efforts in this regard became imperative when it was soon realized that the territory surrounding Washington—Virginia, eastern Maryland and southern Delaware—was a hotbed of treason, Confederate agents, and poisonous conspiracies against the Union.

War, Navy, and State departments at first acted independently. Seward of the State Department took the lead, sending detectives into Canada and the South. The War Department was then administered not by the tireless and incorruptible Stanton but by that cynical party boss Simon Cameron, to whom has been attributed the definition of an honest politician as “one that, when he’s bought, stays bought.” (Lincoln dispensed with Cameron in January 1862, and removed him as far as possible from the scene by appointing him minister to Russia.)

Police chiefs of Northern cities—for example, “Uncle John” Kennedy, superintendent of the metropolitan police of New York—had been called in to assist, not only by trailing and arresting suspects but by lending trained operatives. General [Winfield] Scott appears to have consulted and worked with Seward rather than with Cameron, his own superior. After a while the military jails at Fort Warren (Boston), Fort McHenry (Baltimore), and Fort Lafayette (New York) were crowded to the limit; so in February 1862 Lincoln ordered the release on parole of all political and state prisoners except spies or those otherwise inimical to public safety. Thenceforth the principal arrests of all suspects of that character were by military power.<sup>42</sup>

## VI. Pinkerton

Among the more famous private detectives recruited by the Federal Government was Allan Pinkerton who served as an intelligence organizer and coordinator from April, 1861, until the fall of the following year. His activities in and around Washington were under the direction of the Secretary of War and Colonel Andrew Porter, provost marshal responsible for the capital’s security while under martial law. Pinkerton’s field operations were in the service of General George

<sup>42</sup> Bryan, *op. cit.*, pp. 121–122; generally, on the questions of arrest and incarceration authority, see James G. Randall, *Constitutional Problems Under Lincoln*. Urbana, University of Illinois Press, 1951, pp. 118–186; also see Clinton Rossiter, *Constitutional Dictatorship: Crisis Government in Modern Democracies*. Princeton, Princeton University Press, 1948, pp. 223–240.

B. McClellan during his command of the Ohio forces and the Army of the Potomac.<sup>43</sup>

Pinkerton's involvement in intelligence activity in the Union cause actually occurred before the Great Emancipator arrived at the White House. Early in 1861, Samuel H. Felton, president of the Philadelphia, Wilmington and Baltimore Railroad, secured Pinkerton's services to investigate threats of damage to the line "by roughs and secessionists of Maryland."<sup>44</sup> The detective dispatched undercover agents to infiltrate gangs and secret societies thought to be making the intimidations and soon learned of a plot to assassinate President-elect Lincoln.<sup>45</sup> In league with members of the Baltimore police force, the conspirators planned to kill the Chief Executive when he traveled by open carriage from the Northern Central Railroad station to the Washington depot, a half mile away.<sup>46</sup> Informing the President-elect's entourage of this scheme, Pinkerton set about devising an alternative travel plan for the Lincoln party. After finally meeting with the President-elect in Philadelphia, agreement was reached that a special train would secretly carry Lincoln through Baltimore the night before the official caravan was to arrive in that city.<sup>47</sup> Thus eluding the assassins, the Chief Executive made his way safely to Washington. For his part in these activities, Pinkerton not only had an effective spy force, but "fixed" the telegraph to render communication of the ploy impossible,<sup>48</sup> detained two journalists by force of arms from immediately reporting the plan,<sup>49</sup> and assumed responsibility for the security of the tracks which the special train traveled.<sup>50</sup>

Next, in late April, Pinkerton was prevailed upon to provide a secure courier service to Washington. "Several gentlemen of prominence in Chicago, intimate friends of President Lincoln, and men of influence and intelligence in the State, desired to communicate with the President upon questions connected with the existing condition of affairs, and applied to me for the purpose of having letters and dispatches conveyed directly to Washington by the hands of a trusty messenger."<sup>51</sup> For this mission, Pinkerton selected Timothy Webster who was destined to become one of the Union's most successful, but martyred, spies. When he arrived at the White House with the communiques, Lincoln thanked him for safely conveying the messages and for his role in apprehending a Confederate spy along the way. Return dispatches were prepared by the President, one of which summoned Pinkerton to the capital.<sup>52</sup> A few days later, Pinkerton was in Washington.

<sup>43</sup> Allan Pinkerton. *The Spy of the Rebellion*. New York, G. W. Carleton and Company, 1883, p. xxvii.

<sup>44</sup> *Ibid.*, p. 46.

<sup>45</sup> See *Ibid.*, pp. 55-64.

<sup>46</sup> *Ibid.*, p. 68.

<sup>47</sup> See *Ibid.*, pp. 83-87; by this time Lincoln had also received word of the plot from William Seward's son who had been given the information by General Winfield Scott; see James D. Horan. *The Pinkertons: The Detective Dynasty that Made History*. New York, Crown Publishers, 1967, p. 56.

<sup>48</sup> Pinkerton, *op. cit.*, pp. 89-90.

<sup>49</sup> *Ibid.*, pp. 99-100.

<sup>50</sup> *Ibid.*, p. 96.

<sup>51</sup> *Ibid.*, p. 110.

<sup>52</sup> *Ibid.*, p. 130.

Arriving at the capital I found a condition of affairs at once peculiar and embarrassing, and the city contained a strange admixture of humanity, both patriotic and dangerous. Here were gathered the rulers of the nation and those who were seeking its destruction. The streets were filled with soldiers, armed and eager for the fray; officers and orderlies were seen galloping from place to place; the tramp of armed men was heard on every side, and strains of martial music filled the air. Here, too, lurked the secret enemy, who was conveying beyond the lines the coveted information of every movement made or contemplated. Men who formerly occupied places of dignity, power and trust were now regarded as objects of suspicion, whose loyalty was impeached and whose actions it was necessary to watch. Aristocratic ladies, who had previously opened the doors of their luxurious residences to those in high office and who had hospitably entertained the dignitaries of the land, were now believed to be in sympathy with the attempt to overthrow the country, and engaged in clandestine correspondence with Southern leaders. The criminal classes poured in from all quarters, and almost every avenue of society was penetrated by these lawless and unscrupulous hordes. An adequate idea can be formed of the transformation which had been effected within a few short weeks in this city of national government.<sup>53</sup>

Observant of the conditions which might prompt the enlistment of his intelligence services, Pinkerton shortly met with Lincoln and some of the members of the Cabinet who informed him "that the object in sending for me was that the authorities had for some time entertained the idea of organizing a secret-service department of the government, with the view of ascertaining the social, political and patriotic status of the numerous suspected persons in and around the city."<sup>54</sup> No plans on this matter had been drawn up. Pinkerton was asked for his ideas, which he gave, and then departed with the understanding that further communications on the subject would be forthcoming. Not only did such discussions fail to materialize, but, it was quite apparent to Pinkerton "that in the confusion and excitement which were necessarily incident to the novel and perplexing condition of affairs then existing, that anything approaching to a systematized organization or operation would be for a time impossible."<sup>55</sup> The nation needed armed forces: too many competing demands for men, money, and the attention of Federal officials for this task mitigated against plans for a secret service. A few days after his meeting with Lincoln, Pinkerton unsuccessfully attempted to obtain additional details regarding the intelligence plan, left his address with the President's secretary, and returned to Philadelphia.

In the meantime, Major General George B. McClellan, an old friend of Pinkerton's who had just been named commander of the Ohio vol-

<sup>53</sup> *Ibid.*, pp. 137-138.

<sup>54</sup> *Ibid.*, p. 139.

<sup>55</sup> *Ibid.*

unteers, wrote asking for a secret meeting in Cincinnati.<sup>56</sup> Pinkerton hastened to the rendezvous, informed McClellan of what had transpired in Washington and of the conditions he found there. The General was also interested in establishing a secret service and wanted his friend to organize and direct it. An agreement was struck.

Our business was settled. It arranged that I should assume full management and control of this new branch of the service, and that I should at once enter upon the discharge of the multifarious duties attending so responsible a position. The General then informed me he would write to General [Winfield] Scott for permission to organize this department under his own personal supervision; and he also agreed to submit the project to Governor [William] Dennison, of Ohio, with a request to that gentlemen to solicit the co-operation of the Governors of Illinois, Indiana, Michigan and Wisconsin, in sustaining the organization.<sup>57</sup>

Pinkerton set up offices in Cincinnati and brought a group of his detectives to the city for the intelligence mission. It would appear that he utilized only his own trained agents for this enterprise.

The general informed me that he would like observations made within the rebel lines, and I resolved to at once send some scouts into the disaffected region lying south of us, for the purpose of obtaining information concerning the numbers, equipments, movements and intentions of the enemy, as well as to ascertain the general feeling of the Southern people in regard to the war. I fully realized the delicacy of this business, and the necessity of conducting it with the greatest care, caution and secrecy. None but good, true, reliable men could be detailed for such service, and knowing this, I made my selections accordingly. . . .<sup>58</sup>

Agents were dispatched singly and in pairs over carefully selected and differing routes. Among the first to depart was Timothy Webster who traveled to Louisville and Memphis with stops at Bowling Green and Clarkesville.<sup>59</sup> Webster was also the first of Pinkerton's operatives to come into contact with the Confederacy's counter-intelligence corps or safety committees.<sup>60</sup> Two other famous Pinkerton agents were Pryce Lewis and John Scully.<sup>61</sup>

In organizing and controlling this secret service, I endeavored to conceal my own individual identity so far as my friends and the public were concerned. The new field of usefulness into which I had ventured was designed to be a secret one in every respect, and for obvious reasons I was induced to lay aside the name of Allan Pinkerton—a name so well known that it had grown to be a sort of synonym for detective. I

<sup>56</sup> See *Ibid.*, pp. 140–141.

<sup>57</sup> *Ibid.*, pp. 153–154.

<sup>58</sup> *Ibid.*, p. 155.

<sup>59</sup> See *Ibid.*, p. 157ff; Webster's activities are discussed throughout Pinkerton's book; also see Bryan, *op. cit.*, pp. 123–130, 167–170.

<sup>60</sup> See Pinkerton, *op. cit.*, pp. 160–165, 174–175, 180–181.

<sup>61</sup> See *Ibid.*, pp. 501–529.

accordingly adopted the less suggestive one E. J. Allen; a *nom de guerre* which I retained during the entire period of my connection with the war. This precautionary measure was first proposed by the General himself, and in assenting to it I carried out his views as well as my own. This ruse to conceal my identity was a successful one. My true name was known only to General McClellan, and those of my force who were in my employ before the breaking out of the rebellion, and by them it was sacredly kept.<sup>62</sup>

When McClellan was given command of the Army of the Potomac in November, 1861, Pinkerton moved on to Washington with him.

Among the first things the General did, after being assigned to the command of the troops around that city, was to organize a secret service force, under my management and control. I was to have such strength of forces as I might require; my headquarters were for the time located in Washington. It was arranged that whenever the army moved I was to go forward with the General, so that I might always be in close communication with him. My corps was to be continually occupied in procuring, from all possible sources, information regarding the strength, positions and movements of the enemy. All spies, "contrabands," deserters, refugees and prisoners of war, coming into our lines from the front, were to be carefully examined by me, and their statements taken in writing.<sup>63</sup>

It was also at this time that Pinkerton took on added responsibilities for security within the capital city. This aspect of intelligence operations was described by Pinkerton in a letter to General McClellan shortly after the Washington command was secured.

In operating with my detective force, I shall endeavor to test all suspected persons in various ways. I shall seek access to their houses, clubs, and places of resort, managing that among the members of my force shall be ostensible representatives of every grade of society, from the highest to the most menial. Some shall have the *entree* to the gilded salon of the suspected aristocratic traitors, and be their honored guests, while others will act in the capacity of valets, or domestics of various kinds, and try the efficacy of such relations with the household to gain evidence. Other suspected ones will be tracked by the "shadow" detective, who will follow their every foot-step, and note their every action.

I also propose to employ a division of my force for the discovery of any secret traitorous organization which may be in existence; and if any such society is discovered, I will have my operatives become members of the same, with a view to ascertaining the means employed in transmitting messages through the lines, and also for the purpose of learning, if possible, the plans of the rebels. All strangers arriving in

<sup>62</sup> *Ibid.*, p. 156.

<sup>63</sup> *Ibid.*, p. 245.

the city, whose associations or acts may lay them open to suspicion, will be subjected to a strict surveillance.<sup>64</sup>

In addition to these security and surveillance activities, Pinkerton's operatives cooperated with the Loyal League, a group of southern blacks who "had banded themselves together to further the cause of freedom, to succor the escaping slave, and to furnish information to loyal commanders of the movements of the rebels, as far as they could be ascertained."<sup>65</sup> Another intelligence source cultivated by Pinkerton was the double agent. As the master detective himself concluded:

In war, as in a game of chess, if you know the moves of your adversary in advance, it is then an easy matter to shape your own plans, and make your moves accordingly, and, of course always to your own decided advantage. So in this case, I concluded that if the information intended for the rebels could first be had by us, after that, they were welcome to all the benefit they might derive from them.<sup>66</sup>

For all of his efforts, doubts persist as to the capabilities and accomplishments of Pinkerton. To the extent his intelligence activities were successful, did they derive from careful planning and evaluation or luck? Shortly after the fall of Fort Sumter, Pinkerton offered the services of sixteen to eighteen of his agents to serve the Union.<sup>67</sup> By the time final arrangements were being made for a spy force to assist McClellan's Ohio volunteers, ten agents had been put into the field.<sup>68</sup> At the height of his career in the capital, it is uncertain as to the number of personnel Pinkerton had in his employ.<sup>69</sup> For the most part, he hired and utilized his own detectives. "He held the not implausible notion that a good private detective can, automatically, become an expert secret agent in time of war; and nowhere, either in the performance of his duties or in subsequent records dictated by him, is there to be discovered any conception of the essentially military character of the work he sought to direct."<sup>70</sup>

The reasons for Pinkerton's deficiency in correctly evaluating the military information he received were his blind hero worship of McClellan, the investigative methods he had introduced in the field that had made his agency so remarkable in civilian life, and his intense abolitionist fervor.

In Chicago, when he was on a case, Pinkerton's method was to assemble an infinite number of small details, which when put together gave a clue to the mystery. Pinkerton's opera-

<sup>64</sup> *Ibid.*, pp. 247-248.

<sup>65</sup> *Ibid.*, pp. 355-357.

<sup>66</sup> *Ibid.*, pp. 429-430.

<sup>67</sup> James D. Horan and Howard Swiggett. *The Pinkerton Story*. New York, Putnam's Sons, 1951, p. 92.

<sup>68</sup> Richard Wilmer Rowan. *The Pinkertons: A Detective Dynasty*. Boston, Little, Brown and Company, 1931, p. 92.

<sup>69</sup> Pinkerton was sufficiently secretive about the number and names of those in his employ that he apparently was in constant dispute with the Assistant Secretary of War who had to approve his bills for service; see Horan and Swiggett, *op. cit.*, p. 120.

<sup>70</sup> Rowan, *op. cit.*, 145.

tives traditionally sent in reports every day, no matter how difficult it was to do so. In Chicago these reports were filed in a systematic fashion. This very system, which Pinkerton introduced on the battlefields, defeated him: It failed because the man making the final report was an amateur at war. Then there was Pinkerton's antislavery attitude. For years he had been helping slaves who came to him with the most touching stories. In the field, Pinkerton, in his sympathy, was uncritical of the excited, uneducated slaves who stood before him in his tent, twisting a ragged hat, shuffling their feet in the excitement of knowing that at last they were incapable of giving realistic information about what was happening on a grand scale behind Confederate lines, it is evident that Pinkerton believed everything they told him.<sup>71</sup>

Ultimately, Pinkerton's inabilities as an interpreter of intelligence information for military purposes contributed to his downfall as head of the Washington spy corps. Early in 1862, Lincoln set February 22nd for the launching of a general Union offensive. McClellan, who had already exhibited a tendency to hesitate in engaging the enemy, did not start operations in the offensive until March when he began moving on Richmond in the Peninsula Campaign. Advancing over the territory between the James and York Rivers, he was given an estimate of enemy troop strength of 200,000 men. In fact, the Confederate forces numbered 86,000 to McClellan's 100,000. Nevertheless, the effect of this inflated estimate was sufficient to make the Union commander even more hesitant to engage the enemy than he had been in the past. After a series of skirmishes, troops under General Robert E. Lee and General Thomas J. "Stonewall" Jackson launched a counterattack on the McClellan forces in the Seven Days' Battles, resulting in a retreat of the larger Union army to the James River and a check on the advance toward Richmond. Two months later, in September, McClellan surprised Lee at Antietam but, failing to use his reserves, fought the rebels to a bloody draw. Angered at Lee's escape, by McClellan's procrastination, and alarmed by a daring cavalry raid by General James E. B. "Jeb" Stuart around the Union forces and into Pennsylvania, Lincoln finally replaced McClellan as commander of the Army of the Potomac on November 7, 1862.<sup>72</sup> Thereupon, Pinkerton resigned his position as head of the secret service.

The detective, as it was to turn out, did not really do much more than effect a change of front, for he was active on behalf of the government as long as the States were in conflict. There were innumerable damage claims being pressed in Washington—the deeper into the South the Union armies penetrated, the more they multiplied—and these the Pinkerton agents investigated, with a high average of success in controlling the schemes of imposters and swindlers. For the particular purpose of looking after cotton claims, in the spring of '64, Allan Pinkerton was transferred to the Department of the Mississippi, General Canby commanding. And now his other

<sup>71</sup> Horan, *op. cit.*, pp. 116-117.

<sup>72</sup> See *Ibid.*, pp. 115-137; Horan and Swiggett, *op. cit.*, pp. 107-122.

son Robert was deemed mature enough to join his brother in the secret service. Meanwhile, the military espionage department which Allan had initiated continued to expand, operating under the fairly successful direction of various officers—in the East the most noteworthy being Colonel, afterward Brigadier General Lafayette C. Baker, an inventive man, one of the few American spymasters in any war who seems to compare with the brilliant if thoroughly unscrupulous practitioners of Europe. In the West Grenville M. Dodge, who also attained a general's rank, capably controlled a hundred spies, but he was to become far more celebrated subsequently as the indomitable builder of the Union Pacific Railroad.<sup>73</sup>

### VII. Seward

When the Lincoln Administration suddenly found itself faced with open hostilities and accompanying espionage and spy intrigues in 1861, one of the first officials to react to the situation was Secretary of State Seward. His organization combined both the police function—pursuing individuals with a view to their incarceration and prosecution—and the intelligence function—gathering information regarding the loyalty and political views of citizens without any particular regard for possible violations of the law. In combining the two tasks, of course, their distinction often became lost. One commentator notes:

The Government's first efforts to control the civilian population were conducted by the Secretary of State for reasons both personal and official. William H. Seward, the "Premier" of the Cabinet, had an unquenchable zeal for dabbling in everyone else's business. In addition, since the establishment of the Federal Government the office of the Secretary of State had been somewhat of a catchall for duties no other executive agency was designed to handle. With the war, and the new problem of subversion on the home front, Seward soon began to busy himself about arrests of political prisoners, their incarceration, and then the next step of setting up secret agents to ferret them out.<sup>74</sup>

There are no informative records as to how or why the initial arrests of political prisoners and the creation of a secret service fell to Secretary Seward. It is entirely likely that he requested these duties. The more important consideration, however, concerns the extent to which he responsibly carried out these obligations. According to one of the Secretary's biographers:

Arrests were made for any one of many reasons: where men were suspected of having given, or intending to give, aid or comfort to the enemy in any substantial way,—as by helping in the organization of troops, by supplying arms or provisions, or selling the bonds of the states in secession; by public or private communications that opposed United States enlist-

<sup>73</sup> Rowan, *op. cit.*, pp. 186-187.

<sup>74</sup> George Fort Milton. *Abraham Lincoln and the Fifth Column*. New York, The Vanguard Press, 1942, p. 48.

ments or encouraged those of the Confederacy; by expressing sympathy with the South or attacking the administration; by belonging to organizations designed to obstruct the progress of the war—in fact for almost any act that indicated a desire to see the government fail in its effort to conquer disunion.<sup>75</sup>

But the question was not simply one of fact. A number of due process considerations were raised by the manner and nature of the arrest and detention of political offenders.

The person suspected of disloyalty was often seized at night, searched, borne off to the nearest fort, deprived of his valuables, and locked up in a casemate, or in a battery generally crowded with men that had had similar experiences. It was not rare for arrests regarded as political to be made by order of the Secretary of War or of some military officer; but, with only a few exceptions, these prisoners came under the control of the Secretary of State just as if he had taken the original action.

For a few days the newcomer usually varied reflection and loud denunciation of the administration. But the discomforts of his confinement soon led him to seek his freedom. When he resolved to send for friends and an attorney, he was informed that the rules forbade visitors, except in rare instances, that attorneys were entirely excluded, and the prisoner who sought their aid would greatly prejudice his case. Only unsealed letters would be forwarded, and if they contained objectionable statements they were returned to the writer or filed in the Department of State with other papers relating to the case. There still remained a possibility, it was generally assumed, of speedy relief by appeal to the Secretary in person. Then a long narrative, describing the experiences of a man whose innocence was equaled only by his misfortunes, was addressed to the nervous, wiry, all-powerful man keeping watch over international relations, political offenders, and affairs generally. The letter was usually read by the Chief Clerk or Assistant Secretary, and then merely filed. A second, third, and fourth petition for liberation and explanations was sent to the department—but with no result save that the materials for the study of history and human nature were thereby enlarged; the Secretary was calm in the belief that the man was a plotter and could do no harm while he remained in custody.<sup>76</sup>

To rectify this situation, two important steps were taken in February, 1862. On St. Valentine's Day, an Executive order was issued providing for the wholesale release of most political prisoners, excepting only "persons detained as spies in the service of the insurgents, or others whose release at the present moment may be deemed incompatible with the public safety."<sup>77</sup> In addition, a special review panel,

<sup>75</sup> Frederick Baneroft, *The Life of William H. Seward* (Vol. 2). New York, Harper and Brothers, 1900, p. 260.

<sup>76</sup> *Ibid.*, pp. 261-262.

<sup>77</sup> See Richardson, *op. cit.* (Vol. 7), pp. 3303-3305.

consisting of Judge Edwards Pierrepont and General John A. Dix, was established to expedite releases under this directive.<sup>78</sup>

With regard to intelligence activities, Seward apparently employed Allan Pinkerton for such operations during the summer of 1861, "but did not keep him long, perhaps because he felt that the detective was too close to the President, and Seward wanted his own man, whose loyalty would be direct to him."<sup>79</sup> A listening post was sought in Canada for purposes of checking on the activities of Confederate agents and to monitor the trend of sentiment in British North America during the secession crisis.<sup>80</sup> Former Massachusetts Congressman George Ashmun was appointed special agent to Canada for three months in early 1861 at a salary of \$10 a day plus expenses. Seward advanced \$500 cash on account. Another operative, Charles S. Ogden, took residence in Quebec and additional stations were subsequently established at Halifax and St. John's, among other seaports.<sup>81</sup>

A domestic network also came into being while the Canadian group struggled to recruit confidential agents.

Seward's "Secret Service Letter Book" for 1861 was full of inquiries dispatched to friends and trusted official associates throughout the country asking them to discover persons who could be put on important investigating tasks. He wanted "a discreet and active man" for the Northern frontier, to arrest spies seeking entrance from Canada, and offered to pay such a man \$100 a month. A little later he appointed a special agent at Niagara Falls, to examine the persons coming over the Suspension Bridge, and seize and hold any who seemed suspicious. He sought, without immediate results, a good man for Chicago and another for Detroit. He authorized the United States Marshal at Boston to employ two detectives for two month's time, each at \$150 a month. This was particularly urgent; therefore let the Marshal consult the governor of the State, "and take effective measures to break up the business of making and sending shoes for the Rebel Army."<sup>82</sup>

Almost unnoticed, Seward's intelligence organization began to grow, though its agents often proved to be ineffective amateurs. Shortly, however, professionalism, discipline, and a careful sense of mission came to the Secretary's spy corps in the person of Lafayette Charles Baker.

### VIII. Baker

Born in New York in 1826 and reared in the Michigan wilderness, Lafayette Baker engaged in mechanical and mercantile pursuits in the state of his birth and in Philadelphia in 1848 before departing, in

<sup>78</sup> The correspondence of this panel and lists of those released at its direction may be found in Fred C. Ainsworth and Joseph W. Kirkley, comps. *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, Series II (Vol. 2). Washington, U.S. Govt. Print. Off., 1897.

<sup>79</sup> Milton, *op. cit.*, p. 49.

<sup>80</sup> See John W. Headley, *Confederate Operations In Canada and New York*. New York and Washington, The Neale Publishing Company, 1906; also of related interest is James D. Bulloch, *The Secret Service of the Confederate States in Europe*. New York, Thomas Yoseloff, 1956; originally published 1884.

<sup>81</sup> Milton, *loc. cit.*

<sup>82</sup> *Ibid.*, pp. 50-51.

1853, for California. Three years later he was an active member of the Vigilance Committee. This experience and his admiration of Francios Vidocq (1775-1857), an infamous Paris detective whom Baker came to imitate, whetted his appetite for intrigue and the life of the sleuth. When hostilities broke out between the North and the South, Baker happened to be heading for New York City on business. When he became aware of the mischief and misdeeds of Confederate spies and saboteurs in and around Washington, he set out for the capital determined to offer his services as a Union agent.<sup>83</sup>

Arriving in the District of Columbia, Baker obtained an interview with General Winfield Scott, commander of the Army and himself not unfamiliar with spy services. In need of information about the rebel forces at Manassas, Scott, having already lost five previous agents on the mission, solicited Baker's assistance. After an adventure of daring and dash, the intrepid Baker returned three weeks later with the details sought by General Scott. The success of the mission earned Baker a permanent position with the War Department.<sup>84</sup>

The next assignment given Baker involved ferreting out two Baltimore brothers who were running the Union blockade to supply munitions to the Confederates. This he did, breaking up the smuggling operation and earning himself a considerable amount of press publicity.<sup>85</sup>

These activities came to the attention of Secretary Seward who hired Baker at the rate of \$100 a month plus expenses<sup>86</sup> and sent him off to prowl wherever espionage, sabotage, or rebel spy agents were thought to be lurking.<sup>87</sup> Assisted by three hundred Indiana cavalrymen, Baker was later ordered to probe the Maryland country side for the presence of rebel agents and Confederate sympathies. His mission took him to Chaptico, Leonardstown, Port Tobacco, Old Factory, and the farmland of St. George's, St. Charles and St. Marys counties.<sup>88</sup> As his column advanced, they punished the disloyal. As a result, "he left behind a trail of burning buildings, frightened men, women, and children, terrified informers, [and] bullet-pierced Secesh tobacco planters."<sup>89</sup>

As a consequence of this campaign, Baker attempted to interest Postmaster General Montgomery Blair in a purge of disloyal Maryland postmasters, replacing them with Union stalwarts or closing the stations. Blair was well aware of disloyalty among some of the Maryland postmasters and earlier had ordered their displacement. In a report to the Secretary of State, Baker claimed he had obtained unlimited authority to conduct the postmaster purge and requested a military force of two hundred to three hundred men to police the localities in Maryland where these disloyal officials had been dis-

<sup>83</sup> See L. C. Baker, *History of the United States Secret Service*. Philadelphia, King and Baird, 1868, pp. 15-20; Jacob Mogelevor, *Death to Traitors: The Story of General Lafayette C. Baker, Lincoln's Forgotten Secret Service Chief*. New York, Doubleday and Company, 1960, pp. 22-48.

<sup>84</sup> Baker, *op. cit.*, pp. 45-72; Mogelevor, *op. cit.*, pp. 48-62.

<sup>85</sup> Baker, *op. cit.*, pp. 72-84; Mogelevor, *op. cit.*, pp. 68-72.

<sup>86</sup> Mogelevor, *op. cit.*, p. 73.

<sup>87</sup> See Baker, *op. cit.*, pp. 85-101.

<sup>88</sup> *Ibid.*, pp. 102-111; Mogelevor, *op. cit.*, pp. 74-79.

<sup>89</sup> Mogelevor, *op. cit.*, p. 79.

covered. The proposal was ignored but Baker had a variety of other tasks to occupy him as Seward's intelligence chief.<sup>90</sup>

With enough endurance for a dozen men, he worked almost without rest to educate himself in the ever-spreading operations of the rebels and their sympathizers. He traveled to Canada to see for himself what the South was doing to build a fire in the rear of the Union: he made the acquaintance of police chiefs of the big northern cities; he personally took prisoners to the harbor forts to look over conditions; he uncovered and jotted down identities of suppliers of war goods to the South; he acquired a firsthand knowledge of Secesh-supporting newspapers, in sedition-ridden New York, New Jersey, and the seething West. Only on rare occasions, when official duty took him there, did he see his wife Jennie, who had gone to the security of her parent's home in Philadelphia.<sup>91</sup>

As a consequence of Lincoln's St. Valentine's Day directive regarding the release of political prisoners and limiting "extraordinary arrests" to "the direction of the military authorities alone," Baker was recommended to the War Department and its new Secretary, Edwin M. Stanton.<sup>92</sup> In accepting Baker's services, Stanton warned him of the grave and desperate situation facing the government, advised him that he would never be permitted to disclose the authority for his actions, and gave notice that he would be expected to pursue all enemies of the Union, regardless of their station, power, loyalty, partisanship, or profession. Baker's detective service was to be the terror of the North as well as the South, secretly funded, and accountable exclusively and directly to the Secretary of War.<sup>93</sup>

The enemies of the state took many forms. An enemy could be a pretty girl with swaying hips covered by an acre of crinoline, carrier of rebellion-sustaining contraband goods. Or an enemy could be a contractor selling the Union shoddy clothing. Or an enemy could be a Copperhead sapping the strength of the Union by discouraging enlistments. An enemy could also be a Union general with larceny in his soul, gambling away the pay of his soldiers. He could be a guerrilla with a torch firing a government corral within sight of the White House.<sup>94</sup>

For three years, Baker gathered intelligence on the enemies of the Union, reporting his findings to Stanton and Lincoln. In addition, at their direction or sometimes on his own authority, he functioned as an instrument for directly punishing the enemy or for arresting and incarcerating them. Utilizing his intelligence sources, Baker identified and prejudged the despoilers of the Union; relying upon extraordinary military authority and martial law, he seized his foe in his capacity as a Federal policeman; and as the custodian of the

<sup>90</sup> See *Ibid.*, pp. 79-81.

<sup>91</sup> *Ibid.*, p. 84.

<sup>92</sup> See Richardson, *op. cit.* (Vol. 7), pp. 3003-3005.

<sup>93</sup> See Mogelever, *op. cit.*, pp. 86-88.

<sup>94</sup> *Ibid.*, p. 89.

Old Capitol Prison and its nefarious annex, the Carroll Prison, he served as jailer of those he captured.

Of Baker's Commander-in-Chief, one authority has commented: "No one can ever know just what Lincoln conceived to be limits of his powers."<sup>95</sup>

In his own words, the Sixteenth President wrote:

. . . my oath to preserve the Constitution to the best of my ability, imposed upon me the duty of preserving, by every indispensable means, that government—that nation—of which that Constitution was the organic law. Was it possible to lose the nation, and yet preserve the constitution? By general law life *and* limb must be protected; yet often a limb must be amputated to save a life, but a life is never wisely given to save a limb. I felt that measures, otherwise unconstitutional, might become lawful, by becoming indispensable to the preservation of the constitution through the preservation of the nation. Right or wrong, I assumed this ground, and now avow it. I could not feel that, to the best of my ability, I had ever tried to preserve the constitution if, to save slavery, or any minor matter, I should permit the wreck of government, country, and Constitution all together.<sup>96</sup>

And in the more contemporary view of Clinton Rossiter:

. . . Mr. Lincoln subscribed to a theory that in the absence of Congress and in the presence of an emergency the President has the right and duty to adopt measures which would ordinarily be illegal, subject to the necessity of subsequent congressional approval. He did more than this; he seemed to assert that the war powers of the Constitution could upon occasion devolve completely upon the President, if their exercise was based upon public opinion and an inexorable necessity. They were then sufficient to embrace any action within the fields of executive or legislative or even judicial power essential to the preservation of the Union. [He] . . . implied that this government, like all others, possessed an absolute power of self-defense, a power to be exerted by the President of the United States. And this power extended to the breaking of the fundamental laws of the nation, if such a step were unavoidable.<sup>97</sup>

The presence of this operating viewpoint at the highest level of the Executive Branch, coupled with his own personal ambitions for power and prestige, contributed significantly to Baker's zealous, authoritarian, and often illegal manner of carrying out his War Department mission. Nevertheless, Baker must be recognized as a professional

<sup>95</sup> Wilfred E. Binkley. *President and Congress*. New York, Alfred A. Knopf, 1947, p. 126.

<sup>96</sup> Letter to Albert G. Hodges (April 4, 1864) in Roy P. Basler, ed. *The Collected Works of Abraham Lincoln* (Vol. 8). New Brunswick, Rutgers University Press, 1953, p. 281.

<sup>97</sup> Rossiter, *op. cit.*, p. 229.

thoroughly familiar with the methods and tactics of his profession. Reflecting a classically Machiavellian perspective, he once wrote :

It may be said that the deception and misstatements resorted to, and inseparable from the detective service, are demoralizing and prove unsoundness of character in its officers. But it must be borne in mind that, in war, no commander fails to deceive the enemy when possible, to secure the least advantage. Spies, scouts, intercepted correspondence, feints in army movements, misrepresentations of military strength and position, are regarded as honorable means of securing victory over the foe. The work of the detectives is simply deception reduced to a science or profession; and whatever objection, on ethical grounds, may lie against the secret service, lies with equal force against the strategy and tactics of Washington, Scott, Grant, and the host of their illustrious associates in the wars of the world. War is a last and terrible resort in the defense of even a righteous cause, and sets at defiance all of the ordinary laws and customs of society, overriding the rights of property and the sanctity of the Sabbath. And not until the nation learns war no more, will the work of deception and waste of morals, men and treasures, cease.<sup>98</sup>

Establishing offices at 217 Pennsylvania Avenue, in close proximity to both the White House and the War Department, Baker began gathering recruits and organizing his unit. Operating without official status, the group was generally referred to as the Secret Service Bureau. Its personnel, known only to Baker in terms of number and complete identity, bore no credentials other than a small silver badge.<sup>99</sup> Secretly commissioned as a colonel, Baker initially represented himself, when absolutely necessary, as an agent of the War Department. Later, he publicly cited his military rank and held the title of Provost-Marshal.

He initiated the nation's first police dossier system although the rebels, the Copperheads, and the misguided among the Loyalists in the North charged him with poking his private eyes into the homes of the innocent.

He gathered systematically the first criminal photo file, enabling a more efficient pursuit of the enemies of the nation.

He instituted a policy of seizing suspects in the dead of night when their resistance to interrogation and their ability to seek help would be at the lowest ebb.

He made a science of the interrogation of prisoners, using teams of detectives to work over a suspect until he was satisfied he either had the full story or he could drag no more information from his victim.

He established a secret fund for building and feeding a vast army of informers and unlisted agents. No one except he knew the full range of his organization. Even his most trusted aides were not allowed to know the identity of all of his operatives.<sup>100</sup>

<sup>98</sup> Mogelever, *op. cit.*, p. 91.

<sup>99</sup> *Ibid.*, pp. 95, 169.

<sup>100</sup> *Ibid.*, p. 111.

For reasons of both security and strategy, Baker's agents were divided into daylight and nighttime units—the men in one group did not know the identity of those in the other—and another section counted operatives who infiltrated and trafficked in the capital's high society.<sup>101</sup> He cultivated contacts with the police in the nation's major cities<sup>102</sup> and kept a close watch on Confederate activities in Canada.<sup>103</sup> By the summer of 1863, a branch office had been set up in New York City<sup>104</sup> and he succeeded in placing his personnel in the Post Office for purposes of inspecting the mails.<sup>105</sup>

On two occasions Baker's spy service gathered intelligence which probably contributed to the downfall of General McClellan: Baker's personal penetration of the Confederate forces at Manassas resulted in the discovery that the fortifications and artillery which were supposedly keeping McClellan's army at bay were actually earthen and wooden fakes and later Lincoln utilized the services of one of Baker's agents to secretly observe McClellan's conduct on the battlefield.<sup>106</sup> With the decline of McClellan, Allan Pinkerton, whom Baker regarded as "sagacious," departed from the scene, leaving some agents and the spy field to Baker.<sup>107</sup> The only other threat to Baker's supreme command of secret service operations was the reputed organizer of the old Mexican Spy Company, Ethan Allen Hitchcock, but he was found to be an old man seized with mysticism and pursuits of alchemy with no desires for any responsibility in the hostilities.<sup>108</sup>

In June of 1863, Baker gained an open commission in the army with the rank of colonel, the opportunity to wear the Union uniform, and command of a military police force he had sought for some time.<sup>109</sup> The exact size of the unit is not known, or its losses, or its complete record of action. After much pressuring from Baker, Stanton agreed to establish the troop utilizing authority entitling the District of Columbia to a battalion of infantry and cavalry for use within its confines.<sup>110</sup> Placed under the direct authority of the Secretary of War, the First Regiment Cavalry, known as "Baker's Rangers," consisted, ironically, of recruits from Robert E. Lee's former command, the Second Dragoons, renamed the Second Regular United States Cavalry at the outbreak of the war.<sup>111</sup>

Hundreds of men sought places in the new regiment; some offered bribes. Whether the attraction was the promise that no soldier in the Baker command would ever be sent outside the immediate vicinity of the District of Columbia or whether

<sup>101</sup> *Ibid.*, pp. 169–170.

<sup>102</sup> *Ibid.*, p. 109.

<sup>103</sup> *Ibid.*, p. 242; also see Baker, *op. cit.*, pp. 174–178.

<sup>104</sup> *Ibid.*, p. 241.

<sup>105</sup> *Ibid.*, p. 164.

<sup>106</sup> See *Ibid.*, pp. 101–107, 139–140.

<sup>107</sup> See *Ibid.*, p. 108.

<sup>108</sup> See *Ibid.*, pp. 107–108.

<sup>109</sup> See Baker, *op. cit.*, pp. 195–203.

<sup>110</sup> Mogelever, *op. cit.*, p. 214; the District of Columbia had only one cavalry unit during the civil war but counted the First and Second Regiment Infantry, serving from 1861 until 1865, and several short-lived infantry battalions and militia companies which were hastily organized in 1861 and mustered out by the end of the year.

<sup>111</sup> *Ibid.*, pp. 215–216.

Baker's fame inspired all types of adventurers to flock to his banner was the subject of much conjecture at that time.<sup>112</sup>

In an appeal to the Governor of New York, Baker wrote :

. . . the duties to be performed by this regiment demand on the part of both men and officers qualities of a high order, both mental and physical. Among these, I may enumerate intelligence, sobriety, self-dependence, bodily vigor, the power of endurance and, though last not least, that knowledge of the horse which results from early practical experience and management of that noble animal.<sup>113</sup>

The personal qualifications of Baker's recruits, of course, cannot be assessed. By their actions, however, they demonstrated great military ability, intense loyalty to their commander, and a complete insensitivity to the property, liberties and lives of those they encountered as enemies. For reasons of high morality and public image, the Rangers were unleashed upon the gambling parlors and vice dens of Washington.<sup>114</sup> Soon, however, they began engaging in forays of destruction against enemies of the Union beyond the confines of the capital.<sup>115</sup>

The Rangers were an auxiliary to Baker's intelligence activities; they were his agents of espionage, enforcement, and protection. Secret operatives gathered information in both the cities and the countrysides of the Potomac region. Baker devoured their reports, conferred with Stanton and/or Lincoln, and then set out with enforcements against the subversives.

In addition to ferreting out spies, blockade runners, and locals giving aid and comfort to the rebels, Baker engaged in three major intelligence enterprises: unmasking crimes in the Treasury Department, smashing the Northwest conspiracy, and capturing the President's assassin.<sup>116</sup> The opportunity to probe the Treasury Department regarding allegations that it had become a bawdyhouse and command post for certain predatory interests arose around Christmas, 1863, when Treasury Secretary Salmon P. Chase invited Baker to investigate the situation.

There was growing talk of scandals in the Treasury Department. Newspapers were saying that the hundreds of girls busy scissoring the new greenbacks were hussies in the night. There were oyster feasts in the bonnet room. Clerks were making off with sheets of uncut currency. Counterfeiters were discovering it was easier to steal a plate and run off bales of money rather than go to the trouble of making an imitation engraving in some hideaway. The Treasury's own police seemed helpless to stem the tide of corruption and debauchery. The

<sup>112</sup> *Ibid.*, p. 220.

<sup>113</sup> *Ibid.*, p. 221.

<sup>114</sup> See Baker, *op. cit.*, pp. 241-253; Mogelever, *op. cit.*, pp. 245-248.

<sup>115</sup> Generally, see Mogelever, *op. cit.*, pp. 213-241.

<sup>116</sup> Baker's own account of his bureau's activities and his troops' adventures is thin and, compared with the Mogelever account which relies on Baker's correspondence and the letters and diaries of relatives, fails to convey the questionable nature of their operations or their possible illegality; see Baker, *op. cit.*, pp. 147-198, 230-241, 253-261, 329-378, 384-452.

Blair family, avowed enemies of Chase, were giving support to the rumors. [Postmaster General] Montgomery Blair's brother, Frank, cried out for congressional inquiry.<sup>117</sup>

The probe was charged and politically explosive. Seward, eyes upon the 1864 election and the White House beyond, might well have wanted Lincoln's top detective mired in the scandals, defused and defamed along with most of the Administration. In Hanson A. Risley, special Treasury agent, Seward had his own source of intelligence. So close were the two men that Risley gave over one of his daughters to Seward for adoption and, after Mrs. Seward's death, the old man sought her for his second wife.

In detailing Baker to Treasury, Stanton probably thought he would be the best man to vindicate the President as untainted, honest, and ignorant of the conditions there. Himself a frequent critic of Lincoln, the Secretary of War nevertheless realized that public confidence in the President must be maintained in the midst of the moment's perils and he might well have been aware that Lincoln had no direct involvement in the Treasury calamities.

Factions within Congress were ready to intervene to attack Lincoln, Chase, and Baker. Ultimately, a committee of investigation was formed, probed the situation, and beclouded the facts and the guilt of those involved.

Baker plunged into the Treasury probe with ferocity and determination. He temporarily relinquished command of the Raiders and established an office in the dark basement of the Treasury building. His techniques were direct and dauntless; he stalked the printing facilities and subjected clerks and lesser officials to ruthless and merciless interrogation. At one juncture he halted a funeral cortege in the midst of the city, seized the corpse of a Treasury girl and had an examination made to determine if her death had resulted from an abortion.<sup>118</sup>

And what did Baker find? At the outset he discovered that young James Cornwall, who had the function of burning mutilated bonds and notes, had pocketed \$2,000 worth of notes. Cornwall was convicted and sent to jail for this offense, the only individual to be prosecuted for crimes against the Treasury in this probe.

Next, Baker alleged that two printers who had sold the Treasury new presses, paper, and a technique for printing currency were conspiring to sell the government worthless machinery and processes. Their presses were weakening the upper floors of the Treasury building and their security procedures were virtually non-existent, allowing ready access to both plates and process. In the midst of the inquiry, the new presses began malfunctioning and greater demands were placed on the building for "improved" printing devices.

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<sup>117</sup> Mogelever, *op. cit.*, p. 249; in 1863 (12 Stat. 713 at 726) Congress authorized the Secretary of the Treasury to appoint three revenue agents ". . . to aid in the prevention, detection, and punishment of frauds upon the revenue." These were the small beginnings of the Treasury Department's intelligence organization and the only designated investigative force available to the Secretary at the time of the Baker inquiry.

<sup>118</sup> See Mogelever, *op. cit.*, p. 252.

Baker discovered that the head of the department of printing and engraving, Spencer Clark, was involved with a number of young women who were cutting and preparing new currency. An associate of Clark's was also implicated and both men were named for dismissal by Baker. Eventually it came to pass that it was Secretary Chase who was to resign and the great Treasury scandal passed into history.<sup>119</sup>

In mid-November of 1863, a full month before the Treasury investigation got underway, rumors of a dangerous conspiracy along the Canadian border began circulating. Baker's agents pursued the facts of the matter and by late spring of the following year a fairly clear image of the attack planned by the Confederates was evident. In Richmond, Judah P. Benjamin, Secretary of State for the rebel government, a holder of three cabinet posts in the Confederacy, and a man of imagination, conceived a desperate plan of havoc: utilizing secret societies reminiscent of the later Ku Klux Klan, guerrilla warriors behind Union lines would burn down New York City, free rebel troops imprisoned in the North to loot and pillage throughout the industrial Northeast, and seize Chicago, Buffalo, and Indianapolis. The plan failed to recognize the drift of northern morale: those disenchanted with the war still supported Lincoln, sought the Union as was and the Constitution as is, and otherwise had no interest in or sympathy for a separate Confederate nation.

In the aftermath of the destructive campaigns of Generals Sheridan in the Shenandoah Valley and Sherman in Georgia, the rebels were ready for unconventional warfare of their own making. The Copperhead firebrand Clement Vallandigham was recruited to obtain support for a new nation composed of states adjacent to the Canadian border. Army officers in civilian dress were dispatched north to act as terrorists. The first target for revenge was Chicago. Assembled in Toronto, the band of insurgents made their plans—all of which were carefully recorded by a Baker informer.

Commanders of military prisons were informed of these developments and advised to be prepared for uprisings within or attacks from outside of their institutions. Baker advanced a squadron of agents to Toronto to maintain surveillance of the conspirators who were followed and observed as they straggled into Chicago in the midst of the Democratic National Convention. More than 2,000 civilian-clad Confederate soldiers were scattered around the city. At the height of the convention proceedings, the area would be put to the torch. While police and firemen fought the flames, an attack would be made on Camp Douglas and its prisoners freed. The banks would be looted, City Hall seized, and the police headquarters occupied. Thus, the second largest city in the land was to fall to rebel control.

Politics among the conspirators caused a postponement of their assault until Election Day. After reassembling in Toronto, burnings and attacks on local authorities were scheduled for simultaneous occurrence in Chicago, New York, Cincinnati, and Boston. Still the surveillance of these preparations continued and still flowed the informer's details to Baker.

<sup>119</sup> Generally, see *Ibid.*, pp. 252–278; Baker, *op. cit.*, pp. 261–287.

Offensive actions were unleashed against the terrorists. Without warning, General Benjamin F. Butler, seasoned in maintaining the security and serenity of New Orleans, marched into New York with 10,000 Union troops as the clock moved toward Election Day. Confederate arsonists abandoned their grandiose plan of havoc, set a few fires in some hotels (which were quickly extinguished), and fled to Canada. Across the border, they soon learned that they had been fortunate in their escape. A Baker spy in Chicago brought about the ruination of terrorist activities in that city and a Union operative in Indiana gathered enough information to implicate almost the entire band of Confederate conspirators in that state. While these elements were being rounded up and jailed, Union authorities took an imprisoned Confederate officer into their intelligence corps, swore him to loyalty to the Union cause, and released him to make contact with some of the remaining members of the Northwest Conspiracy. Followed by Baker's agents, the man soon met with a group seeking to liberate 3,000 rebel officers incarcerated on Johnson's Island in Lake Michigan. The intervention of this spy cost the conspirators a cache of arms and the loss of a few men in Chicago and indirectly contributed to the scuttling of the Johnson's Island mission.

By late fall, 1864, the Northwest Conspiracy had collapsed and its principal leaders and organizers had been jailed.<sup>120</sup>

The excitement and stimulation of the chase ended. Baker found himself in a now familiar situation. He was given no public credit for his part in smashing the great conspiracy. On the contrary, his enemies increased their efforts to build up the ugly image of the bastille master, and he continued to be identified in the public mind with unjust arrests and imprisonments, invasions of the rights of private persons and rumored profiteering. Baker still knew that, as a secret agent, the details of his activities must remain secret. If, however, he had hoped that this sensational case would change the attitude toward him in Congress and Administration circles, or would convince the Copperheads that he put the Union before personal gain, he must have been sadly disappointed. His success in securing and transmitting information which led to the dramatic collapse of the great conspiracy and the punishment of its leaders in the North still brought him no evidence that his services were to be fairly judged by the results he achieved for the Union cause.<sup>121</sup>

Baker had just completed a successful investigation of fraud and deception surrounding the draft, bounty-hunting, defrauding sailors out of prize money, and efforts at morally corrupting Union troops in the New York City area when he received the news of Lincoln's assassination. Undoubtedly he felt guilt for not having had advance information about the conspiracy against the President and for not having had agents near the Chief Executive when the murderer struck. Upon

<sup>120</sup> Generally, see Baker, *op. cit.*, pp. 452-476; Moglever, *op. cit.*, pp. 278-292; John W. Headley, *Confederate Operations in Canada and New York*. New York and Washington, The Neale Publishing Company, 1906, pp. 211-382.

<sup>121</sup> Moglever, *op. cit.*, pp. 291-292.

receiving word that Lincoln had been shot and was dead, Baker threw himself into the pursuit and capture of those responsible for the crime. After producing a handbill, the first to be circulated for a nationally wanted criminal, describing John Wilkes Booth in detail, Baker set about interrogating everyone and anyone who knew anything about the conspirators involved in the assassination.<sup>122</sup>

Stanton went along with the detective's thinking and supported his tigerish moves to stalk his prey. One by one, Booth's accomplices were rounded up. Baker's rival police agencies did most of the work. But he took charge of the prisoners, dragged incriminating admissions from them, put black hoods on their heads, and stuffed them in the hold of a monitor in the river.<sup>123</sup>

Finally, Baker found Booth's track, pursued him with a command of cavalry, and came at last to the Garrett farm where the assassin had taken refuge in a barn. His prey cornered, Baker confronted the killer, demanded his surrender or the alternative of firing the barn. In the midst of negotiations and flames, Booth was shot by either himself or by Sergeant Boston Corbett. Baker took charge of the body and later sought a portion of the rewards for capturing Booth. The amount subsequently awarded Baker was reduced to \$3,750 from a potential of \$17,500: the secret service chief continued to be unpopular with the Congress.<sup>124</sup>

With the death of Lincoln, Baker became the protector of the new President, Andrew Johnson, and set up the first White House secret service detail in the history of the Republic.<sup>125</sup> With the peace of Appomattox, however, the career of the spy chief began to rapidly decline. The rebel foe of wartime now walked the streets of the capital. Many of the prostitutes and gamblers Baker had jailed under military law were again free. These, together with political enemies, taunted and reproached the once powerful secret service, a vestige of war which seemed to have no future mission. Nevertheless, Baker attempted to carry on in the old style. His task was to protect the President: his immediate foe, he surmised, were various female pardon brokers, lately sympathetic to the South, who prevailed upon the President to grant clemency and forgiveness to all manner of rebels. In attempting to halt this traffic in and out of the White House, Baker incurred the wrath of President Johnson and a lawsuit which successfully damaged his status and role. In the midst of the trial, he was routinely mustered out of the army and effectively left without a friend or defender.<sup>126</sup> He departed Washington in disgrace, returned to his wife in Philadelphia, wrote his memoirs in lieu of finding other work, contracted spinal meningitis and died on the evening of July 3, 1868.

Lafayette Baker was a zealot who, imbued with a strong sense of righteousness and a taste of vigilantism, in the name of a cause became oblivious to the ends-means relationship underlying his function. In

<sup>122</sup> See *Ibid.*, p. 337.

<sup>123</sup> *Ibid.*, p. 339.

<sup>124</sup> Generally, see Baker, *op. cit.*, pp. 476-567; Mogelever, *op. cit.*, pp. 342-385.

<sup>125</sup> Mogelever, *op. cit.*, p. 386.

<sup>126</sup> Generally, see Baker, *op. cit.*, pp. 582-693; Mogelever, *op. cit.*, pp. 385-419.

his defense of the Union and democratic government, he resorted to extreme actions obnoxious to popular rule and, in some instances, in violation of constitutional guarantees. He actively sought to exceed his intelligence role and became policeman, judge, and jailer. His desires in this regard, and his capacity for achievement of same, were fostered and fed by the exigencies of the moment and the liberties Lincoln took in administering (or not administering) the law. When Lincoln died and the war ended, Baker became a political pariah with a vestigial function. His activities had annoyed many, frightened some, and made bitter enemies of an important and powerful few. With the onset of peace in the Nation, he was virtually stripped of his organization and official status and left vulnerable to legal, political, and financial reprisals. These forces converged, coalesced, and crushed. Due to the secret nature of Baker's operations and his tendency to embellish fact, the full account of the activities of this spy chief may never be known. In all likelihood, his record of service will always be controversial and of debatable value.

### *IX. Dodge*

When Allan Pinkerton withdrew from the intelligence field in 1862, Lafayette Baker became his heir in the East. In the West, the principal benefactor of Pinkerton's legacy was Grenville M. Dodge. Born in a Massachusetts farmhouse in 1831, he attended the Durham Academy (N.H.), Norwich University (Vt.), and matriculated from Partridge's private school in 1851 with a degree in civil and military engineering. Prior to the Civil War he held various surveying positions with western railroad companies. With the outbreak of hostilities, he served in a military capacity on the Iowa governor's staff before becoming a colonel of the 4th Iowa Regiment. He saw heavy fighting in the Southwest and distinguished himself in combat with the result that in March of 1862 he was advanced to brigadier-general.

Dodge was introduced to intelligence operations in late 1861 when General John C. Fremont, the commander of Missouri, ordered him to investigate certain rumors regarding rebel activity in the area.<sup>127</sup> It is not evident that he had prior familiarity with this type of duty but it is possible that his surveying positions had acquainted him with the techniques of frontier scouts and railroad detectives. In response to Fremont's order, Dodge sent his cavalry into all parts of the state, spent two months in the pursuit, exhausting many horses and riders. From this experience, he decided to maintain a few men in the field who knew Arkansas and Missouri, paying them with money received from fines and licenses. Thus began his spy network, a system subsequently credited with saving the Army of the Southwest in March, 1862, from advancing Confederate forces.<sup>128</sup>

While rebuilding the Mobile and Ohio Railroad, Dodge again sent agents into the field. He concluded that most of the rumors he heard were false, but about this time he hit

<sup>127</sup> Stanley P. Hirshson. *Grenville M. Dodge: Soldier, Politician, Railroad Pioneer*. Bloomington and London, Indiana University Press, 1967, p. 67.

<sup>128</sup> *Ibid.*; J. R. Perkins. *Trails, Rails and War: The Life of General G. M. Dodge*. Indianapolis, The Bobbs-Merrill Company, 1929, pp. 108-109.

upon a method by which a spy could estimate the size of any enemy force by noting the space it occupied on a road. Before long Dodge was receiving detailed descriptions of Confederate troop movements throughout the South.<sup>129</sup>

In July, 1862, Major-General Henry W. Halleck became general-in-chief of the U.S. Army, opening the way for a major intelligence role for Dodge.

When Halleck went east and Grant succeeded to the command in the West the hour had come for guessing and blundering through to give way to strategy and even to cunning. No one knew the strength of the South, and the Confederates fought as if they had plenty of reserve. Moreover, rumors were everywhere about the superior strength they would bring to bear in the [Vicksburg] campaign at hand. It was thought that there were sixty thousand Confederates south of Grant and nearly as many to the east of him. A loose and inefficient system of secret service in the first eighteen months of the war had left the Federal officers in the West believing no one. It was to obviate this condition and to secure authentic information that General Grant turned to General Dodge and gave him the responsibility of reorganizing the whole system.<sup>130</sup>

Dodge came to his new assignment at the recommendation of General John A. Rawlins, Grant's chief of staff, and had not actually met with the new commander of the western troops. In his new role, Dodge had two forces. He organized the First Tennessee Cavalry, a regiment of southern Unionists who served in the regular army. By virtue of their relatives and friends in the Confederacy, members of this unit contributed to Dodge's clandestine spy network with contacts and informers. He also utilized many blacks who, disregarded by southern pickets and patrols, functioned as messengers.

Dodge's system brought headaches as well as rewards. Financial troubles were especially severe, for a spy commencing a long trip was usually given between \$5,000 and \$10,000 in Confederate money. Moreover, Dodge paid his spies for each mission. Those who lived permanently within enemy lines received what they requested, although some of them refused compensation because they were Unionists or because their sons, brothers, or husbands were in the Federal army.<sup>131</sup>

In early 1863 the economic problem was solved when Grant authorized the use of confiscated Confederate funds to maintain the spy network. At its peak, Dodge's intelligence system counted 117 field agents, known personally only to him and familiar to his most trusted aides only by an identifying number. This situation created certain accountability problems. Once Dodge's immediate superior cut off his funds when the identities of the spies were refused for reasons of security but the matter was appealed to Grant who, taking

<sup>129</sup> Hirshson, *loc. cit.*

<sup>130</sup> Perkins, *op. cit.*, pp. 105-106.

<sup>131</sup> Hirshson, *op. cit.*, p. 67.

time from his Vicksburg campaign, reinstated the funding.<sup>132</sup> Another time Dodge was charged with land cotton speculation for financially enhancing his spies and/or himself. The dilemma was such that, in refuting the allegation, the identities of certain agents operating behind Confederate lines might become known, and Dodge decided, at Grant's suggestion, to remain silent about the matter. For many years thereafter, however, accusations about the charges dogged him.<sup>133</sup>

During the war about half of Dodge's spies were captured or killed by the enemy. Some were court-martialed and executed by the Confederates, but not one betrayed the North, although to save their lives, many pretended to do so. Forced to join the Southern army, one agent within a short time was made first sergeant of his company. For a year Dodge believed he was dead. Late in the war, however, the spy, still dressed in his Confederate uniform, slipped through the lines and again reported for duty.<sup>134</sup>

Dodge proved to be a shrewd spy master, disguising his operations and utilizing the information he gained for the best possible military advantages. He emphasized geographic data and details regarding weapon and troop strength. In his intelligence activities, Dodge was Grant's general and, when Grant was given command of all Union forces in March, 1864, the secret service force began to be phased out. In August, in the battle for Atlanta, Dodge was severely wounded and temporarily retired from active duty. During this time, the intelligence network he had built terminated completely and no directive for reinstatement ever revived it. Dodge returned to military service in November and finished war duty. He later fought in Indian skirmishes before turning his attention to politics and railroad development. In 1866 he served in the House of Representatives, declining renomination in 1868. He subsequently became active in railroad construction, was president of the Union Pacific, Denver and Gulf line in 1892, and even promoted railroads in Cuba before his death in 1916. In his intelligence activities, Dodge reflects military professionalism: he sought information almost exclusively to enhance army field operations and to develop effective strategy for pursuing the Confederate fighting forces.

#### X. Carrington

Unlike Dodge, Henry Beebee Carrington conducted intelligence operations against political enemies—the Copperheads and rebel conspirators attempting to undermine the Union cause. Born in Connecticut in 1824, Carrington became an ardent abolitionist in his youth, graduated from Yale in 1845, and taught for a while in the Irving Institute at Tarrytown, New York. Under the influence of the school's founder, Washington Irving, he subsequently wrote *Battles of the American Revolution* which appeared in 1876. He was also to write seven other major titles. Leaving New York, he taught at the New Haven Collegiate Institute while pursuing a law degree at his old alma mater. In 1848 he moved to Ohio and entered upon a law prac-

<sup>132</sup> *Ibid.*, p. 68.

<sup>133</sup> Perkins, *op. cit.*, pp. 112-113.

<sup>134</sup> Hirshon, *op. cit.*, p. 68.

tice. Over the next dozen years Carrington represented a variety of commercial, manufacturing, banking, and railroad interests and became a pioneer in Republican politics. A close friend and supporter of Governor Salmon P. Chase, he was subsequently appointed to a position to reorganize the state militia (1857). He subsequently became the adjutant-general for Ohio, mustering nine regiments of militia at the outbreak of the Civil War. He then was commissioned a colonel of the 18th United States Infantry and took command of an army camp near Columbus.

In neighboring Indiana, Governor Oliver P. Morton had need of Carrington's services. For reasons not altogether clear—perhaps it was his partisan political past and/or his ardent abolitionism—Carrington was ordered, upon the request of Morton, to organize the state's levies for service.

When Carrington arrived in Indiana, political warfare between the adherents of the administration and its opponents was beginning in earnest. The favorite weapon of the Republicans was that ephemeral and elusive order, the Knights of the Golden Circle. Carrington joined in wholeheartedly. On December 22, 1862, he blamed the appalling rate of desertion on the treasonable secret societies, whose penetration of the army was shown by knowledge among soldiers of a "battle sign" which would save them from rebel bullets. In a long report dated March 19, 1863, he described the situation as so alarming that it bordered on open revolt. He claimed that the Knights had ninety-two thousand members between sixteen and seventy who were drilling constantly. They were plotting to seize the arsenals, the railroads, and the telegraph in order to revolutionize Indiana and "assert independent authority as a state." They communicated with Confederates, in particular with General Morgan, whose picture hung in many homes and whose name was "daily praised." Thousands of them believed the bold raider would shortly appear to "raise the standard of revolt in Indiana." If he did, Carrington was sure Morgan could raise "an army of 20,000 traitors."<sup>135</sup>

What prompted these comments by Carrington and where did he get his information? The answer to these questions appears to derive from the activities of Governor Morton. Taking advantage of the crisis conditions which the war created, Morton had established himself as virtual dictator of the state. He dealt harshly with rebel sympathizers, Copperheads, Democrats, and anyone opposed to his rule. Before the end of 1861, a spy system had been inaugurated to keep watch of these enemies.<sup>136</sup> Carrington was given charge of this intelligence organization and thus became familiar with the "foes of the Union" which it kept under surveillance. There is strong evidence that Carrington had no desire for combat service and twice Morton intervened to prevent his transferral to the front lines. Thus, it was

<sup>135</sup> G. R. Tredway, *Democratic Opposition to the Lincoln Administration in Indiana*. Indianapolis, Indiana Historical Bureau, 1973, pp. 209-210.

<sup>136</sup> *Ibid.*, p. 216.

important that Carrington cast himself in the role of an intelligence chief devoted to maintaining the security of the state, even though disaster appeared to be just around the corner.

In March, 1863, Carrington was promoted to brigadier-general and made commander of the District of Indiana of the Department of the Ohio, later renamed the Northern Department. By this time, however, he had intelligence activities organized and operating under his direction. His secret service—

. . . was composed of spies, informers, betrayers, and outside secret agents. Inside officials who were jealous of more important leaders were worked on; the itch for money played a part; in quite a few instances, unsuspecting loyal men who had joined the castles were amazed at the lengths to which love of constitutional rights or Southern sympathies could carry the assertion of dissent. From many sources, and for almost as many motives, disclosures flowed in to Carrington's headquarters.<sup>137</sup>

Claiming to have between two and three thousand men reporting to him, Carrington enlisted the services of almost anyone who would provide information about an "enemy." Unsolicited reports were gratefully accepted as well. The amateur sleuths and informers were supplemented with a few choice agents and detectives. Spies apparently were paid from state funds at the rate of \$100 per month, over six times the amount received by a Federal soldier.<sup>138</sup>

Early in 1863 Carrington claimed to have emissaries at the meetings of the secret societies. In April, 1864, he asked Adjutant General Lorenzo Thomas for money to organize a twelve-man detective force. One of his agents said he had eighteen men at such work early in 1864. General Alvin P. Hovey, who succeeded Carrington August 25, 1864, continued his espionage organization. Colonel Conrad Baker, the state provost marshal, also employed informers who reported directly to him. At least one of the district provost marshals, Colonel Thompson, had an agent who worked for him among Democrats of the Seventh District. He signed his reports only as "H." and his identity was not even known to Colonel Baker, Thompson's superior. Carrington claimed he participated personally in this work, once attending "in disguise" a meeting of the Sons of Liberty in Indianapolis. Be that as it may, the general was probably not exaggerating when he claimed to know every morning what had happened in the lodges the night before. Not only did he have his own spies, but he kept in close touch with other officials who conducted espionage.<sup>139</sup>

<sup>137</sup> Milton, *op. cit.*, pp. 76-77.

<sup>138</sup> Tredway, *op. cit.*, p. 217.

<sup>139</sup> *Ibid.*, p. 216; also see William Dudley Foulke, *Life of Oliver P. Morgan* (Vol. 1). Indianapolis-Kansas City, The Bowen-Merrill Company, 1899, pp. 405-407; also, for a view of Carrington's spies reporting on each other and otherwise over-ingratiating themselves with unsuspecting rebels, see Tredway, *op. cit.*, pp. 216-217.

While Carrington's operatives were effective in breaking up the Sons of Liberty, the Knights of the Golden Circle, and elements of the Northwest Conspiracy, they also contributed to arbitrary arrests, infringements upon the freedom of speech and freedom of association, and otherwise maintained a corrupt and despotic regime. The manner in which the intelligence organization was recruited—utilizing betrayers, jealous and disgruntled officials, informers, and unvalidated hearsay from unsolicited sources—caused it to traffic in unreliable information of generally more political than military value. And the suspicion prevails that the whole arrangement served to maintain Governor Morton's administration and coincidentally counteracted Confederate operatives who happened to count among his foes.

Carrington was replaced by General Alvin P. Hovey in August, 1864. With less than a year of warfare ahead of him, Hovey assumed control of the espionage organization as the new commander of the Indiana District. It is not immediately evident if he made any changes in the intelligence operation other than to gain access to the funds seized from bounty jumpers to pay his agents.<sup>140</sup> If the spy system did not collapse at the end of the war, it must certainly have been discarded in 1867 when Governor Morton resigned to enter the United States Senate.

Carrington was first mustered out of service as a brigadier-general of volunteers, rejoined his old regiment in the Army of the Cumberland, completed war duty and saw Indian campaigns in the West. He built and commanded Fort Phil Kearny but lost the respect of his fellow officers due to his reputation as a "political warrior" and his demonstrated lack of aggressiveness in several Indian skirmishes. Before a decision to remove him from command could be implemented, Carrington became further embroiled in controversy. In December, 1866, a force of eighty officers and men under Captain William J. Fetterman was massacred by a force of fifteen hundred to three thousand Indians. The disaster was attributed to Fetterman's disobedience of Carrington's order to proceed on a certain route of march: instead, he had directly engaged the war party from their rear while they were attacking a group of woodcutters. The Indians turned on Fetterman's force and annihilated them. Because no one had heard Carrington's orders to Fetterman, coupled with existing distrust of the colonel's leadership, rumors persisted that the men had been ordered into tragedy. General Grant moved to court-martial Carrington but, at the suggestion of General William T. Sherman, submitted the matter to a court of inquiry which subsequently exonerated Carrington. Nevertheless, Carrington was relieved of command and, with his military career ruined, he resigned and spent the rest of his life attempting to convince the public of his innocence in the incident. He also wrote a number of books and taught military science at Wabash College in Indiana before his death in 1912.

#### *XI. Signal Services*

The Civil War, which was first in many things, provided the opportunity for the extensive use of the telegraph for all possible wartime

<sup>140</sup> Tredway, *op. cit.*, p. 218.

purposes. The introduction of this communications device effected two important developments in the evolution and organization of the Federal intelligence function. One innovation was the utilization of sophisticated codes for communication not just among some elite groups, but within the entire military system.<sup>141</sup> Further, as by-products of this phenomenon, the first concerted efforts at code-breaking and communications system penetration, or telegraph line tapping, were undertaken.

The other important occurrence was the creation of the United States Army Signal Corps. Not only did this organization have intelligence responsibilities during the war, but it became the institution, thereafter, which fostered and advanced coding, code-breaking, and communications system penetration practices. Prior to the occasion of the Civil War, no nation, except Germany, had a permanent military telegraph unit within its armed forces organization.<sup>142</sup> With the outbreak of hostilities in the United States in 1861, two signal services were pressed into action by the Union.

The Signal Corps, the pioneering communications unit of the United States Army of a century's duration, came into existence largely through the efforts of General Albert J. Myer. Born in New York in 1827, Myer apprenticed as a telegraph operator while preparing for his college education. Graduated from Hobart College in 1827, he continued his studies at Buffalo Medical College, obtaining his M.D. in 1851. During his final year of academic studies he became interested in the use of communications signals for military and naval purposes. Thus, early in his life, Myer became acquainted with two important means of long-distance communication.

After practicing as a physician for three years, he sought and obtained a commission as assistant surgeon in the regular army. Ordered to New Mexico, his interest in signal communications was renewed in observations of the various Comanche practices of this nature. After developing his thoughts on the matter, Myer wrote to the War Department in 1856, asking if the government might be interested in his signaling system. No action was taken on the inquiry until 1859 when a board of evaluation, headed by Lieutenant Colonel Robert E. Lee, considered the matter and gave qualified approval to the idea. Field tests followed and negotiations were made in the War Department for some institutional accommodations for the new communications effort. As a consequence, provision was made in legislation enacted (12 Stat. 64 at 66) in 1860 authorizing the appointment of one signal

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<sup>141</sup> It will be recalled that spies in the service of General Washington used ciphered messages. The Civil War experience was an elaboration on this situation: more sophisticated codes were developed for use within the entire army. A cipher system usually substitutes a single symbol (number, letter, or special sign) for a single letter of the standard alphabet. A code system substitutes a code term (number, number group, letter, letter group, word, sign, or marking) for an item of plaintext (a word, phrase, date, general prefix or suffix, or some such identifiable language referent). The two systems can, of course, be intertwined and otherwise sophisticated by skilled cryptographers.

<sup>142</sup> William R. Plum. *The Military Telegraph During the Civil War in the United States* (Vol. 1). Chicago, Jansen, McClurg and Company, 1882, p. 62.

officer with the rank of major and \$2,000 for signaling equipment. Thus, the Signal Corps began to take shape.<sup>143</sup>

Shortly after the initiation of hostilities between the North and the South, Myer, in May, 1861, traveled east, arriving at Fort Monroe in June where General Benjamin F. Butler ordered details for signal duty and Myer proceeded to instruct them. The practical application was a signal line between the Fort and Newport News and the directing of artillery fire from a battery at Rip Raps. Such direction of gunfire would be a primary Signal Corps responsibility into the Twentieth Century.

While still assigned to Butler, Myer sought orders by which he could control all military telegraphy, asserting that the law under which he held his commission gave him "general charge of the telegraphic duty of the Army, whether . . . by means of signals transmitted by . . . electricity or by aerial signals." Although Myer obtained no War Department help, Butler ordered all telegraphic duty in his department, in which the budding U.S. Military Telegraph was already at work, placed under Myer's control. Myer implied that the immediate results were quite satisfactory, but the historian of the Military Telegraph later revealed that the word went out *sub rosa* to all telegraph operators to ignore Myer while seeming to comply with his orders, and that the Secretary of War soon instructed Butler not to interfere with them.<sup>144</sup>

The U.S. Military Telegraph, a quasi-military organization created in 1861 to operate the existing commercial telegraph lines, was the great rival of the Signal Corps for control of telegraph communication during the Civil War. It ceased to exist after the cessation of hostilities in 1865 and the telegraph communication field was left to the Signal Corps. While it existed, however, it had direct access to and favor of the Secretary of War. Its organization and operations will be discussed shortly.

During the Civil War, the Signal Corps had limited responsibility for telegraphic communications. It provided some telegraphy services for the shifting Union forces, but, generally, its efforts in this field of communication were supervised by Military Telegraph officials. The Corps apparently developed codes<sup>145</sup> and ciphers<sup>146</sup> but there is some question as to their security.<sup>147</sup> Signal Corps telegraphers were sworn

<sup>143</sup> While it is ironic that Lee should be the head of the panel approving the idea of a Signal Corps, which would be combat tested facing forces subsequently under his command, it is also equally ironic that Senator Jefferson Davis (D-Miss.) opposed the signal officer provision in the 1860 legislation; the Confederacy was destined to have a fine Signal Corps of its own, one which Davis supported in all ways. See J. Willard Brown, *The Signal Corps, U.S.A., in the War of the Rebellion*. Boston, U.S. Veteran Signal Corps Association, 1896, pp. 205-224; also see Max L. Marshall, ed. *The Story of the U.S. Army Signal Corps*. New York, Franklin Watts, 1965, pp. 63-76.

<sup>144</sup> Paul J. Scheips. *Union Signal Communications: Innovation and Conflict. Civil War History*, v. 9, December, 1963: 401; the reference to the Military Telegraph historian is to Plum (Vol. 1), *op. cit.*, pp. 71-73; also see Brown, *op. cit.*, pp. 171-172.

<sup>145</sup> See Brown, *op. cit.*, pp. 91-99.

<sup>146</sup> See *Ibid.*, pp. 83, 99-102, 118-119.

<sup>147</sup> See Scheips, *op. cit.*, p. 407.

to secrecy regarding both the cipher-codes they utilized and the content of their communiques, a condition which sometimes created difficulties when high-ranking officers were curious about telegraph traffic.<sup>148</sup>

Until 1863, Myer had to rely largely upon detailees for his manpower. It was in that year, however, on March 3, that Congress enacted legislation (12 Stat. 744 at 753) creating an organization beyond the authority for a single Signal Officer.<sup>149</sup>

According to one source, 146 officers were "commissioned in the Corps" during the war, or were offered commissions. About twenty of this number "declined the appointments offered them, and some ten or twelve resigned from the army soon after the reorganization was effected." In addition, about 297 acting signal officers served in the wartime Corps, but some of them for only very brief periods. The total number of enlisted men who served at one time or another was about 2,500. In October, 1863, 198 officers, besides Myer, and 814 enlisted men graced the rolls of the Signal Corps.<sup>150</sup>

In addition to cryptological activities, Meyer, on the occasion of his assignment to General Edward Canby's Military Division of Western Mississippi, sought to involve Signal Corps personnel in another aspect of intelligence operations.

Within a week or two of his reporting to General Canby, Colonel Myer proposed a new service which Canby assigned at once to the Signal Corps. Canby's order of May 30, 1864 read: "Deserters, refugees, and other persons coming in at any military post in the Division of West Mississippi, or any of the spots on the east bank of the Mississippi River, will be carefully examined by a discreet officer, and the information obtained from them compared and collated with that derived from scouts and other sources, and reported direct to the Chief Signal Officer at these headquarters, Natchez, Mississippi. . . ." <sup>151</sup>

It would appear that only this one command utilized a Signal Officer to coordinate this intelligence information. Meyer completed his war service with General Sherman and sought to continue his military career as Chief Signal Officer of the U.S. Army. In November, 1863, he had clashed with Secretary of War Stanton over control of the telegraph lines and the rivalries between the Signal Corps and the Military Telegraph. As a consequence of this dispute, Myer had been removed as Chief Signal Officer and he believed that the action was illegal. Through litigation and politics, he won his reinstatement on October 30, 1866. The victory for Myer was total: his position had been made permanent in the recently enacted Armed Forces Act (14 Stat. 332 at 335-336); Stanton was suspended from office; and the Signal Corps was granted sole responsibility for telegraphy in combat zones. The Corps itself depended upon detailees for its manpower

<sup>148</sup> See Brown, *op. cit.*, pp. 70, 191.

<sup>149</sup> See *Ibid.*, pp. 141-169.

<sup>150</sup> Scheips, *op. cit.*, p. 406; also see Brown, *op. cit.*, pp. 160-161, 713-902.

<sup>151</sup> Marshall, *op. cit.*, p. 60.

under the Armed Forces Act. Myer promoted the visibility of his organization by establishing a Department of Practical Military Engineering, Military Signaling, and Telegraphy at West Point, improved upon the signaling courses at the Naval Academy, and instituted signaling curricula at the Artillery School of Practice (Fort Monroe, Va.) and the Engineering School of Practice (Willett's Point, N.Y.). His achievements on behalf of the Corps and military communications were both numerous and continuous until his death in August, 1880.

The great rival of the Signal Corps, and in some regards Myer's nemesis, was the United States Military Telegraph. The organization derived from the expediency of Union seizure and control of the commercial telegraph lines.

In April 1861, the Government took exclusive control of the telegraph lines radiating from Washington; and the function of censoring the dispatches sent over the wires from the national capital was at different times under the charge of the Treasury, the State, and the War Departments. Operating under the instructions from the Cabinet officer in whose department he was placed, the censor excluded communications giving military information, and also those which were deemed to convey too much news concerning the activities of the Government. Reports of delicate diplomatic questions, criticisms of Cabinet members, comments giving the mere opinion of correspondents, advance information of contemplated measures, and stories injurious to the reputation of officers, were denied the wires.<sup>152</sup>

With the onset of hostilities and the seizure of the telegraph lines, the government needed some group to operate and maintain the communications system. Secretary of War Simon Cameron enlisted the assistance of Thomas A. Scott of the Pennsylvania Railroad who provided four operators to man the telegraph. Their supervisor was Andrew Carnegie, shortly followed by David Strouse and others.<sup>153</sup>

The U.S. Military Telegraph did not obtain formal sanction until Lincoln, in October, 1861, authorized Cameron to act on recommendations that had been made by Anson Stager, a Western Union official who had been invited to Washington. On February 26, 1862, under permissive legislation [12 Stat. 334-335] of the preceding month, the President took control of all telegraph lines in the United States, which meant in practice that the Military Telegraph could use them as circumstances demanded.<sup>154</sup>

Stager became head of the organization which counted somewhere between 1,200 to 1,500 operators and linesmen.<sup>155</sup> With the exception of a handful of immediate leaders who were given commissions, the

<sup>152</sup> Randall, *op. cit.*, 481-482; also see Plum, *op. cit.* (Vol. 1), pp. 64-66.

<sup>153</sup> See David Homer Bates *Lincoln In The Telegraph Office*. New York, The Century Company, 1907, pp. 30-32, 35; Plum, *op. cit.* (Vol. 1), pp. 66-68, 127-134.

<sup>154</sup> Scheips, *op. cit.*, p. 402.

<sup>155</sup> *Ibid.*, p. 403; Bates, *op. cit.*, pp. 26-27; Plum, *op. cit.* (Vol. 2), pp. 352, 376-380.

personnel of the Military Telegraph were denied military status in order that field officers could not give them orders regarding communications cloaked in secrecy. Technically, the group was a segment of the Quartermaster's Department and the officers in the Military Telegraph could, by these arrangements, disburse funds and property. If proper channels of communication were to be used, Stager had to send messages to the Secretary of War through Quartermaster General Montgomery C. Meigs while Myer could speak directly to the Secretary on behalf of the Signal Corps. Stager, however, soon gained Stanton's favor and "channels" were no barrier to the advancement of the cause of the Military Telegraph.

Generally, operators in the Military Telegraph took an oath of secrecy regarding the contents of messages and their work.<sup>156</sup> On various occasions these personnel were pressured by field officers to breach security by revealing the contents of telegraph traffic or cipher-code keys but the operators stood fast.<sup>157</sup>

The Military Telegraph also developed its own ciphers and codes.

Anson Stager was the author of the first Federal ciphers, which he devised for General McClellan's use in West Virginia, in the summer of 1861, before McClellan came to Washington. They were very simple, consisting merely of cards, about three inches by five, on which was printed a series of key-words and arbitraries, the former indicating the number of lines and columns and the route or order in which the message might be written, the arbitrary words being used to represent names of places and persons. When an important dispatch was intrusted to a cipher-operator for transmission, he first rewrote it carefully in five, six, or seven columns, as the case might be, adding extra or blind words on the last line, if it was not full. A key-word was then selected to indicate the number of columns and lines and the order in which the words of the message were to be copied for transmission by wire.<sup>158</sup>

Stager encouraged his immediate Washington staff to develop new cipher-codes and to break those of the rebels.<sup>159</sup> On the general success of the Military Telegraph in regard to this aspect of intelligence, one authority has written:

Copies of cipher messages quite often reached the enemy, and some were published in their newspapers, with a general request for translation, but all to no purpose. To the statement that in no case did an enemy ever succeed in deciphering such messages, let us add that neither did any Federal cipher operator ever prove recreant to his sacred trust, and we have, in a sentence, two facts that reflect infinite credit upon the corps. Fidelity is an attribute of the business of telegraphy. However deficient an operator may be in other qualifications, he is invariably to be trusted with any secret that comes to him in the

<sup>156</sup> See Plum, *op. cit.*, (Vol. 2), pp. 108-109.

<sup>157</sup> See Bates, *op. cit.*, pp. 49-85; Plum, *op. cit.* (Vol. 1), pp. 34-61; Plum, *op. cit.* (Vol. 2), pp. 170-174

<sup>158</sup> Bates, *op. cit.*, p. 49.

<sup>159</sup> See *Ibid.*, pp. 68-85.

line of his employment. To a natural disposition to merit such a trust, is added a habit or faculty, acquired by constant, daily experience, of keeping the ears open and the mouth shut.<sup>160</sup>

Friction between Stager and Myer reached a decisive point in the autumn of 1863 when the latter attempted, by public advertisements, to lure telegraphers away from or out of the Military Telegraph and into the Signal Corps where they would "have . . . charge of the . . . light field telegraph lines which are under . . . the Signal Corps, and which, in battle or at sieges, are run out and worked on the field or in the trenches under fire." For this unauthorized and independent action, Myer, at the outset, earned Stanton's enmity.

Events now moved rapidly. Stager, who could not let Myer's challenge to the Military Telegraph go unanswered, wrote Stanton. He spoke of "the embarrassment already experienced and the complications likely to arise from the organizing of Field Telegraphs by the Signal Corps," and advised "the propriety of placing the Field Telegraphs under the . . . Military Telegraph Department, and thus avoid . . . two organizations in the same grade of service." He explained that the Signal Corps "is now making efforts to secure the best electricians in the service by offers of rank and increased pay, which it is enabled to do through its military organization, an advantage not possessed by the Military Telegraph. . . ." He recommended that either the Military Telegraph should have all telegraphic responsibility or it should be abolished and the entire responsibility given to the Corps.

Stanton's decision was soon made and apparently imparted to Myer in a difficult interview at the War Department. On November 10, 1863, Myer was ordered to surrender his responsibilities to the next ranking Signal Corps officer . . . and to leave for Memphis, Tennessee. At the same time all magnetoelectric telegraphic equipment was to be turned over to Stager.<sup>161</sup>

Thus, for the duration of the war, the Military Telegraph operated and controlled virtually all telegraph communication in Union territory. Central command was maintained in Washington and notable field performances were made under Grant and Meade in Virginia, Sherman in Georgia, and Banks in the Red River Expedition. Stager's personal office was in Cleveland and it was there that Myer journeyed shortly after arriving in Memphis. The two men worked out the absorption of Signal Corps' telegraphic resources and Myer indicated his regret that the two organizations had not established a formal liaison during his command.<sup>162</sup>

When the Civil War ended the Military Telegraph supervised the restoration of commercial telegraph lines in the South, but its control was soon relinquished. Meanwhile, operators and Stager's commissioned assistants remained at their posts

<sup>160</sup> Plum, *op. cit.* (Vol. 1), pp. 60-61.

<sup>161</sup> Scheips, *op. cit.*, p. 410; also see Plum, *op. cit.* (Vol. 2), pp. 86-106.

<sup>162</sup> Scheips, *op. cit.*, p. 413.

until November 30, 1865, when all operators not at work on strictly military lines or at assigned posts as cipherers in major cities were discharged, paid, and, as one operator put it, "in most cases given transportation to their homes." In 1866 the Military Telegraph lines south of the Ohio River were turned over to commercial companies in relinquishment of claims against the United States, while military lines north of the Ohio were sold. The line from Wilmington, Delaware, to Richmond, however, was retained to be operated for the government by the American Telegraph Company. Of the officers, only Stager and [Thomas T.] Eckert, both of whom received the brevet rank of brigadier general, remained on duty by the end of fiscal year 1866. One operator, Charles Almarin Tinker, remained in the War Department telegraph office until 1869.<sup>163</sup>

By the fall of 1866, Myer had won his victory of reinstatement to Chief Signal Officer of the Army and the added responsibility attached to the position at that time for supervision of military telegraph operations and related activities.

### *XII. Lesser Efforts*

The organizations created by Pinkerton, Seward, Baker, Dodge, Carrington, Myer, and Stager were the major sophisticated intelligence structures of the Civil War experience within the Union forces. For a while a Bureau of Military Information was maintained in the War Department under Colonel George H. Sharpe who maintained the unit from March of 1863 until the end of the war. He held some investigative powers by virtue of his position as deputy provost marshal general and coordinated intelligence for General Grant during the final year of the war with a high degree of effect.

We run across a few other spy-chiefs who had some contemporary fame in their own right, and with whom records and memoirs often bring us face to face. Among them was "Col." William Truesdail (actually a civilian, like Pinkerton), head of the Police Office for [General William S.] Rosecrans both in the Army of the Mississippi and the Department of the Cumberland. Truesdail's host of duties included the employment of scouts and spies within and about the enemy's lines to furnish intelligence for the commanding general. The men were carefully selected, and most of them were well acquainted with the surrounding country and its inhabitants. What in the Revolutionary days would have been styled a "channel" of intelligence was said to have been maintained "to the extreme limits of the Southern Confederacy."

Then there was Maj. H[enry] B. Smith, Gen. Lew Wallace's chief of detectives in the Middle Department (1864-1865), whom Wallace called "a man of ability and zeal." In that department, whose headquarters were at Baltimore, treason flourished and plots grew; and counter-espionage needed to be, as it was under Major Smith's direction, adroit and unremitting. It was Smith who, at Baltimore, in March

<sup>163</sup> *Ibid.*, p. 419.

1865, administered the oath of allegiance to Lewis Paine (Lewis Thornton Powell), later hanged as a party to the conspiracy to murder Lincoln. He inserted in the parole a clause requiring Paine "to go north of Philadelphia and remain during the war," but Paine was one who honored paroles rather in the breach than in the observance. In 1911 Smith published "Between the Lines," a decidedly unusual volume presenting material from his wartime files and throwing new light on conditions in Maryland and northern Virginia.<sup>164</sup>

Another important intelligence element which should be noted, but which attained no degree of organizational sophistication, is the scout corps. Common to virtually every Union combat command, the scouts were often an ad hoc body of changing faces. The most celebrated leader of these forces was Major Harry Young, General Sheridan's chief of scouts.

Scouting in the Civil War was something more than touring the "no-man's-land" between opposing camps. Young had authority to raise a command of a hundred men; but the roll never exceeded sixty, and was usually nearer forty. The men were in Confederate uniforms more often than in their own, carrying a Spencer carbine and two revolvers. They were the aristocrats of the army, much as the men of the airservice were in the first World War. Each was allowed four picked mounts; they lived in the best quarters to be had; they were exempt from camp routine; they were paid in gold according to the value of intelligence obtained or services rendered.

They might go in small details, a few men at a time; or they might sally out in force on some major expedition. They were to surprise and capture (or, if necessary, kill) the enemy's pickets and vedettes; to harass enemy patrols; to pounce upon guerrilla bands. Once Young and his little company stampeded a cavalry brigade. And they were also to gather intelligence. In any case they wore the enemy's uniform (and sometimes other disguises) within the enemy's lines in order to deceive. Therefore, under military law, if taken within or about the enemy's lines, they were to be treated as spies and suffer death.<sup>165</sup>

Those serving under General Fremont in this capacity during the spring and summer of 1862 were given the name "Jessie Scouts" in honor of the commander's wife, Jessie Benton. The name became commonly used by these daring riders after Fremont had departed the theater and was applied to any Federal scout who wore the gray in the Virginia area.

Before the Union forces were mustered out, Harry Young was to see intelligence service in another field of operations.

After Lee had surrendered, the Mexican frontier needed watching, for the contest between the French invaders and the Liberals was still in progress. Therefore Sheridan was

<sup>164</sup> Bryan, *op. cit.*, pp. 135-136; also see Henry B. Smith. *Between the Lines*. New York, Booz Brothers, 1911.

<sup>165</sup> Bryan, *op. cit.*, pp. 136-137.

ordered to the Rio Grande with a corps. Colonel Young—he was by now brevetted lieutenant-colonel—went along, taking with him four of his old command. Sheridan admits that material aid was given the Liberals from United States arsenals; and he also recommended Young as a trusty go-between and an agent who could furnish reliable intelligence of affairs within Mexico itself; but outwardly there was adherence to neutrality. Young, however, without first getting Sheridan's approval, took Liberal money, raised a band of fifty or so, and attempted to cross the river. A fight ensued—some were killed, some escaped [Young himself disappearing completely].<sup>166</sup>

By the end of the Civil War, all military intelligence operations virtually ceased to exist. Undoubtedly some scouts were retained for immediate observation duties in the West in the Indian campaigns. Beyond this, the intelligence organization(s) created by the Union armed forces establishment was totally dismantled with the peace of Appomattox and the demise, in the opinion of at least one expert, was not necessarily a loss to be bemoaned.

From beginning to end of the Civil War the ordinary hazards of professional espionage were doubled and trebled by the inexperience or downright incompetence of staff officers assigned to Intelligence. The transmitting of information was primitive and unsystematized; and where cipher messages were resorted to, the ciphers were so transparently contrived they did little more than guarantee the guilt of the bearer. In addition, while men and women fashioned for themselves a hairbreath existence to penetrate the secrets of the enemy, what they learned and communicated was too seldom interpreted effectively. Often spy reports were ignored until all their military value and timeliness had subsided into history.<sup>167</sup>

### *XIII. Secret Service*

During the Civil War, the combination of new revenue legislation and scandals within the Treasury Department prompted congressional action with a view to providing the Secretary of the Treasury with some investigative authority to deal with fraud. In 1863 legislation was enacted (12 Stat. 713 at 726) authorizing the Secretary to "appoint not exceeding three revenue agents . . . to aid in the prevention, detection, and punishment of frauds upon the revenue." From these statutory origins would evolve the Intelligence Division and Security Inspection Division of the current Internal Revenue Service and the enforcement branch of the Alcohol, Tobacco, and Firearms Division. From the experience of this early investigative authority, and the need to operationalize prior mandates (11 Stat. 254; 12 Stat. 83; 12 Stat. 102) regarding the prevention of counterfeiting, a Secret Service Division was established within the Treasury Department in July, 1865, to be initially supervised by the Solicitor of the Treasury and later by an Assistant Secretary (and in 1933 came under the direct

<sup>166</sup> *Ibid.*, p. 152.

<sup>167</sup> Rowan, *op. cit.* p. 145.

authority of the Secretary). The head of the new organization, William P. Wood, was sworn in on July 5. A close personal friend of Secretary of War Stanton, Wood undoubtedly became acquainted with Lafayette Baker while serving as keeper of the Old Capitol Prison and he may also have known Pinkerton or his operatives. He served as both a detective and as a spy in Stanton's employ and was detailed on one occasion to the Treasury Department to probe counterfeiting matters. While running the Old Capitol Prison—

Wood assigned undercover agents to pose as Southern sympathizers who could smuggle mail from Richmond to Washington. The letters were brought to him at the prison, where he skillfully opened, read, copied and resealed them for transmission to their destinations. The information they contained was funneled to Stanton's office and served as valuable leads for the conduct of the war. Prospective movements of Southern forces were revealed in this way, including plans for Lee's northern advances which ended in the Battle of Gettysburg.<sup>168</sup>

As head of the Secret Service, Wood had a force of approximately thirty men, some of whom were former private detectives he had known while pursuing counterfeiters and others were personal friends he had directed in wartime intelligence activities. Six general orders guided these personnel.

1. Each man must recognize that his service belongs to the government through 24 hours of every day.

2. All must agree to assignment to the locations chosen by the Chief and respond to whatever mobility of movement the work might require.

3. All must exercise such careful saving of money spent for travel, subsistence, and payments for information as can be self-evidently justified.

4. Continuing employment in the Service will depend upon demonstrated fitness, ability as investigators, and honesty and fidelity in all transactions.

5. The title of regular employees will be Operative, Secret Service. Temporary employees will be Assistant Operatives or Informants.

6. All employment will be at a daily pay rate; accounts submitted monthly. Each operative will be expected to keep on hand enough personal reserve funds to carry on Service business between paydays.<sup>169</sup>

Distributed among eleven cities with a national office in Washington, the agents carried no badges or official identification other than hand-written letters of appointment. U.S. Marshals and other peace officers were notified by circular of the existence of the new organization and its purposes. At the end of its first year of operation, the agency had captured over 200 counterfeiters and had established a close working

<sup>168</sup> Walter S. Bowen and Harry Edward Neal. *The United States Secret Service*, Philadelphia and New York, Chilton Company, 1960, p. 13.

<sup>169</sup> *Ibid.*, p. 16.

relationship with marshals, local police departments, and United States Attorneys in various localities.

Wood remained in charge of the Secret Service until 1869 when he was succeeded by Herman C. Whitley who, like Wood, had been an army detective during the war and had later associated himself with the Internal Revenue Bureau. Over the next half century, the Service would be led by seven other men.

*Secret Service Chiefs*

	<i>Service</i>
William P. Wood-----	1865-1869
Herman C. Whitley-----	1869-1874
Elmer Washburn-----	1874-1876
James J. Brooks-----	1876-1888
John S. Bell-----	1888-1890
A. L. Drummond-----	1891-1894
William P. Hazen-----	1894-1898
John E. Wilkie-----	1898-1911
William J. Flynn-----	1912-1917

During this period the Secret Service investigated a variety of matters in addition to counterfeiting, including the Mafia, gambling interests, peonage practices, the security of Treasury Department facilities concerned with the production of securities and money, alcohol revenue enforcement, and the activities of the Ku Klux Klan.<sup>170</sup> The intelligence structures and techniques developed in conjunction with these probes are difficult to assess. The Secret Service was a permanent structure with regional offices. In pursuing counterfeiters, organized crime, and gambling interests, the Service cooperated with various sub-national law enforcement agencies and informers. Concentrating on these subjects, the organization undoubtedly cultivated sources of continuing intelligence at the local level. Before the advent of World War I, in 1902, in the aftermath of the assassination of President William McKinley, the Secret Service was assigned the function of protecting the President, a mission which would encourage intelligence gathering regarding any and all enemies of the Chief Executive.

#### *XIV. Armed Forces Intelligence*

With the approach of the Twentieth Century, both the Army and the Navy took steps to formally establish intelligence institutions within their organizations.

Until after the U.S. Civil War, the Navy's intelligence efforts and requirements were essentially those within the capacity of a ship's commanding officer to conduct and use. Then technical developments stimulated not only by the Civil War in the United States but also by the Crimean War and the Franco-Prussian War in Europe, resulted in improved metals and powder which, in turn, led to the progressive development of larger caliber, built-up, rifled ordinance firing elongated missiles.

The German development of the sliding wedge breech block made muzzle-loading obsolete and permitted fixed gun mounts

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<sup>170</sup> Generally, see: *Ibid.*, pp. 12-83; George P. Burnham. *Memoirs of the United States Secret Service*. Boston, Lee and Shepard, 1872; H. C. Whitley. *In It*. Cambridge, Riverside Press, 1894, pp. 102-311.

and more accurate aiming. Armor progressed from wood to iron to steel.

Recognizing the need for keeping in touch with such progress in foreign navies, the Secretary of the Navy, on 23 Mar 1882, signed General Order 292, establishing the "Office of Intelligence" in the Bureau of Navigation "to collect and record such naval information as may be useful to the Department in wartime as well as in peace."

The Navy Department Library was combined with the Office of Intelligence. Naval Attache posts were set up in London in 1882, in Paris in 1885 and in Rome in 1888. The attache in Paris was also accredited to Berlin and St. Petersburg (later Petrograd, then Leningrad) and the attache at Rome included Austria in his area of accreditation.<sup>171</sup>

As constituted, the Office of Naval Intelligence collected and disseminated largely technical information about naval affairs. Undoubtedly some amount of political information was garnered through the attache system managed by the Office. It would appear, however, that until World War I, the unit, which was attached to the newly created Office of the Chief of Naval Operations in 1915, concerned itself largely with technical matters. Some of these topics of concern to the Office are reflected in the titles of its general information series of publications.<sup>172</sup>

From its inception until June, 1899, the Office had no authorization for clerical employees and relied upon detailees from other bureaus for staff. The advent of the Spanish-American War not only prompted an authorization (30 Stat. 846 at 874) for clerks, but also triggered an expansion of the attache system. Officers were assigned to Tokyo (1895), Madrid (1897), Caracas (1903), Buenos Aires (1910), and The Hague (1911). Commenting on the evolution of the

<sup>171</sup> W. H. Packard. A Briefing on Naval Intelligence. *All Hands*, No. 591 April 1966: 15.

<sup>172</sup> These include the following:

U.S. Navy Department. Bureau of Navigation. Office of Naval Intelligence. *Observations Upon The Korean Coast, Japanese-Korean Ports, and Siberia, Made During a Journey From The Asiatic Station to The United States Through Siberia and Europe* by Lieutenant B. H. Buckingham, Ensigns George C. Foulk, and Walter McLean, Washington, U.S. Govt. Print. Off., 1883. 163 p.

\_\_\_\_\_. \_\_\_\_\_. *Report on The Exhibits at the Crystal Palace Electrical Exhibition, 1882* by Ensign Frank J. Sprague. Washington, U.S. Govt. Print. Off., 1883. 169 p.

\_\_\_\_\_. \_\_\_\_\_. *Examples, Conclusions, and Maxims of Modern Naval Tactics* by Commander William Bainbridge-Hoff. Washington, U.S. Govt. Print. Off., 1884. 149 p.

\_\_\_\_\_. \_\_\_\_\_. *Papers on Naval Operations During the Year Ending July, 1885*. Washington, U.S. Govt. Print. Off., 1885. 135 p.

\_\_\_\_\_. \_\_\_\_\_. *Papers on Squadrons of Evolutions: The Recent Development of Naval Materiel*. Washington, U.S. Govt. Print. Off., 1886. 265 p.

\_\_\_\_\_. \_\_\_\_\_. *Recent Naval Progress*. Washington, U.S. Govt. Print. Off., 1887. 346 p.

\_\_\_\_\_. \_\_\_\_\_. *Naval Reserves, Training, and Materiel*. Washington, U.S. Govt. Print. Off., 1888. 433 p.

\_\_\_\_\_. \_\_\_\_\_. *Naval Mobilization and Improvement In Materiel*. Washington, U.S. Govt. Print. Off., 1889. 485 p.

\_\_\_\_\_. \_\_\_\_\_. *A Year's Naval Progress*. Washington, U.S. Govt. Print. Off., 1890. 423 p.

Navy's intelligence unit vis-a-vis the emergence of the Army's counterpart structure, one authority, himself a former director of the Office of Naval Intelligence, has said:

. . . it is well to recognize that [the] Military Information Division has much more complex duties, not only in keeping track of enemy activities within our own borders and foiling them, but in expanding and coordinating all the military resources of the country. The Navy is always ready for war or on a tentative war footing with some trained reserves to draw upon. It is a comparatively simple matter to pass from a peace to a war footing. Intensive target practice, torpedo exercises, mine laying exercises and maneuvers keep the personnel deeply interested through the competitive spirit. It is the duty of the Navy to hold the enemy in check while the Army mobilizes and deploys. Curiously enough, naval strategy may be planned in time of peace by building stations, acquiring bases, and studying all the elements of the possible enemy's strategy, but an army cannot acquire supply bases or fortified stations in the same way in time of peace. A navy is not efficient unless it is always on a tentative war footing, for when war comes you cannot improvise a navy. We have never done anything else than improvise an army.<sup>173</sup>

The War Department inaugurated its permanent intelligence institution three years after the Navy established the Office of Naval Intelligence.

In 1885 the Secretary of War had asked the Adjutant General for information on the armed forces of a certain power—it may have been Russia, against whom Germany's Bismarck

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———. *Office of Naval Intelligence. The Year's Naval Progress*. Washington, U.S. Govt. Print. Off., 1891. 491 p.

———. *Notes on the Year's Naval Progress*. Washington, U.S. Govt. Print. Off., 1892. 366 p.

———. *The International Columbian Naval Rendezvous and Review of 1893 and Naval Manoeuvres of 1892*. Washington, U.S. Govt. Print. Off., 1893. 238 p.

———. *Notes on the Year's Naval Progress*. Washington, U.S. Govt. Print. Off., 1894. 458 p.

The series was continued until at least 1902 under the title *Notes on the Year's Naval Progress*, one volume for each year (1895–1902).

Another series of four reports were produced during this same period (1888–1900) under the title *Coaling, Docking, and Repairing Facilities of the Ports of the World*. Another frequent issuance (188?–1909) was a pamphlet, updated at various times, entitled *Information Concerning Some of the Principal Navies of the World* which was apparently created for public distribution.

One special report was produced as a consequence of the Spanish–American War which was in the format of the general information series but captioned “war notes” and entitled: U.S. Navy Department. Office of Naval Intelligence. *Notes on the Spanish American War*. Washington, U.S. Govt. Print. Off., 1899.

Other specialized studies may have been produced for publication during the period in addition to these documents indicated here which are based upon holdings of the Library of Congress.

<sup>173</sup> U.S. Navy Department. Division of Operations. *The History and Aims of the Office of Naval Intelligence* by Rear Admiral A. P. Niblack. Washington, U.S. Govt. Print. Office, 1920, p. 11. Copies of this study bear the marking “Not for publication,” indicating limited distribution; the copy utilized in this study was supplied by the National Archives and Records Service.

was busy aligning allies to effect a balance of power. To the Secretary's surprise, he learned that no such information was readily available in Washington. Furthermore, no government agency existed for collecting and compiling such information. From this frustration was born what would become the Military Information Division of the Adjutant General's office. The grandiose name did not originally apply to the one officer and clerk detailed to "gather and file information concerning the military organizations of foreign countries in which, for one reason or another, the United States might become interested."

Four years later the military attache system was authorized [25 Stat. 825 at 827-828] by Congress. It has functioned ever since, although sometimes with hardly more than a flicker, *overtly* to gather and forward to the War Department military information on the countries to which attaches were assigned. It became a function of the Military Information Division to select attaches, to pass them their instructions from the War Department, and to receive their reports for the Army.<sup>174</sup>

The Military Information Division remained small and went unnoticed by the Army's officer corps, its attache system almost non-existent on the eve of the Spanish-American War. Nevertheless, however minute, the United States had a permanent intelligence structure when once again faced with the prospect of hostilities in 1898.

#### *XV. Spanish-American War*

The declaration of war against Spain adopted by Congress on April 20, 1898, can be attributed to a variety of real and imaginary factors: among the real considerations were American sympathy for the Cuban revolutionaries waging war against their colonial oppressors (1868-1878), sugar interests in Cuba, and outrage over the tactics of General Valeriano "Butcher" Weyler and his concentration camps; among the imaginary subjects were all of the propaganda targets of William Randolph Hearst's New York *Journal* and Joseph Pulitzer's New York *World*. The sinking of the battleship *U.S.S. Maine* in Havana harbor on February 15 set the wheels in motion for a culmination of declared war two months later. The formal resolution adopted by Congress (1) recognized the independence of Cuba, (2) demanded the withdrawal of the Spanish armed forces from that island, (3) authorized the President to utilize the army and navy to carry out this policy, and (4) disclaimed any American interest in controlling Cuba or its people. The United States entered the hostilities with a modern "steel navy" of 2,000 officers and 24,000 enlisted men; the army, by contrast, consisted of an ill-equipped 2,100 officers and 28,000 enlistees. Colonel Arthur L. Wagner, chief of the Military Information Division, counseled the President and the Cabinet against an immediate invasion of Cuba for reasons of weather and disease control. His advice won him the enmity of his overlord, Secretary of War Russell A. Alger, cost him his job, and caused him to be denied a promotion in rank until he lay on his deathbed.<sup>175</sup>

<sup>174</sup> Ind, *op. cit.*, p. 111.

<sup>175</sup> See *Ibid.*, pp. 110-112.

There were, however, a number of successful intelligence operations carried out during the war. Among the first of these was a mission by Lieutenant Andrew S. Rowan, a former military attache in Chile and once in charge of the Military Information Division's map section, who, at the request of the President, was directed to carry a series of questions to the elusive rebel leader Calixto Garcia somewhere in Cuba. After finding Garcia, Rowan was to determine "the numbers, location, and morale of the Spanish troops, the character of their officers; the topography, the condition of the roads in all seasons; how well each side was armed, and what the *insurrectos* were most in need of until an American force could be mobilized."<sup>176</sup> To his great credit and the gratitude of the War Department, Rowan completed the mission, popularly captioned "a message to Garcia."<sup>177</sup>

A series of similar missions were carried out by Lieutenant Victor Blue, the executive officer of the gunboat *Suwanee* at the time of the undertaking. The first venture Blue made into enemy territory was prompted by a need to know where a shipment of arms, ammunition, and provisions, under escort by the *Suwanee* and destined for guerrilla forces, was to be landed. A second mission came at the urging of Admiral William T. Sampson, commander of the Caribbean fleet, who, having blocked Santiago harbor, wanted to determine how much of the Spanish fleet lay at anchor within the port. Blue was required to make a deep penetration of long duration into the Cuban countryside, much of which afforded him little protection from detection by patrols. In a third trip, Blue returned to observe Santiago harbor for purposes of informing Sampson of channel obstructions, port defenses, and ship positions relative to an attack on the facility. An unusual officer of demonstrated abilities, Blue advanced quickly in rank: by the end of World War I he was a rear-admiral, served as chief of staff of the Pacific fleet, and was chief of the Bureau of Navigation. Retired in 1919, he died in 1928.<sup>178</sup>

A secret agent using the name "Fernandez del Campo" was dispatched to Spain by the War Department during the hostilities of 1898.<sup>179</sup>

Stopping at the capital's best hotel, he made no advances and presented no letters of introduction but let his dislike of the "Yankees" be understood and gave it out that his visit to Madrid must be brief. Members of fashionable clubs, military officers and officials of the government met him, accepted his casual invitations, were sumptuously entertained and also enriched by one who lost money at cards with the insouciance of inherited manners and income.<sup>180</sup>

The man carefully and cleverly maneuvered himself into favor with Spanish officials and naval personnel, was shown the armaments, munitions, and stores of their fleet, observed the Cadiz dockyards and

<sup>176</sup> Bryan, *op. cit.*, pp. 201-202.

<sup>177</sup> See *Ibid.*, pp. 200-203; Ind, *op. cit.*, pp. 113-116.

<sup>178</sup> See Bryan, *op. cit.*, pp. 203-217.

<sup>179</sup> The actual identity of this agent supposedly has never been disclosed but the source discussing his activities has suggested that he might have been Lieutenant Colonel Aristides Moreno, an American intelligence officer of Spanish descent, who was in charge of counter-espionage matters on General John J. Pershing's staff in France during World War I. See Rowan and Deindorfer, *op. cit.*, p. 719n.

<sup>180</sup> *Ibid.*, p. 399.

arsenal, and learned both the departure date and destination of the armada—the last item being the purpose of his mission. Admiral George Dewey and his forces around the Philippine Islands were alerted that they were the target of this Spanish flotilla, and the spy returned safely to the United States for private honors.<sup>181</sup>

The Signal Corps was an established entity within the army when the declaration of war against Spain was ratified. At the time, the unit's duties were

. . . to establish and maintain intercommunication between the territorial components of the nation, by submarine or overland telegraph and telephone; with its armies in the field, wherever they may be located; between the subdivisions of its armies, in camp, in campaign, and in battle, by visual signals and by flying or semi-permanent telegraph and telephone lines; and the gathering of such valuable military information as its command of the channels of communication may make possible. As its duties indicate, its work embraces the construction and operation of all military telegraph and telephone lines, the manipulation of submarine cables, the operation of captive balloons, visual signaling and telegraph censorship.<sup>182</sup>

Immediately prior to entering the war, the Signal Corps consisted of approximately eight officers and fifty enlisted men. This was quickly expanded to about 150 personnel, pending the organization of a volunteer corps. Congressional approval (30 Stat. 417–418) for a Volunteer Signal Corps occurred in May, 1898, and the regular ranks of the unit eventually reached 1,300 men.<sup>183</sup>

The Signal Corps performed important intelligence service in three instances during the Spanish-American War. The first of these exploits involved severing the submarine cables serving Cuba, thereby isolating the island for purposes of communication, and utilizing the detached lines at other terminals beyond the island for our own purposes. In 1898, five submarine cables connected Cuba with the continents: two ran between Havana to Puntarassa, Florida, one connected Santiago with Haiti and thence to New York or to South America, and two linked Santiago with Kingston, Jamaica, where one line continued on to the Bahamas and Halifax and the other skirted the coast of South America to Pernambuco and ran on to the Canary Islands and then to Lisbon. The Florida cables presented no problem as the United States controlled the terminals and allowed some communications of a supposedly non-military nature to flow between Cuba and Florida.

To Colonel James Allen, United States Volunteer Signal Corps, was entrusted the task of severing Cuba telegraphically from Spain, and rearranging the cables for American use. The ship *Adria* was immediately chartered in New York, and the cable machinery of the Mexican Telegraph Company

<sup>181</sup> See *Ibid.*, pp. 399–400.

<sup>182</sup> Howard A. Giddings. *Exploits of the Signal Corps in the War with Spain*. Kansas City, Missouri, Hudson-Kimberly Publishing Company, 1900, p. 10.

<sup>183</sup> *Ibid.*, pp. 15, 16.

secured and installed in the ship, which proceeded to Boston and took on twenty-four miles of deep-sea cable furnished by the Western Union Company, and then returning to New York took on twenty-nine miles of intermediate type cable and fifty miles of insulated but unarmored wire, with instruments and supplies, and proceeded to Key West, without having attracted the attention of the press.<sup>184</sup>

After a great deal of difficulty with the ship's crew and his own technicians assigned to the mission, Allen could recruit only three signal sergeants, a detail of ten artillery volunteers from the garrison at Key West Barracks, an assisting Signal Corps officer, and a motley ship's crew. Of those under this direct command, only one had been to sea previously and none of them had ever seen a submarine cable.

The *Adria* arrived off the coast of Santiago on the afternoon of June 1 and began dragging for the cable within the three-mile limit which was well within the range of Spanish shore batteries. This proximity was necessary because, the cables not being the property of Spain, they could legally be severed only within the jurisdiction of the nations at war—*i.e.* within three miles of the coast of their territory. This position also contributed technical difficulties to the mission as submarine cable was armor plated where it became subject to coastal tides, currents, and frictional contact with the ocean bottom. The *Adria's* machinery for lifting the cable almost proved impossible for the task. The cable was snared and lost, relocated and finally surfaced by straining hoists and coughing motor pulleys. The *Adria* was fired on by shore batteries a few times but the mission was finally completed.

Allen and his group also assisted in making the cable between Santiago and Haiti operational for United States forces after it was severed by a party aboard the *St. Louis*. These actions not only isolated the Spanish forces on Cuba from ready communication with points beyond the island, but gave the United States almost total control of cable communication around the theater of war.<sup>185</sup>

Another important accomplishment of the Signal Corps was the reporting of the arrival of Admiral Pascual Cervera y Topete's squadron at Santiago within two hours after it entered the harbor. While the Spanish fleet was known to have departed for the Caribbean, its mission was unknown: would it attack the United States coast, would it immediately engage in a sea battle with American ships blockading Cuba, would it attempt to refuel and drop supplies at a Cuban port and what harbor would it utilize? Even the army was afraid to dispatch troops to Cuba for fear of having these forces caught in transports by the unlocated Spanish flotilla.

On May 19, after eluding the blockading American forces, Cervera, unobserved on the open sea, entered Santiago harbor. One hour after the fleet made port, details about its arrival and composition were dispatched to Washington from Key West by Colonel James Allen.

<sup>184</sup> *Ibid.*, pp. 30-31.

<sup>185</sup> Generally, see *Ibid.*, pp. 23-36.

No confidence is violated in now telling that the information regarding Cervera's squadron came to Colonel Allen through an employee of the cable company at Havana, who was in the pay of the Signal Corps. All the information about Cervera came from Santiago, over the Cuba submarine cable on the south coast, to the Captain-General at Havana, and Colonel Allen's agent obtained it from "a Spanish government official holding a high position."<sup>186</sup>

Ten days after its arrival, the Spanish fleet came under blockade in the harbor when ships under Admiral Sampson arrived off Santiago. The situation remained static until July 3 when Cervera attempted to make a dash for the sea. In a four-hour battle along the Cuban coast, the Spanish ships succumbed to superior American fire-power. The fleet was destroyed, 474 Spanish seamen were killed, and another 1,750 were taken prisoner. American forces counted one dead and one wounded. On July 17, the Santiago garrison surrendered, resulting in another 24,000 prisoners. The destruction of the Spanish fleet marked the virtual end of the war.

The Signal Corps' third intelligence effort derived from its mission of communications control and duty as censor, "whose purpose was not to restrict the press, or to muzzle the people, but to thwart treason, and to prevent news of military and naval operations from reaching Spanish territory, to the injury of the American cause."<sup>187</sup>

The lines constructively seized by the Signal Corps, at the order of the President, embraced the land lines of Florida, the seven submarine cables to foreign countries having their termini in New York city, the French cable on the south coast of Cuba, the English cables in Porto Rico and Santiago, and the Cuba submarine cables.<sup>188</sup>

The Signal Corps did not actually displace any personnel operating these lines but, instead, assumed supervision of operators and messages in each case. The signal officer attached to each station assumed some responsibilities as a censor while the Chief Signal Officer held final authority on such questions. Not all communication was prohibited over these cables and, in fact, a certain amount of intelligence derived from allowing personal and commercial traffic.

All telegrams in Spanish to and from Spain, Cuba, Hayti, Porto Rico, Jamaica, and St. Thomas were prohibited, as well as all messages in cipher to any foreign country, except that the right to communicate in cipher was allowed the legal diplomatic and consular representatives of neutral foreign governments.

Personal and commercial messages in plain text were admitted, when deemed advisable, and when not containing military information, as it was the purpose of the chief signal officer to exercise the necessary military censorship with the least possible inconvenience to legitimate commercial busi-

<sup>186</sup> *Ibid.*, p. 46; generally see *Ibid.*, pp. 37-46.

<sup>187</sup> *Ibid.*, p. 113.

<sup>188</sup> *Ibid.*, p. 114.

ness. Thus it happened that throughout the war messages pertaining to domestic or commercial affairs were passed freely over the lines to Havana, and even to Santiago.

Much information of inestimable value was gleaned from a perusal of messages which were attempted to be passed by Spanish agents, blockade-runners, newspaper correspondents, and unfriendly or neutral persons. The movements of Spanish ships, the plans of blockade-runners, and the presence and doings of Spanish agents were thus discovered and watched. By accepting messages of treasonable character and quietly dropping them in the wastebasket, the sources of the information were not alarmed and repeatedly furnished to the United States valuable intelligence.<sup>189</sup>

The first efforts at establishing peace were made through the French ambassador at Washington shortly after the defeat of the Cervera squadron. A protocol signed on August 12 provided for a peace treaty to be concluded in Paris and halted hostilities under the terms that (1) Spain was to relinquish Cuba and cede Puerto Rico and one of the Ladrone Islands to the United States, (2) American forces were to continue to hold Manila, and (3) occupation of Manila would continue until a peace treaty was concluded determining the disposition and control of the Philippine Islands. The Paris treaty was finalized on December 10, ceding the Philippines, Puerto Rico, and Guam to the United States, calling for a payment of \$20 million for the Philippines, and effectively establishing Cuba as a free nation. The treaty came to the United States Senate for ratification and a close division between imperialist and anti-imperialist factions left its adoption in doubt for a few months. Finally, on February 6, 1899, it was accepted on a 57-27 vote, a 2-vote confirmation margin. The war was over.

#### *XVI. Post-War Developments*

When the Philippines were ceded to the United States, revolutionary forces within the islands anticipated independence for their country. When they learned that they had merely exchanged colonial overseers, agitation and insurrection became their tactic of reprisal. Among those leading these assaults was Emilio Aguinaldo, an insurrectionist of long-standing whom the United States enlisted in the war against Spain only to have him become a foe when peace gave America control of the Philippines. By 1901, Aguinaldo was an intelligence interest. His pursuer was Frederick Funston, an agent of the Military Information Division.

Funston had served with the Cuban revolutionary forces, was caught by the Spanish authorities, and obtained release from prison through the intervention of American diplomats. Upon returning to the United States, he was debriefed by Colonel Arthur Wagner, head of the Military Information Division, who recognized his keen eye and remembered his abilities when difficulties arose with Aguinaldo. Having served in the islands during the Spanish-American War, Funston was stationed at San Isidro on Luzon when, in February,

<sup>189</sup> *Ibid.*, pp. 115-116.

1901, he received word of the capture of a band of *insurrectos*, one of whom was a courier from Aguinaldo with cipher messages for other insurrectionist leaders. It also appeared that Aguinaldo himself was encamped in the northern area of Luzon, perhaps in the friendly village of Palanan.

Funston's mind went into action. He knew it would be impossible to take Aguinaldo by conventional military methods—any movement of that kind would be telegraphed far ahead by means only the keen-eyed Tagalog guerrillas knew. He studied the map. Palanan lay inland from the east coast at the northern end of Luzon. A plan began to form in his head. A chosen band of Filipinos loyal to the United States and led by only a cadre of Americans, who would have to be disguised somehow, might be taken by sea to the north, then disembarked at night for quick penetration of the hinterland. By one ruse or another, Aguinaldo's stronghold would have to be breached without a fight, or the slippery rebel chief would disappear into nothingness as he had so often done before.<sup>190</sup>

Funston recruited approximately a hundred Macabebes as "revolutionaries" and explained the presence of Americans with them as being "captives." Their cause and case was strengthened by the addition of some forged communiques and linguistic cramming on the part of the Macabebes to learn the Tagalog dialect. Authenticity was added to the band with appropriate uniforms and weapons. The gunboat *Vicksburg* landed the group on the northern coast and a grueling march inland was begun. After much suffering, the party came in contact with one of Aguinaldo's forward observers; the Macabebes were taken into the enemy camp while the American "captives" were held a short distance away. At the proper moment, the Macabebes seized the rebels, the Americans rushed in, and Aguinaldo was captured.

Word of the American success spread across wild northern Luzon with the rapidity that always has astounded those accustomed only to the electric marvels of civilization. Funston turned his force about, prepared for the worst. He knew that if the trip inland had been rough, the return could be all but impossible if the country remained hostile. To his immeasurable relief, it did not; Aguinaldo in captivity seemed to paralyze the people. The trip to the coast was made almost without incident and thence by ship to Manila. The back of the insurrection was broken.<sup>191</sup>

It was also in 1901 in the Philippines that another intelligence actor, Captain Ralph H. Van Deman, made his appearance. A graduate of West Point and once an army surgeon, Van Deman championed the fledgling Military Information Division and urged his military superiors to give more consideration to intelligence development. In the Philippines, he came to the attention of General Arthur Mac-

<sup>190</sup> *Ind. op. cit.*, p. 119.

<sup>191</sup> *Ibid.*, p. 123.

Arthur who asked him to organize a Philippines Military Information Bureau. Although patterned after the Adjutant General's unit, Van Deman's office had no official connection with the Washington namesake. There was also one major operational difference between the two organizations: Van Deman utilized undercover operatives, all Filipinos except for one American. Subsequently, the Philippines Military Information Bureau would uncover a plot to assassinate General MacArthur, apprise the army of Japanese interests and intelligence activity in the Philippines, and make clandestine observations in China during the Boxer Rebellion.<sup>192</sup> In 1903, after the General Staff system was introduced in the army and the intelligence organization became the second division (G-2) of the General Staff, the Philippines Military Information Bureau was given branch status to the new intelligence division. Van Deman returned from Asian duty in 1915 and would assume a major leadership role in intelligence activities as America prepared for world war.

When the General Staff of the Army was created by Congress (32 Stat. 830-831) in 1903, the Military Information Division of the Adjutant General's office became the second division (G-2) of the new entity.<sup>193</sup> This change in status generally pleased intelligence advocates within the army. However, General Franklin Bell, a man with whom Van Deman had publicly disagreed over intelligence matters in the Philippines and an officer not favorably disposed toward the intelligence function, became Chief of Staff. When the head of the Army War College (G-3) suggested that the intelligence division be physically housed with the War College to facilitate use of common resources, Bell approved the proposal as being practical. Shortly thereafter, the War College sought to absorb the intelligence unit: this action Bell also approved but perhaps not merely for reasons of practicality alone.<sup>194</sup> Transferred to the War College in 1908, the intelligence function was administered by an information committee from 1910 until the dawn of World War I, a panel described by one authority as "personnel with no knowledge of the intelligence unit's aims and functions and no interest in learning them."<sup>195</sup>

The military were not unaware of possible intelligence penetration by foreign powers and of the necessity of protecting defense facilities and information from such scrutiny. New regulations in 1908 on this matter said:

Commanding officers of posts at which are located lake or coastal defenses are charged with the responsibility of preventing as far as practicable, visitors from obtaining information relative to such defenses which would probably be communicated to a foreign power, and to this end may pre-

<sup>192</sup> Generally, see *Ibid.*, pp. 124-127.

<sup>193</sup> Generally, on the general staff concept, see: J. D. Hittle. *The Military Staff: Its History and Development*. Harrisburg, The Military Service Publishing Company, 1949; Otto L. Nelson, Jr. *National Security and the General Staff*. Washington, Infantry Journal Press, 1946; Raphael P. Thian. *Legislative History of the General Staff of the Army of the United States*, Washington, U.S. Govt. Print. Off., 1901.

<sup>194</sup> See *Ind, op. cit.*, pp. 128-129.

<sup>195</sup> *Ibid.*, p. 130.

scribe and enforce appropriate regulations governing visitors to their posts.

American citizens whose loyalty to their Government is unquestioned may be permitted to visit such portions of the defenses as the commanding officer deems proper.

The taking of photographic or other views of permanent works of defense will not be permitted. Neither written nor pictorial descriptions of these works will be made for publication without the authority of the Secretary of War, nor will any information be given concerning them which is not contained in the printed reports and documents of the War Department.

It is thought that this language constitutes the first open admission by the War Department of an effort to protect fixed defenses and information pertaining to same against foreign intelligence penetration.<sup>196</sup>

At approximately the same point in time as this security directive was issued, efforts at establishing the government's first general investigative organization came to fruition, resulting in a force generally designed to probe crimes against the Federal establishment and to pursue those alleged to have committed such offenses. Inherent in this investigative mission was an intelligence function—the systematic gathering and interpretation of information with a view to crime control and prevention. A point of contention and debate within this mission, as will be seen, is whether the “crimes” in question are solely those which are prosecutable or whether other potential or actual offenses, not stated in law, may be included in the understanding.

While the Attorney General was one of the original Cabinet officers of 1789, a Department of Justice did not exist until (16 Stat. 162) June, 1870. The following year, Congress provided (16 Stat. 495 at 497) the new agency with \$50,000 for the “detection and prosecution of crimes against the United States.” However, because Attorney General Amos J. Ackerman had only one “Special Agent” for detection work, he utilized the appropriation by employing private detectives, borrowing Secret Service agents, or otherwise burdening United States Attorneys and marshals with investigative tasks. In 1875, Attorney General George H. Williams appointed four regional “special detectives” and occasionally hired private detectives when the United States Attorneys had need of such services for specific duties. A few “examiners” were added to the Justice Department's forces in 1878. These personnel scrutinized the records of court clerks, marshals, commissioners, and district attorneys but, because their appointments soon became embroiled in patronage, they rendered what has been described as “desultry service.”<sup>197</sup> During his tenure of office, Attorney General Benjamin H. Brewster (1881–1884) declared he was personally opposed to utilizing private detectives for Department investigatory work but, while he said he wanted to dispose of such operatives as soon as possible, he was forced to rely on some private

<sup>196</sup> The evolution of information security policy and practice is discussed in Appendix II.

<sup>197</sup> Harry and Bonaro Overstreet. *The FBI In Our Open Society*. New York, W. W. Norton and Company, 1969, p. 14.

assistance and chose the Pinkerton agency. After the Homestead Massacre tarnished the Pinkerton name, Congress, in indignation over the incident, forbid (27 Stat. 368, 591) the further utilization of these agents and effectively ended the use of private detectives by the Federal government.<sup>198</sup>

The Justice Department continued to rely upon the Secret Service for investigators after the utilization of private detectives was halted and, by 1906, as many as thirty-two of these operatives had been detailed from Treasury. The arrangement was a makeshift and rested upon congressional sanction through the annual appropriations process. By 1907, Attorney General Charles J. Bonaparte, the American-born grandson of Napoleon's youngest brother, attempted to obtain his own investigators but Congress, for various reasons, was unconvinced of their necessity.

One factor was an overgeneralized but not unwarranted contempt for detectives and their practices. Many persons who then went into such work were recommended for it by their own criminal records and what these had taught them about the underworld, not by any respect for the law.

To Attorney General Bonaparte, the fact that detectives tended not to be a "high type" signified that Justice should have its own force of carefully chosen and rigorously supervised investigators. But to many members of Congress—among them Chairman James A. Tawney of the House Appropriations Committee—it signified that detectives should, to the greatest possible extent, be kept out of the Federal Government.

The other factor was a state of tension between Congress and the President. Its basic cause was the fact that a Congress still rooted in the McKinley-Mark Hanna tradition of politics had no taste for Roosevelt's many-sided reform program—or for his "trust-busting" fervor.

Speaker Joe Cannon, for example—the most powerful man in the House—broke with the President and became one of his arch-foes because of the Government's antitrust action against Standard Oil. This and other actions of like type had, Cannon contended, shaken the confidence of the business community and brought on financial panic.

Secondary causes of tension were, however, soon added to the primary cause. In 1905, Senator John Mitchell and Representative John Williamson, both of Oregon, were indicted in land-fraud cases. When Roosevelt said, in terms that sounded like a blanket charge of wrongdoing, that he would order as many more investigations of members of Congress

<sup>198</sup> On July 6, 1892, strikers at the Carnegie Steel Company plant in Homestead, Pennsylvania, fired upon two barges on the Monongahela River containing some 300 Pinkerton detectives. The Pinkertons were known strike breakers and their presence generated hatred among the strikers. After several hours of fighting, the Pinkerton forces surrendered and were roughly escorted out of town. In the aftermath of the encounter, three guards and ten strikers lay dead and others suffered severe injuries. Some 8,000 National Guardsmen restored order in the community and subsequently, after holding out for almost five months, the strike was given up. No effective steel union was organized in the area until the 1930s.

as seemed warranted, that body went on the defensive. It was kept there by rumormongers, some of whom were indubitably in the pay of elements that wanted to goad Congress into halting Justice's use of Secret Service operatives.<sup>199</sup>

Not only did Congress deny Bonaparte's request for an investigative force in 1907, it refused to comply again the following year when a prohibition (35 Stat. 328 and 968) on the detailing of Secret Service agents to the Justice Department was also effected. Faced with the prospect of having no avenue for organizing a detection group other than on his own authority, the Attorney General, with the President's approval and at the suggestion of Henry L. Stimson who was then United States Attorney in New York, hired nine Secret Service agents who were separated from Treasury on June 30, 1908.

On July 1, 1908, Attorney General Bonaparte put his nine new detectives and such special agents and examiners as were already on his payroll under the supervision of his Chief Examiner, Stanley W. Finch—and thus gave himself a force of twenty-three men. On July 26th, acting on Presidential instructions, he issued the order which made this force a permanent subdivision of the Department, with Finch as its Chief.<sup>200</sup>

Reluctantly, Congress accepted the new investigative unit. At first it did not have a strong mission prescribed by existing laws. Soon, however, it began operations pursuant to the Constitution's interstate commerce clause—tracking down stolen Federal property and thieves transversing State boundaries, pursuing white slavers violating the Mann Act (36 Stat. 825), and scrutinizing the sources of labor unrest and revolutionary rhetoric. Soon it, along with the other fledgling intelligence institutions, would be confronted with monumental responsibilities as war clouds in Europe cast shadows upon America and plunged the world into war.

<sup>199</sup> Overstreet, *op. cit.*, pp. 19–20.

<sup>200</sup> *Ibid.*, p. 27.

## PART TWO

### THE MIDDLE YEARS (1914-1939)

Sometime in 1915 the Japanese warship *Asama* went aground in Turtle Bay in the Gulf of Lower California. The presence of this vessel in that part of the world was not a total surprise as Japanese fleet units had been previously sighted a few times in the area. Earlier the Grand Admiral of Nippon had paid a visit to Mexico, expounding a blood brother theme. What appeared to be somewhat incredible about this incident was that the formidable veterans of Tsushima could be so inept as to allow this accident to happen. Indeed, it subsequently became questionable that the event was an accident at all. According to Sidney Mashbir, an intelligence officer destined to gain fame with General Douglas MacArthur's Allied Translator and Interpreter Section during World War II, there were "unquestionable proofs that whole companies of Japanese soldiers had traversed a part of southern Arizona in 1916 during secret exercises, proceedings that could only have been associated with the *Asama's* wallowing in the mud the previous year."

As an intelligence officer in 1916 with the First Arizona Infantry he had been detailed by that General Funston of Aguinaldo fame on a mission to seek the truth of rumors among Indians of Japanese columns present in northern Sonora in Mexico. Mashbir, who later acted as a spy for America in Manchuria, tramped across the desert (which he knew well enough to make the first map of it our Army ever had). His knowledge of the desert told him that even the Japanese, incredible marchers that they were, could not have made the trip without violating Arizona territory to the north for water. He made his estimate and headed for the area he believed they would have to touch. There he discovered Japanese ideographs written in charcoal upon the rock walls of passes of the Tinajas Atlas Mountains. They were, he estimated, the notes of column commanders who had gone before to those who would follow. His own Indian scouts told him that parties of fifty came ashore at intervals and made the killing march.

Mashbir hastened to send a detailed report to Washington. But in 1916, a General Staff that had no intelligence section for receiving and assessing information, appended a comment to the report that the ideograph "had no military value." Even in retrospect, as he was telling the story, Mashbir's mustachios bristled. The point completely missed by that commentator was, of course, that any indication of Japanese presence in Arizona or northern Mexico at that time had the

highest military implication. One can imagine how a similar bit of information indicating the presence of Americans on Hokkaido would have been treated by Tokyo intelligence analysts at that time.<sup>1</sup>

Although war had been raging in Europe for two years when this incident occurred, military intelligence was practically non-existent in the United States. The Military Information Division had become the second section (G-2) of the new General Staff organization in 1903. However, because it had no champions among the army's leadership, it was transferred to the War College in 1908 and fell under an unappreciative and insensitive committee leadership within that institution in 1910. Its forces and identity dwindled: when the United States entered the world war, the new Chief of Staff, General Peyton C. March, discovered his intelligence personnel consisted of two officers and two clerks.<sup>2</sup>

Returning from Asian duty in 1915 where he had seen intelligence service as organizer and head of the Philippines Military Information Bureau, Major Ralph H. Van Deman came to the information branch of the War College.

He was delighted but soon found reason to be appalled. He discovered that reports had been coming in from all over a warring world, gathered by conscientious military attaches and from intelligence organizations of belligerents on both sides, a treasure trove of information. But these priceless documents had never left the War College building. Van Deman found them in tall, dusty piles. In other piles were telegrams marked urgent filed by an information officer especially assigned to General [John J.] Pershing, then engaged on the Villa punitive expedition in the same regions of northern Mexico that were giving so much concern to Washington. These had never left the room where they had been filed.<sup>3</sup>

Van Deman attempted to correct this situation by appealing first to the president of the Army War College, urging that the Military Information Division be re-established but correspondence endorsing this recommendation was ignored by the Chief of Staff, General Hugh Scott. Next, Van Deman sought the relocation of the Division, naming the Command and General Staff School at Fort Leavenworth as a possible site. But shortly after Leavenworth endorsed the plan, officials in Washington and London became aware of it and condemned the action. General Scott quashed the proposal and almost did the same for Van Deman's assignment. America would be at war before the revival of the Military Information Division occurred.

### *I. Military Intelligence*

The political balance of the Great Powers of Europe in 1914 constituted a delicate Newtonian system: any weakening or strengthening on the part of one resulted in a corresponding oscillation on the part

<sup>1</sup> Allison Ind. *A Short History of Espionage*. New York, David McKay Company, 1963, pp. 131-132.

<sup>2</sup> Peyton C. March. *The Nation At War*. New York, Doubleday, Doran and Company, 1932, p. 226.

<sup>3</sup> Ind, *op. cit.*, p. 133.

of all the others. A jolt to the arrangements had the potential for unleashing aggressions of enormous magnitude. With three pistol shots at Sarajevo, a match was flung into the powder-keg of European politics. On August 1, Germany declared war on Russia and on France two days later while simultaneously invading Belgium. Britain came to war against the Kaiser on the next day. During the rest of the month, President Wilson issued a series of neutrality proclamations (38 Stat. 1999–2024). American intelligence activities, however, were already underway in the war zone.

Colonel Richard H. Williams, a captain of coast artillery when sent abroad with the group of American military observers in the summer of 1914, was one who not only experienced some of the hazards of a spy inside the enemy's lines—being repeatedly bathed in chilling German suspicion—but who also was destined to take part in striking and important—and officially authenticated—secret service exploit of the A.E.F. Williams observed the war for three years before becoming another of its multitude of combatants. His first duty, assisting Americans stranded in Europe, took him to Belgium and he was there when the steel-tipped tide of Von Kluck's and Von Bülow's armies inundated that land, after which he was sent to Constantinople aboard the USS North Carolina to serve as military attache under Ambassador Henry Morgenthau. He was the only attache with the Turkish forces on the Gallipoli peninsula and the only American who saw, from the defender's side, the desperate landings and attacks of the British and colonial troops of Sir Ian Hamilton.

After the British, ably commanded by Sir Charles Monro, effected their masterly evacuation of the peninsula, Colonel Williams accompanied a Bulgarian army to the Dobrudja and watched Bulgars and Germans mopping up strong contingents of Roumanians and Russians. In January 1917 the War Department in Washington ordered its widely experienced attache home.<sup>4</sup>

Random observers, however, were no substitute for a continuous and mature military intelligence organization. As the war raged on in Europe, Major Van Deman became increasingly worried over the prospect of the United States entering the hostilities with virtually no intelligence arrangements established. When, on April 6, 1917, a declaration of war against Germany was effected (40 Stat. 1), Van Deman met personally with the Chief of Staff to plead for an intelligence unit. General Scott said no. The plea was again made, but to no avail. With his third try, Van Deman was told to cease his efforts and to not approach Secretary of War Newton D. Baker with the idea. Van Deman circumvented this order. Shortly after his last meeting with the Chief of Staff, he found himself escorting novelist Gertrude Atherton on visits to training camps in the Washington area. Convincing her of the perilousness of the intelligence situation, he asked her to put his case before Baker. The next day he planted the same

<sup>4</sup> Richard Wilmer Rowan with Robert G. Deindorfer. *Secret Service: Thirty-three Centuries of Espionage*. London, William Kimber, 1969, p. 569.

story with the District of Columbia police chief who was not only Van Deman's friend but also breakfasted regularly with the Secretary of War.

The dual attack brought results. By April 30, Baker was on the phone instructing the president of the Army War College to have Van Deman report to him at once. After an hour's conversation, Baker told Van Deman that within forty-eight hours an order would be on its way to the president of the War College setting up a new intelligence section. By May 3, Van Deman had his intelligence bureau and complete charge of it. He also had been promoted from major to lieutenant colonel.

From that time on, the Military Intelligence force had grown by means of commissioning civilians in the Army Reserve and by use of volunteer investigators. Van Deman's agents were soon scattered about the country, working under cover among the IWW in the Northwest and among the enemy aliens in New York, Philadelphia, and Chicago. In July, 1917, Van Deman had started a Plant Protection Section which placed undercover operatives in defense plants. By August, his men were so involved in investigating and arresting civilians that Attorney General Gregory had to complain to Baker, whereupon Baker had ordered Military Intelligence agents report all enemy agents to the Justice Department instead of pursuing investigations and causing arrests.<sup>5</sup>

Ultimately, Van Deman's ventures into civilian law enforcement would cost him his intelligence leadership. In the spring of 1918, while Congress was enacting the Sedition Act (40 Stat. 553), Van Deman continued to build his network of secret agents, spies, and volunteer operatives. From the beginning of America's entry into the war, Van Deman had utilized the services of volunteer patriots eager to report on their neighbors. Some of this information might have been reliable; most of it was gossip and some amounted to lies and slurs. While the American Protective League, an organization of voluntary sleuths, had been established with the encouragement of the Justice Department as an auxiliary informer-enforcement body, Van Deman had eagerly utilized its services and nourished its development. Now he cultivated a very select cadre of secret agents in the Midwest.

He was inclined to avoid going to the state councils of defense [sub-national affiliates of the Federal Council of National Defense which functioned as an administrative coordinating body during the world war]. Too likely to be involved

<sup>5</sup>Joan M. Jensen. *The Price of Vigilance*. Chicago, Rand McNally and Company, 1968; Jensen consistently places an extra letter in Van Deman's name in her book, misspelling it "Van Dieman," but there is no doubt as to the actual identity of the person she is discussing. The error in spelling has been corrected in the above quotation. Van Deman's effort to have the Military Information Division re-established as a separate structure with sufficient manpower and resources to carry out the military intelligence function is also recounted in *Ind. op. cit.*, pp. 176-180.

in politics, he thought. He had different men in mind: a retired brigadier general in Minnesota, a retired army officer in Nashville, Tennessee, members of the Volunteer Medical Service Corps, American Federation of Labor informants, groups of private detectives from mining and industry. An agent of the Norfolk and Western Railway Company volunteered to supply operatives. A Denver man promised to obtain the services of detectives hired by mining and industrial companies in Colorado. An agent for a railway in Virginia promised to do the same. A lawyer from Kansas City was to organize Missouri, another from Indianapolis was to organize Indiana. Three attorneys from Kansas City, Kansas, were to form the nucleus of a group for their state. And all of these would be working entirely for the military.<sup>6</sup>

When Secretary of War Baker returned to Washington from a tour in Europe, he learned of Van Deman's recruitment efforts and promptly attempted to restrain the military sleuths. Van Deman was ordered to overseas duty and Lieutenant Colonel Marlborough Churchill was detailed to head the Military Intelligence Division. The immediate spy network Van Deman was attempting to establish was abandoned but other operating secret agent arrangements appear to have remained in place.<sup>7</sup> The effect of Baker's disciplinary action was that of driving military intelligence underground. While there would be greater caution in the arrest of civilians, surveillance remained active and pervasive.

<sup>6</sup> Jensen, *op. cit.*, p. 123.

<sup>7</sup> Van Deman's interest in intelligence and concern for internal security remained strong after he departed M.I.D. He seemingly retained his ties to old volunteer intelligence operatives and, when he retired from the Army in 1929, he was given two civilian employees, filing cabinets, and working materials by the military to start a private intelligence organization. He apparently built a huge store of files on American left-wing political activists, ranging from responsible liberals to avowed communists. These files were divided, the major portion being taken over by Sixth Army headquarters which maintained them until 1968 when they were sent to Fort Holabird in Maryland. In 1970, when the Army was under congressional investigation for its political surveillance practices, the decision was made to give up custody of the papers, to not subject them to the scrutiny of Army historians as they were too politically sensitive materials, and to donate them, instead, to the Senate Internal Security Subcommittee which had, by prearrangement, officially requested them. These papers are apparently still within the Subcommittee's control.

The portion of Van Deman's files not taken over by the Army remained in California at the San Diego Research Library, a private institution created in 1952 by three of Van Deman's closest associates: Major General George W. Fisher of the California National Guard, Colonel Frank C. Forward, commander of intelligence operations of the California Guard, and Alfred Loveland, a San Diego businessman. The files were maintained and built upon until 1962. During this time three California Governors utilized the files to check on the backgrounds of prospective state appointees. In 1962, California Attorney General Stanley Mosk seized the files on the grounds that they had been used "by unauthorized persons for political purposes." After a threatened court suit by the San Diego Research Library, the files were returned and were placed in a vault in the San Diego Trust and Insurance Company, of which Colonel Forward was an officer. When asked in 1971 if the files were still in San Diego, Colonel Forward said yes but "I can't tell you where." When asked who was in charge of them, he responded: "I am not at liberty to talk about that." See *New York Times*, July 9, 1971; also *Ibid.*, September 7, 1971.

The son of a professor of sacred rhetoric at the Andover Theological Seminary, Marlborough Churchill was born in 1878 at Andover, prepared for college at Phillips Academy there, and was subsequently graduated from Harvard in 1900. After teaching English at his alma mater for one year, he obtained a commission as a second lieutenant of artillery and launched on a military career. Having served in various artillery commands, Churchill became editor of the *Field Artillery Journal* (1914–1916) while also performing duties as inspector-instructor of the national guard field artillery of Virginia, Pennsylvania, and the District of Columbia. From January, 1916, to June, 1917, he served as a military observer with the French army in the field, next was detailed to General Pershing's staff until February, 1918, when he became acting chief of staff of the army artillery, First Army Division. In May, 1918, he returned to the United States and became assistant chief of staff and director of the Military Intelligence Division, holding that position until 1922. He retired from active duty in 1930 and died in 1947. He appears to have had no intelligence experience before assuming command of M.I.D. and to have had no association with intelligence operations after leaving the Division.

While Churchill inherited and retained Van Deman's private spy network and an official structure of regional domestic personnel, defense plant operatives, overseas attaches and observers, the A.E.F. intelligence structure and a variety of "special agents," his tenure of office at M.I.D. did have its own unique aspects.<sup>8</sup> General Peyton C. March was brought back from France to become Chief of Staff in March, 1918, and he effected certain changes in Army structure. Under General Order No. 80 of August 26, 1918, a variety of organizational refinements were made within the Army and certain units of the War Department. One of these was the upgrading of the Military Intelligence Division, "which had previously been a branch first of the War Plans Division and later of the Executive Division, as a separate and coordinate division of the General Staff."<sup>9</sup> Also, because the Wilson Administration was unwilling to impose wartime price controls and organized labor retaliated with a series of crippling strikes, Federal troops were pressed into duty to man facilities or maintain peace where labor unrest prevailed. When the Army became interested in labor disturbances, Military Intelligence took to the field. A vast counter-espionage network resulted and unions became suspicious of Churchill's intentions.<sup>10</sup>

Writing in the *Journal of the United States Artillery* for April, 1920, Churchill outlined functions which M.I.D. had performed dur-

<sup>8</sup> One of these special agents was Mrs. Arthur M. Blake, a newspaper correspondent accredited to the New York *Evening Post* and the Baltimore *Sun*, who was in the employ of Churchill, sending messages and observations out of Moscow during the war with Jewish refugees fleeing across the border into Finland. She later provided similar services while stationed in Japan, Sakhalin, and Manchuria. See *Ind. op cit.*, pp. 195–197.

<sup>9</sup> Otto L. Nelson. *National Security and the General Staff*. Washington, Infantry Journal Press, 1946, p. 232.

<sup>10</sup> See Jensen, *op. cit.*, pp. 276–277.

ing the war and armistice.<sup>11</sup> Formally, General Orders 80 of August 26, 1918, had said that the Military Intelligence Division

shall have cognizance and control of military intelligence, both positive and negative, and shall be in charge of an officer designated as the director of military intelligence, who will be an assistant to the Chief of Staff. He is also the chief military censor. The duties of this division are to maintain estimates revised daily of the military situation, the economic situation, and of such other matters as the Chief of Staff may direct, and to collect, collate, and disseminate military intelligence. It will cooperate with the intelligence section of the general staffs of allied countries in connection with military intelligence; prepare instructions in military intelligence work for the use of our forces; supervise the training of personnel for intelligence work; organize, direct, and coordinate the intelligence service; supervise the duties of military attaches; communicate direct with department intelligence officers and intelligence officers at posts, camps, and stations, and with commands in the field in matters relating to military intelligence; obtain, reproduce, and issue maps; translate foreign documents; disburse and account for intelligence funds; cooperate with the censorship board and with intelligence agencies of other departments of the Government.

By Churchill's own account, M.I.D. had responsibility for (1) retention of combat intelligence experience information, (2) application of combat intelligence historical information to training programs, (3) awareness of combat intelligence developments in other armies, (4) conducting internal service loyalty investigations ("... if a state of war makes such investigation necessary, we want it done by agencies under our own control, and not be unsympathetic civilian bureaus."), (5) detection of sabotage, graft, and fraud within the Army, (6) foreign map collection, (7) preparation of terrain handbooks, (8) supervision of information collection by military attaches,<sup>12</sup> (9) preservation of the history and experiences of international duty expeditions,<sup>13</sup> (10) "initiating and sustaining the interest and knowledge of

<sup>11</sup> See Marlborough Churchill, *The Military Intelligence Division General Journal of the United States Artillery*, v. 52, April, 1920: 293-316.

<sup>12</sup> "The information obtained by Attaches is of two kinds—general and technical. The general information is sub-divided into military, economic, political and psychological information. . . . The technical information consists of all data connected with scientific developments as they relate to the military profession. In the large capitals, officers who have specialized in aviation and ordnance are assigned as assistants in order that these matters may be handled properly. As soon as such information is received, M.I.D. at once makes a distribution which aims to place the information in the hands of the technical service or the civil official who can best evaluate it and see that it is used." Churchill, *op. cit.*, pp. 301-302.

<sup>13</sup> Examples of such expeditions offered by the author included General Leonard Wood's administration of Cuba, the China Relief Expedition, the Military Government of the Philippine Islands, the Siberian Expeditionary Force, United States forces at Archangel, duty at the Paris Peace Conference, General Harry Bandholtz' mission to Hungary, and General James Harbord's mission to Turkey.

officers in general in foreign languages, foreign countries and in the currents of historical events which produce world situations,"<sup>14</sup> (11) determining the tactical intelligence duties of the Troop Subsection,<sup>15</sup> (12) forecasting international and domestic security situations in what was called a "normal product,"<sup>16</sup> (13) making translations,<sup>17</sup>

<sup>14</sup> Churchill, *op. cit.*, p. 299.

<sup>15</sup> According to the author, these duties included :

"1. Preparation of instructions for Intelligence work with troops and methods to be used in Intelligence instruction in the Army. (Liaison with W.P.D. [War Plans Division], U.S.M.A. [United States Military Academy at West Point], Air Service and Garrison Schools and with G-2 of Departments and troop units.)

"2. Preparation of Tables of Organization insofar as they concern Intelligence work with troops, revision of General Orders, Army Regulations, etc., insofar as they affect troop intelligence work. (Liaison with War Plans Division.)

"3. Consideration of questions pertaining to troop Intelligence work: (a) Observation, (b) Transmission of information, (c) Location of our own front lines, (d) 'Listening in' both of enemy lines and of our own, (e) General subject of Wireless Interceptions, (f) General subject of 'Trench Codes,' (g) Information to be obtained from Flash and Sound Ranging Services, etc. (Liaison with Equipment Branch, Operations Division and Artillery and Branch Information Services.)

"4. Consideration of subject of tactical information to be obtained from and furnished to Artillery Information Service. (Liaison with Artillery Information Service.)

"5. General subject of Branch intelligence work. (Liaison with Air Service Information Service.)

"6. General subject of aerial photographic interpretation.

"7. Consideration of needs for special tactical manuals, handbooks, maps, etc., for use of troops or in Intelligence training. (Liaison with Operations and War Plans Division when necessary.)

"8. Consideration of the general question of the use of 'false information' and of the methods by which it should be used. (Liaison with Psychologic Section, MI2.)

"9. Intelligence personnel for duty with troops; utilization of trained personnel now in the army and in civil life.

"10. The 'spotting' of new foreign tactical methods, devices, plans and projects.

"11. The maintenance of liaison with all American G.H.Q.'s. that may now or hereafter be in existence.

"12. Study of foreign intelligence systems." Churchill, *op. cit.*, pp. 302-303.

<sup>16</sup> "This normal product, with the exception of map and terrain handbook information, consists of :

"(a) The Current Estimate of the Strategic Situation.

"(b) The Situation Monographs.

"(c) The Weekly Summary and, in emergencies, The Daily Summary.

"(d) The Original Sources, or Supporting Data, upon which (a), (b), and (c) are based.

"(e) The Weekly Survey of the United States.

"The [Current] Estimate of the [Strategic] Situation is arrived at by the correct use of a 'check list' known as the 'Strategic Index' which guides not only the officer who collates the information but also the officer or agent who collects it. The Strategic Index is based upon the assumption previously stated that the situation in any given country may be divided into four main factors: the combat factor, the economic factor, the political factor and the psychologic factor. Each of these factors is divided, subdivided and redivided until every point from which constitute the supporting data upon which rest the summarized statements is assigned a number which serves not only as an identification but also as a convenient paragraph number when observers' reports are prepared and a page number for the 'Situation Monographs' in which information is collated and which constitute the supporting data upon which rest the summarized statements of the 'Estimate of the Situation.' The method thus briefly outlined constitutes

(14) developing codes and ciphers,<sup>18</sup> and (15) various systematic counterintelligence efforts.<sup>19</sup>

To accomplish these duties, the Military Intelligence Division under Churchill, in accordance with General Orders No. 80, was organized

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what may be considered a system of philosophy applied to the gathering and presentation of information." Churchill, *op. cit.*, pp. 304-305.

<sup>17</sup> Of the Translation Section (MI6), the author writes: "Theoretically, all War Department translation is centralized in this section. As a practical necessity many of the technical bureaus during the war maintained separate translation sections. With the reduction of personnel and appropriations in other bureaus, MI6 will more and more be called upon to serve the entire Army. During the past year this section has translated sixty technical works in seven foreign languages, all the 'suspect lists' furnished by the French and Italian intelligence services, 1438 letters in thirty-one different languages, as well as 3562 citations of American officers and men. In addition, thirty-eight foreign daily papers in ten different languages from thirteen different countries are read and the important parts extracted for the other sections of the division or for the Historical Branch of the War Plans Division. The personnel of this section is competent to translate nineteen foreign languages; and, by utilizing the services of temporary personnel, seventeen additional languages can be translated. Thirty nine Government offices habitually make use of the services of this section." Churchill, *op. cit.*, p. 307.

<sup>18</sup> "The Code and Cipher Section or 'MI8' was a war-time agency which it is not practicable to continue in peace. It was secretly maintained after the war until 1929 and was to become known as the American Black Chamber and will be discussed later in this narrative. The work of this section concerned an important field of endeavor which, before the war with Germany, was almost entirely unknown to the War Department or to the Government of the United States as a whole. Early in 1917 it was realized not only that secret means of communication were essential to the successful prosecution of the war, but also that, in order to combat the means employed by a skillful and crafty enemy, a War Department agency was required in order to make an exhaustive study of this complicated subject and to put to practical use the results of such study. As finally developed this section comprised five bureaus, as follows:

"*The Shorthand Bureau*—Organized in response to demands which came chiefly through cooperation with the postal censorship because of the fact that it was almost impossible for examiners to discriminate between unusual shorthand systems and cipher, this bureau was in a few months able to transcribe documents written in some 300 shorthand systems in seven different languages.

"*Secret Ink Bureau*—By direct liaison with the French and British intelligence services, this bureau built up a useful fund of knowledge covering this hitherto little-known science which is at once so useful and so dangerous. Over fifty important secret-ink spy letters were discovered which led to many arrests and prevented much enemy activity. Prior to the lifting of the postal censorship an average of over 2000 letters per week were tested for secret inks.

"*Code Instruction Bureau*—This bureau provided the necessary practical instruction in codes and ciphers given to prospective military attachés, their assistants and clerks, and to officers and clerical personnel designated for duty in similar work in the American Expeditionary Forces in France and Siberia.

"*Code Compilation Bureau*—The 1915 War Department code soon fell into the hands of the enemy, and this bureau was required to compile Military Intelligence Code No. 5 which succeeded it, as well as two geographical codes specifically adapted to the sending of combat information from France. A casualty code designed to save errors and time in connection with the reporting of battle casualties was commenced in September, 1918. It was not published on account of the signing of the armistice, but the work on it is complete and available for future use.

"*Communication Bureau*—This bureau was the nerve center of a vast communication system covering the habitable globe. By special wire connections and a twenty-four hour service maintained by skillful and devoted operators excep-

(Continued)

into an Administrative Section and three branches as detailed below: <sup>20</sup>

*Military Intelligence Division Administrative Section*  
(M.I. 1)

- (a) Records, Accounts, and General Section.
- (b) Interpreters and intelligence police sections.
- (c) Publication (Daily Intelligence Summary, Weekly Summary, Activities Report).

*The Positive Branch*

- (a) Information Section (M.I. 2 Prepared the strategic estimate which attempted to answer the questions, "What is the situation today?" and "What will it be tomorrow?" by analyzing the situation in each country under the military, political, economic, and psychological headings.)
- (b) Collection Section (M.I. 5 Administered the military attaché system.)
- (c) Translation Section (M.I. 6).
- (d) Code and Cipher Section (M.I. 8).

(Continued)

tionally fast and confidential communication was established with our forces overseas and all important news centers at home and abroad. Messages from Paris were received and decoded within twenty minutes after sending; and the average time necessary to communicate with Vladivostok and Archangel was less than twenty-four hours. From September 1918 to May 1919 this bureau sent and received 25,000 messages containing 1,300,000 words.

"The only remaining agency of MIS is the present telegraph or code room which functions as a part of the Administrative Section or MI11. To a limited extent it operates as the Communication Bureau did during the war. [At this time the American Black Chamber was operating secretly in New York City but Churchill may not have known about its existence or activities.]"

Churchill, *op. cit.*, pp. 307-309; also see Herbert O. Yardley. *The American Black Chamber*. London, Faber and Faber, 1931, pp. 15-166.

<sup>29</sup>The counter-intelligence section, titled the Negative Branch, was formally organized by Colonel K. C. Masteller in August, 1918. Reduced in size and re-organized after the war, the Negative Branch consisted of the following three sections by Churchill's description:

"*The Foreign Influence Section* (MI4) is the parent Section from which grew the Negative Branch. As delimited by the diversion of specialties to other Sections, the duty of this Section in general is the study of espionage and propaganda directed against the United States or against its allies, and also the study of the sentiments, publications and other actions of foreign language and revolutionary groups both here and abroad, in so far as these matters have a bearing upon the military situation. Individuals are not investigated.

"*The News Section* (MI10) is a combination of a radio interception section and a press summary section. In addition to the frontier stations, it maintains a trans-oceanic interception station in Maine which enables the War Department to follow promptly foreign events. Under the war-time organization of M.I.D., MI10 performed such censorship functions as were assigned the War Department.

"*The Fraud Section* (MI13) originated in the Quartermaster Corps in the Spring of 1918, when, at the request of the Quartermaster General, an officer of Military Intelligence was detailed to organize a force to detect and prevent fraud and graft in the purchase and handling of Quartermaster stores. On July 13, 1918, this force was transferred to the Military Intelligence Division and the scope of its duties enlarged to include the detection of any case of graft or fraud in or connected with the Army. At the beginning this group constituted a subsection of MI3, but the work developed to such an extent that on September 24, 1918, it was made a separate section." Churchill, *op. cit.*, pp. 313-314.

<sup>20</sup> From Nelson, *op. cit.*, pp. 264-265.

- (e) Shorthand Bureau.
- (f) Secret Ink Bureau.
- (g) Code Instruction Bureau.
- (h) Code Compilation Bureau.
- (i) Communication Bureau.
- (j) Combat Intelligence Instruction Section (M.I. 9).

*The Geographic Branch (maps and military monographs of all countries).*

- (a) May Section (M.I. 7).
- (b) Monograph and Handbook Section (M.I. 9).

*The Negative Branch (collects and disseminates information upon which may be based measures of prevention against activities or influences tending to harm military efficiency by methods other than armed force).*

- (a) Foreign Influence Section (M.I. 4).
- (b) Army Section (M.I. 3).
- (c) News Section (M.I. 10).
- (d) Travel Section (M.I. 11).
- (e) Fraud Section (M.I. 13).

At the time of the signing of the Armistice in November, 1918, M.I.D. consisted of 282 officers, 29 noncommissioned officers, and 948 civilian employees.<sup>21</sup> It is impossible to estimate how many thousands of volunteer and secretly recruited private agents were assisting this staff. By August, 1919, M.I.D. had been reduced to 88 officers and 143 civilians.<sup>22</sup> Its forces would continue to wane during the next two decades.

Paralleling this structure of M.I.D. was the intelligence section of the General Staff of the American Expeditionary Forces under General John J. Pershing. Created by General Orders No. 8, of July 5, 1917, the General Staff was directed by General James G. Harbord, Chief of Staff, who has commented:

The Intelligence Section dealt with a line of work in which Americans were less experienced than in any other war activity. America had never admittedly indulged in a secret service, in espionage, or in developing the various sources of information which furnish what comes under the general designation of Military Intelligence. The Military and Naval Attaches serving with our legations and embassies abroad, while alert for information which might be of advantage to the United States, were without funds for procuring such matter, and were generally dependent upon military and naval publications open to anyone who cared to obtain them. Occasionally they were thrown a few crumbs in some foreign capital, under the seal of confidence, and more, perhaps, in the hope that some third power would be embarrassed, than by the thought that any real use of them would be made by the careless and sometimes amusing Americans. Certainly

<sup>21</sup> March, *op. cit.*, p. 226.

<sup>22</sup> Nelson, *op. cit.*, p. 265.

ensorship was an unknown activity anywhere under the American flag.

Intelligence services were highly developed by our Associates, and by our enemies—especially had Germany before the World War maintained a network that spread through many countries. Our Intelligence Section endeavored to embody in its organization the best that could be borrowed from French and British sources. It was responsible for information on the enemy order of battle; his war trade and economic resources; recruiting and man power; strategical movements and plans. The examination of prisoners of war, and of enemy documents, situation maps from all sources, and information of the theater of war immediately behind the enemy lines, all were Intelligence. Compiling information from aerial photographs and reconnaissances; the enemy wireless and ciphers; signal communication; carrier pigeons; it disseminated information on these and kindred subjects of military interest. Counterespionage, regulation of passes for travel; the preparation of maps of all kinds, surveys, and the personnel and activity of the topographical engineers lay within its jurisdiction. Its duties with regard to censorship were very comprehensive, touching the censorship of the press, of correspondence by mail, messenger and telegraph, as well as that of official photographs and moving pictures. The visitor's bureau, and the intelligence personnel, vehicles, and police, besides a multiplicity of detail involved in these and kindred matters, came under it.<sup>23</sup>

The man in charge of the A.E.F. intelligence organization was Major Dennis E. Nolan, born in 1872 at Akron, N.Y., of Irish immigrant parents. A West Point graduate, he served in infantry and cavalry units prior to general staff duty in 1903, seeing service in Cuba, the Philippines, and Alaska. Arriving in France in June, 1917, he served as chief of intelligence operations until demobilization. He was awarded the Distinguished Service Medal in 1918 "for organizing and administering the A.E.F. intelligence service" and also various combat decorations. After the war Nolan saw duty at the Army War College and with the General Staff, becoming a deputy chief of staff in 1924. In 1926-1927 he was chief of the Army representation with the preparatory commission on reduction and limitation of armaments meeting at Geneva. He completed his military career as commander of the Fifth Corps area (1927-1931) and Second Corps area (1931-1936), retiring in 1936.

Nolan apparently had autonomy of command apart from M.I.D., although there seems to have been close cooperation in information exchange and dissemination between the two organizations. It is very likely that Nolan and Churchill were personally acquainted as both men joined Pershing's staff in France in June, 1917.

According to Harbord, the A.E.F. intelligence unit was organized into five sections with the following areas of supervisory responsibility specified:<sup>24</sup>

<sup>23</sup> James G. Harbord, *The American Army in France 1917-1919*. Boston, Little, Brown and Company, 1936, pp. 94-95.

<sup>24</sup> From *Ibid.*, pp. 584-585.

*(a) Information*

1. Enemy's order of battle; enemy organization.  
Preparation of diagrams and statements showing distribution of enemy's forces.  
War trade and enemy's economic resources.
2. German recruiting and classes; man power.  
Examination of prisoners and documents.  
Information on German armament and equipment.  
Translations.
3. Situation maps, except special maps made by G-3. Information of theater of war behind enemy's front.  
German lines of defense.  
Strategical movements of enemy and plans.  
Air reconnaissance and photographs.
4. Preparation and issue of periodical summary. Information concerning railroads, bridges, canals and rivers.  
Road and bridge maps and area books. Summary of foreign communiques and wireless press.
5. Collation of information regarding enemy's artillery.  
Preparation of daily and weekly summaries of enemy's artillery activity.  
Preparation of periodical diagrams showing enemy's artillery grouping.
6. Enemy's wireless and ciphers.  
Enemy's signal communications.  
Policy regarding preparation and issue of ciphers and trench codes.  
Listening sets.  
Policy as regards carrier pigeons.  
Training of listening set of interpreters.
7. Dissemination of information.  
Custody and issue of intelligence publications. Information of theater of war (except portion immediately in rear of enemy's front).  
Intelligence Diary.

*(b) Secret Service*

1. Secret service in tactical zone and co-ordination with War Department and with French, English and Belgian system.  
Atrocities and breaches of international law.  
Counter-espionage; direction and policy.  
Secret service personnel.
2. Dissemination of information from secret service sources.  
Ciphers, selection and change of.  
Examining of enemy's ciphers.  
Intelligence and secret service accounts.
3. Counter-espionage; index of suspects; invisible inks and codes.  
Dissemination of information from English, French and Belgian counter-espionage systems.  
Control of civil population as affecting espionage and all correspondence with the missions on the subject.

Censorship as affecting counter-espionage.  
Counter-espionage personnel.

Regulations regarding passes in the Zone of the  
Armies.

(c) *Topography*

1. Preparation and issue of maps and charts; all lithograph and photography in connection with map reproduction.

Survey and topographical work and topographical instruction of engineer troops.

Topographical organization—Attached from engineers.

Experimental sound and flash ranging section—*Liaison* with engineer troops.

(d) *Censorship*

1. Press correspondents.

Press censorship.

Examination of U.S., British, French and other foreign newspapers.

2. Compilation and revision of censorship regulations.

Issue of censor stamps.

Postal and telegraph censorship.

Breaches of postal and telegraph censorship rules.

Cooperation with Allied censorships.

Control of censor personnel under A.C. of S. (G-2).

3. Official photographs and moving pictures.

Military attaches.

Press matters.

Visitors.

(e) *Intelligence Corps*

1. Policy with regard to the establishment of the intelligence corps.

Records, appointments and promotions of intelligence corps officers.

Intelligence police.

Intelligence corps, motor-cars.

Administration of intelligence corps.

Generally, the organization and structure of A.E.F. intelligence operations may be characterized as follows: (1) combat intelligence forces attached to ground troop units and whose primary responsibility was to provide support to the operations of their immediate command and forward findings to A.E.F. G-2 headquarters;<sup>25</sup> (2) special support agencies, such as the air corps, signal corps, or artillery intelligence, which provided relevant information to field com-

<sup>25</sup> Generally, on combat intelligence during World War I, see: Thomas R. Gowenlock with Guy Murchie, Jr. *Soldiers of Darkness*. New York, Doubleday, Doran and Company, 1937; Edwin E. Schwien. *Combat Intelligence: Its Acquisition and Transmission*. Washington, The Infantry Journal, 1936; and Shipley Thomas. *S-2 In Action*. Harrisburg, The Military Service Publishing Company, 1940.

manders and to A.E.F. G-2 headquarters; and (3) special agencies directly subordinate to G-2, such as interpreters, cryptographers, and secret service-counter-intelligence forces who supplied some relevant information to other special support agencies and to field commanders but who also exercised some internal security and crime control powers resulting in the collection and maintenance of derivative information which was autonomously held by intelligence headquarters.<sup>26</sup> These arrangements seem to have existed until the withdrawal of troops from Europe and demobilization of the armed forces at the end of the war.<sup>27</sup>

During the world war, the Signal Corps continued to be a major supplier of intelligence support services, though it had little direct responsibility for intelligence operations. In April, 1917, just prior to the United States' declaration of war on Germany, the Signal Corps consisted of 55 officers and 1,570 enlisted men of the Regular Army forces.<sup>28</sup> At the time of the Armistice, the strength of the Corps had risen to 2,712 officers and 53,277 enlistees divided between the A.E.F. and forces in the United States. Their organization at this peak strength included 56 field signal battalions (10 Regular Army and 8 domestically stationed), 33 telegraph battalions (5 Regular Army and 7 domestically stationed), 12 depot battalions (1 domestically stationed), 6 training battalions (all domestically stationed), and 40 service companies (21 domestically stationed).<sup>29</sup> The support provided by the Corps for intelligence operations, though not exclusively for these activities in every case, included communications facilities and services,<sup>30</sup> photographic assistance and products,<sup>31</sup> meteorologic information,<sup>32</sup> and code compilation.<sup>33</sup> These duties would remain as basic intelligence support services provided by the Signal Corps until surpassed by more specialized national security entities in the aftermath of World War II.

## II. Naval Intelligence

When war broke out on the Continent in August, 1914, the Office of Naval Intelligence had immediate access to situational information through the naval attache system begun in 1882. These official observation stations existed in London, Paris, St. Petersburg, Berlin, Rome, Vienna, Madrid, and The Hague and gave the Navy a reason for a less obtrusive presence amidst the hostilities than the Army's observer arrangements.

<sup>26</sup> See *Ind. op. cit.*, pp. 181-184, 191-195; C. E. Russell. *Adventures of the D.C.I.: Department of Criminal Investigation*. New York, Doubleday, Page and Company, 1925; ———. *True Adventures of the Secret Service*. New York, Doubleday, Page and Company, 1923.

<sup>27</sup> For an academic overview of military intelligence organization and operations during World War I see Walter C. Sweeney. *Military Intelligence: A New Weapon In War*. New York, Frederick A. Stokes Company, 1924.

<sup>28</sup> United States Army. Signal Corps. *Report of the Chief Signal Officer to the Secretary of War: 1919*. Washington, U.S. Govt. Print. Off., 1919, p. 23.

<sup>29</sup> *Ibid.*, p. 543.

<sup>30</sup> See *Ibid.*, pp. 133-215, 303-338, 542.

<sup>31</sup> See *Ibid.*, pp. 341-347.

<sup>32</sup> See *Ibid.*, pp. 347-357.

<sup>33</sup> See *Ibid.*, pp. 536-539.

No better work was done in the war than that conducted and covered by the offices of some of our naval attaches. Their work primarily of course was to acquire purely naval information; secondarily, military, economical and political news that could be of any benefit to America or her associates in the war. In some cases, however, a great deal of the work was not strictly either naval or military, though indirectly of vast import to both branches. Affiliations were established with influential men in the Country—men in government positions or in business—and their sympathy for the Entente and America encouraged, and in some cases enlisted—for in Spain and the Northern neutral countries there was a strong tide of pro-Germanism to fight. In collaboration with the Committee on Public Information means were taken through the channels of the newspapers, movies, etc., to influence public opinion, and give it the Allies' point of view.

Among the most important things which came under the jurisdiction of our Naval attaches were the investigation of officers, crews and passengers on ships bound for and coming from America; the senders and receivers of cablegrams, inspections of cargoes and shipments, and investigations of firms suspected of trading with the enemy. Under the naval attaches too, the coasts were closely watched for the detection of enemy vessels or persons who might be giving aid or information to them. In every foreign country to which an American naval attache was accredited they carried on for the Navy in line with her best traditions.<sup>34</sup>

In the spring of 1915, Congress established (38 Stat. 928 at 929) a central administrative structure within the Navy with the creation of the Chief of Naval Operations. Shortly after this office was established, the Office of Naval Intelligence was transferred to it and renamed the Naval Intelligence Division. This heightened organizational status provided Naval Intelligence with continuous access to the higher levels of Navy administration and decision-making, extending all the way to the Secretary, Josephus Daniels.<sup>35</sup> Unlike Military Intelligence, the naval counterpart seems to have enjoyed some degree of acceptance with the officer corps and had various leaders, rather than one champion, from the inception through the war years.

<sup>34</sup> U.S. Navy Department. Office of Naval Records and Library. U.S. Naval Intelligence Before and During the War by Captain Edward McCauley, Jr. Undated typescript, pp. 1-2. This document is currently on file with, and was made available for this study by, the National Archives and Records Service; with regard to the Committee on Public Information, see: George Creel. *How We Advertised America*. New York and London, Harper and Brothers, 1920; James R. Mock. *Censorship 1917*. Princeton, Princeton University Press, 1941; ——. and Cedric Larson. *Words That Won the War*. Princeton, Princeton University Press, 1939; William Franklin Willoughby. *Government Organization In War Time and After*. New York, D. Appleton and Company, 1919, pp. 33-39.

<sup>35</sup> See, for example, E. David Cronon, ed. *The Cabinet Diaries of Josephus Daniels, 1913-1921*. Lincoln, University of Nebraska Press, 1963, pp. 117, 209, 211-12, 246, and 293.

## DIRECTORS OF NAVAL INTELLIGENCE

T. B. M. Mason, 1882-85.	Seaton Schroeder, 1903-06.
Raymond P. Rodgers, 1885-89.	Raymond P. Rodgers, 1906-09.
Charles H. Davis, 1889-92.	Charles E. Vreeland, 1909-09.
French E. Chadwick, 1892-93.	Templin M. Potts, 1909-12.
Frederic Singer, 1893-96.	Thomas S. Rodgers, 1912-13.
Richard Wainwright, 1896-97.	Henry F. Bryan, 1913-14.
Richardson Clover, 1897-98.	James H. Oliver, 1914-17.
John R. Bartlett, 1898-98.	Roger Welles, 1917-19.
Richardson Clover, 1898-1900.	Albert P. Niblack, 1919-20.
Charles D. Sigsbee, 1900-03.	

At the time of American entry into the world war, Naval Intelligence consisted of 18 clerks and 8 officers. With the Armistice, the division counted 306 reservists, 18 clerks, and over 40 naval attaches and assistant attaches. By July, 1920, this force was reduced to a staff of 42. During the war years the division was organized into four sections: administrative, intelligence (or incoming information), compiling (or processing), and historical (or "by products").

In by-products, for instance, we include (1) the naval library; (2) the dead files, which include war diaries of all ships and stations and their correspondence during the war; (3) statistics; and (4) international law questions and cases which arose during the war. The compiling section works over a good deal of information that comes in to put it in more useful form. A monthly bulletin of confidential information on naval progress is issued and this section also prepares monographs of various kinds on various countries and subjects. All information that is received is routed out to the various Government departments to which it is considered it will be of use. The State Department and Military Intelligence receive, of course, practically all that we get of general value. Special information we send to the various departments of the Government such as the Department of Justice. The attitude of the office is that it is its duty to collect and furnish information but not necessarily to advise or suggest.<sup>36</sup>

By this, and other accounts, it would seem that Naval Intelligence collected, maintained, and supplied raw data, but engaged in little analysis of this material other than the most rudimentary assessments. The intelligence product it offered was crude.

The information collection arrangements instituted by Naval Intelligence reflected both ambition and sophistication.

The home work was divided under fifteen aids for information, one of these aids being attached to the Admiral in

<sup>36</sup> U.S. Navy Department. Division of Operations. *The History and Aims of the Office of Naval Intelligence* by Rear Admiral A. P. Niblack. Washington, U.S. Govt. Print. Off., 1920, pp. 23-24. Copies of this study bear the marking "Not for publication," indicating limited distribution; the copy utilized in this study was supplied by the National Archives and Records Service.

command of each Naval District. Each aid had the supervision of intelligence work in his district, but he worked, of course, in conjunction with and under instructions from the main office in Washington. His duty included information about all shipping and information necessary for its protection against possible unfriendly acts of agents or sympathizers of the Central Powers. He had to arrange for the observation of the coast and to establish information services for the report of any suspicious vessel or coast activities; to discover the location and establishment, actual or proposed, of bases for submarines, and to detect illegal radio stations, or the location of enemy goods in storage. Under the Naval aids came the duty of detecting and combatting espionage or sabotage, incipient or actual, along the water fronts, in the navy yards, or in the factories or works connected with the yards. That included any investigations that were required in connection with the naval personnel of the district. In order to prevent damage to ships, guards were placed on every ship entering the harbors of the United States and remained on board until the ship cleared. In addition to this, all crews were inspected in order to see that each member had his proper identification papers, and suspicious members of a crew or a passenger list were thoroughly searched, together with their baggage. All cargoes were inspected and manifests checked in order to thwart any illegal shipments from the Country, and to prevent bombs and incendiary devices from being placed on ships. Later this work was taken over by the Customs Division of the Treasury Department, and controlled by them, though the Navy continued the work with them.<sup>37</sup>

While the above account provides some indication of the tasks performed by Naval Intelligence during the hostilities, "the specific orders under which the office operates for war purposes is best given in the instructions to naval attaches and others in regard to intelligence duty, issued in 1917:"

- (1) The fleets of foreign powers.
- (2) The war material of foreign powers.
- (3) The nautical personnel of foreign powers, and a general record of the strength, organization, and distribution of all foreign naval forces.
- (4) The war resources of foreign powers.
- (5) Doctrine of foreign powers. Foreign policies and relations.
- (6) Characteristics of foreign naval officers of command rank.
- (7) Defenses and armaments of foreign ports.
- (8) Time required for the mobilization of foreign navies and the probable form and places of mobilization.
- (9) The lines and means of water communication of foreign countries and their facilities for transporting troops overseas.

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<sup>37</sup> MacCauley, *op. cit.*, pp. 2-3.

(10) The adaptability of foreign private-owned vessels to war purposes and the routes followed by regular steamer lines.

(11) The facilities for obtaining coal, fuel, oil, gasoline, and supplies, and for having repairs made in all foreign ports of the world.

(12) Climatic, sanitary, and other peculiarities of foreign countries which can have a bearing upon naval operations.

(13) The facilities on foreign coasts for landing men and supplies and means for supporting detached bodies of troops in the interior.

(14) The canals and interior waterways of the United States and foreign countries available for the passage of torpedo boats and other naval craft.

(15) The collating and keeping up to date of data relating to the inspection and assignment of merchant vessels under United States registry and of such foreign private-owned vessels as may be indicated.

(16) Through correspondence with owners, consulting trade journals, and by any other practical means keeping track of the status and location of different United States merchant vessels listed as auxiliaries for war; of sales to other lines; and of changes in trade routes or terminal ports which may make necessary a change in the yard designated for war preparation; and to report such changes in the list of ships to the department for its information, the information of the General Board, and the Board of Inspection and Survey, in order that a further inspection of particular ships may be made, if necessary.<sup>38</sup>

Another dimension of Naval Intelligence operations was its secret service facility.

In the Fall of 1916 a small branch office had been established under cover in New York. Thus began what was to prove one of the largest and most useful phases of the war work of Naval Intelligence. The New York office was used as a model for the others which it was later found necessary to establish in Philadelphia, Boston, Baltimore, Chicago, Pittsburgh and San Francisco. These branch offices worked directly under the control of Washington, covering work which could not properly be turned over to the aids for information. Their work was of paramount importance and a whole job in itself. To them fell the investigation and guarding of plants having Navy contracts. Over five thousand plants were thus surveyed and protected and hundreds of aliens and many active energy agents were removed and thus prevented from fulfilling their missions. In a district such as Pittsburgh for instance, with its large foreign population, that work assumed such proportions that it became necessary to establish our Pittsburgh office to handle it.<sup>39</sup>

It would also appear that some of these special undercover agents served in overseas duty. One documented example is George F. Zim-

<sup>38</sup> Niblack, *op. cit.*, pp. 14-15.

<sup>39</sup> MacCauley, *op. cit.*, p. 3.

mer, a Los Angeles attorney who, after secret service in the New York and Washington districts, toured in the Middle East and on the European Continent. For some portion of these duties he traveled on credentials representing him as working for the United States Food Administration "for the sole purpose of food relief." After the Armistice he went on a photographic mission, concentrating on conditions in Europe and taking him into portions of Russia.<sup>40</sup> It is not immediately clear as to how many agents of this type Naval Intelligence sponsored during and shortly after the war, but their number would seem to be relatively few. With peace restored in the world, the attaches once again assumed their stations in the territory of recent enemies, reducing the necessity for roving special operatives.

### *III. Bureau of Investigation*

Created on his own administrative authority in 1908 by Attorney General Charles J. Bonaparte in the face of congressional opposition for reasons of statutory obligations and practical need, the Bureau of Investigation had virtually no intelligence mission until European hostilities in the summer of 1914 precipitated a necessity for Federal detection and pursuance of alleged violations of the neutrality laws, enemy activities, disloyalty cases, the naturalization of enemy aliens, the enforcement of the conscription, espionage, and sedition laws, and surveillance of radicals. These duties evolved as the United States moved from neutrality to a state of declared war and then, in the aftermath of peace, found its domestic tranquility and security threatened by new ideologies and their practitioners.

The Bureau's principal function during the war years was that of investigation. During this period, agents had no direct statutory authorization to carry weapons or to make general arrests. In the field, they worked with and gathered information for the United States Attorneys. Direction came from the Attorney General or the Bureau chief. In the frenzy of the wartime spy mania, Washington often lost its control over field operations so that agents and U.S. Attorneys, assisted by cadres of volunteers from the American Protective League and other similar patriotic auxiliaries, pursued suspects of disloyalty on their own initiative and in their own manner. To the extent that their investigative findings underwent analysis with a view toward policy development, an intelligence function was served, but for the most part this type of contribution appears to have been lost in the emotionalism and zealotry of the moment.

#### BUREAU OF INVESTIGATION LEADERSHIP, 1908-25

##### Attorneys General

##### Bureau Chiefs

Charles J. Bonaparte (1906-09)	Stanley W. Finch (1908-12)
George W. Wickersham (1909-13)	A. Bruce Bielaski (1912-19)
James C. McReynolds (1913-14)	William E. Allen (1919)
Thomas W. Gregory (1914-19)	William J. Flynn (1919-21)
A. Mitchell Palmer (1919-21)	William J. Burns (1921-24)
Harry M. Daugherty (1921-24)	J. Edgar Hoover (1924-
Harland F. Stone (1924-25)	

<sup>40</sup> See George F. Zimmer and Burke Boyce. *K-7. Spies at War*. New York, D. Appleton-Century Company, 1934.

In 1915, the first full year of the war, the Bureau, in the words of one sympathetic chronicler of its development and activities, consisted of a "small and inept force of 219 agents" which "was totally unequipped to deal with the clever espionage and sabotage ring of World War I which was organized by German Ambassador Johann von Bernstorff."<sup>41</sup> Two years later, when America entered the hostilities, the Bureau's agent force was increased from 300 to 400, "a puny squad for policing more than 1,000,000 enemy aliens, protecting harbors and war-industry zones barred to enemy aliens, aiding draft boards and the Army in locating draft dodgers and deserters, and carrying on the regular duties of investigating federal law violators."<sup>42</sup> This state of affairs was one of the reasons the Justice Department welcomed the assistance of the American Protective League.

In many of its initial wartime activities, the Bureau was still searching for a mission.

Early in 1917, the Bureau proclaimed that it was in charge of spy-catching and the Department's representative called it "the eyes and ears" of the Government.

However, the Army and Navy were the armed forces endangered or advanced on the European battlefields by espionage operations, and their own detectives necessarily had primary control of stopping the movements of enemy spies and of war materials and information useful to the enemy, everywhere in the world, including the homefront. The military authorities associated with their own agents the operatives of the State Department, traditionally charged with responsibility for foreign affairs.

The military departments seemed primarily to want the help of the specialized forces of the Treasury, the War Trade Board, and the Labor Department for cutting off the flow of enemy spies, goods, and information; those of the Agriculture and Interior Departments for safeguarding production of food and raw materials; and the local police departments throughout America, as well as the Treasury detectives, for protecting American war plants, waterfront installations, and essential war shipping against sabotage and carelessness.

This attitude brought the Treasury police to the forefront. The Treasury's agents possessed not only vast equipment immediately convertible to wartime espionage in behalf of the United States, but also the necessary experience. They possessed the specific techniques that enabled them to find enemy agents in ship's crews, among passengers, or stowed away; to pick them up at any port in the world where they might embark or drop off the sides of ships; to foil their mid-ocean signals to German submarines.

Moreover, the Treasury's men knew how to discover, in the immense quantities of shipments to our allies and to our neutrals, the minute but vital goods addressed to neutral lands, actually destined to reach the enemy. Treasury operatives had the right training for uncovering the secret information trans-

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<sup>41</sup> Don Whitehead. *The FBI Story*. New York, Pocket Books, 1958; first published 1956, p. 14.

<sup>42</sup> *Ibid.*, p. 38.

mitted to the enemy in every medium—in ships' manifests and mail, in passengers' and crews' papers, in phonograph records, in photographic negatives, and in motion picture film. They had the experience for the job of protecting the loaded vessels in the harbors, the warehouses, and the entire waterfront.

The Justice Department police were invited to participate in various advisory boards. But when invited by the Post Office detectives, old hands at inspection of enemy mail, to sit on an advisory board, the Justice police spoke with self-deprecation; perhaps after all, there was "no use in littering up the board" with one of their men.<sup>43</sup>

What did evolve as a major wartime Bureau function, and one having intelligence implications in light of espionage (40 Stat. 217) and sedition (40 Stat. 553) law, was the investigation and cataloging of the political opinions, beliefs, and affiliations of the citizenry. This Bureau activity also had a menacing aspect to it in terms of guaranteed rights of speech and association; also, it did not come to public notice until after the Armistice.

The disclosure came as an indirect consequence of a political quarrel between ex-Congressman A. Mitchell Palmer (a Pennsylvania lawyer and corporation director who became Alien Property Custodian, and was soon to become Attorney General of the United States) and United States Senator Boies Penrose of Pennsylvania. Mr. Palmer had accused the Senator of receiving political support from the brewers and of being a tool for their anti-prohibition propaganda. The attack was made while the war was still going on, and Mr. Palmer added the charge that the American brewers were pro-German and unpatriotic. The "dry" element in the United States Senate promptly seized on the publicity thus provided and pushed through a resolution to investigate both charges, political propaganda and pro-Germanism. In the course of the hearings dealing with pro-Germanism, the investigating committee turned to A. Bruce Bielaski, wartime chief of the Bureau of Investigation, and others connected with the Bureau. They revealed the fact that the Bureau had already been cataloging all kinds of persons they suspected of being pro-German. They had found suspects in all walks of American life. Among those of whose "pro-Germanism" the public thus learned, were members of the United States Senate, other important officials (e.g., William Jennings Bryan, President Wilson's first Secretary of State, and Judge John F. Hylan, soon to become mayor of New York City), and many persons and organizations not connected with the Government (e.g., William Randolph Hearst, his International News Service and various newspapers, his New York *American*, and the Chicago *Tribune*); Americans agitating for Irish independence (including edi-

<sup>43</sup> Max Lowenthal. *The Federal Bureau of Investigation*. New York, William Sloane Associates, 1950, pp. 22-23; this highly critical account of the Federal Bureau of Investigation contains the only detailed discussion of early operations of the agency.

tors of the *American Catholic Weekly* and the *Freeman's Journal*); some of the foremost men in academic life; political leaders such as Roger Sullivan of Chicago; and men of prominence in the financial and business world.<sup>44</sup>

During the course of the congressional investigation, the Bureau's offerings were found to abound with factual inaccuracies and to have resulted in wrong conclusions even when the facts were correct.<sup>45</sup> The occasion did not instill much public confidence in the Bureau's intelligence activities or product.

When confronted with a series of bombings directed against public officials during late 1918 and 1919, the Bureau's analytical skills again appeared to be deficient.

As in the case of the 1918 bombing, the Justice Department detectives made a prompt announcement of who the criminals in the 1919 cases were. The bombing jobs, they said, were the work of radicals, whose purpose was the assassination of Federal officials and the overthrow of the Government. To support this deduction, they pointed out that some of the bombs arrived at their destination shortly before the first of May, 1919, and others shortly after that time, and that May Day is the date traditionally chosen by some radicals to celebrate their doctrines by parading. However, another series of bombs was sent in June, posing the question how the detectives could attribute these new bomb attempts to May Day radicalism.

The theory that the bombs were sent by radicals was beset with further embarrassments. The Government officials to whom the bombs were addressed included some men who were hostile to radicalism, but prominent public men whom the Bureau of Investigation suspected of being themselves radicals, and unsympathetic with the program against the radicals were included among the addressees. Indeed, some of the men were targets of denunciation from Capitol Hill as dangerous radicals. Critics who disagreed with the detectives' conclusion asked why radicals with bombs should select as victims the very men who might be their friends. Why, in particular, should they seek to bomb ex-Senator Hardwick of Georgia, who had asked the Senate to vote against the very wartime sedition law under which the IWW [International Workers of the World] leaders and other radicals had been convicted?

A further difficulty arose out of the fact that some of the bombs were sent to minor businessmen and to relatively minor local officeholders, while most of the top Government officials whose death would have been of particular importance to revolutionaries were not included among the potential victims selected by the bombers.<sup>46</sup>

<sup>44</sup> *Ibid.*, pp. 36-37.

<sup>45</sup> See *Ibid.*, pp. 37-43.

<sup>46</sup> *Ibid.*, pp. 68-69.

Radicalism captured the attention of the Bureau in the aftermath of the world war. Preoccupation with the ideology, its leadership, and organizations became so great that, on August 1, 1919, a General Intelligence Division was established within the Bureau to devote concentrated scrutiny to the subject.

There was, however, a difficulty with respect to the expenditure of the money appropriated for the Bureau's use by Congress. It specified that the appropriations were for the "detection and prosecution of crimes." A provision for the detection of seditious speech and writings, however, might some day be passed, and the detectives concluded that preparation would be useful, in the form of an advance job to ascertain which individuals and organizations held beliefs that were objectionable. With this information in hand, it could go into action without delay, after Congress passed a peacetime sedition law, similar to the wartime sedition laws enacted in 1917 and 1918. The Bureau notified its agents on August 12, 1919, eleven days after the creation of the anti-radical Division, to engage in the broadest detection of sedition and to secure "evidence which may be of use in prosecutions . . . under legislation . . . which may hereafter be enacted."<sup>47</sup>

The new intelligence unit thus appears to have been created and financed in anticipation of a valid statutory purpose and seems, as well, to have engaged in investigations wherein the derivative information was not gathered in pursuit of Federal prosecution(s).

Coincident with the creation of the new Division, the Bureau selected J. Edgar Hoover as Division chief. He had joined the Department of Justice two years earlier, shortly after America entered the war, and shortly before Congress enacted the wartime sedition law. He had been on duty at the Justice Department during the entire war period, and obviously he was in a position to obtain a view of the detective activities against persons prosecuted or under surveillance for their statements. He had also been in a position to note the pre-eminence of the military detective services during the war and the connotations of success attached to their names—Military and Naval Intelligence Services. Besides, the new unit at the Department of Justice was in the business of detecting ideas. He called it an intelligence force, in substitution for the names with which it started—"Radical Division" and "Anti-Radical Division." Mr. Hoover avoided one action of the War and Navy Intelligence agencies; their scope had been narrowed by the qualifying prefixes in their titles. He named his force the General Intelligence Division—GID.<sup>48</sup>

In 1920, when "one-third of the detective staff at Bureau headquarters in Washington had been assigned to anti-radical matters, and over one-half of the Bureau's field work had been diverted to the subject of radicalism, GID reported that "the work of the General

<sup>47</sup> *Ibid.*, p. 84.

<sup>48</sup> *Ibid.*, pp. 84-85.

Intelligence Division . . . has now expanded to cover more general intelligence work, including not only ultra-radical activities but also to [sic] the study of matters of an international nature, as well as economic and industrial disturbances incident thereto.”<sup>49</sup> And as its mission developed, so too did the GID’s manner of operation and techniques of inquiry.

The Bureau of Investigation faced and solved one problem in the first ten days of the existence of Mr. Hoover’s division, the problem of the kind of data the detectives should send to headquarters. They were going to receive material from undercover informers, from neighbors, from personal enemies of the persons under investigation. The detectives were going to hear gossip about what people were said to have said or were suspected of having done—information derived, in some instances, from some unknown person who had told the Bureau’s agents or informers or the latter’s informants. Some of the information received might relate to people’s personal habits and life.

The Bureau’s decision was that everything received by the special agents and informers should be reported to headquarters; the agents were specifically directed to send whatever reached them, “of every nature.” But they were warned that not everything that they gathered could be used in trials where men were accused of radicalism. Some items about personal lives, however interesting to the detectives, might not be regarded as relevant in court proceedings against alleged radicals. Furthermore, despite the fact that the Bureau instructed its agents to transmit to headquarters everything that they picked up, “whether hearsay or otherwise,” it warned them that there was a difference between the sources from which the GID was willing to receive accusations and statements for its permanent dossiers and the evidence which trial judges and tribunals would accept as reliable proof. In judicial proceedings, the Bureau of Investigation informed all its agents, there was an insistence on what it called “technical proof,” and judges would rule that the rumors and gossip which the detectives were instructed to supply to GID had “no value.”<sup>50</sup>

In order to assess the program and thinking of the radicals, it was necessary to study the literature and writings of the ideologues. Gathering such printed material became a major GID project and acquisitions were made on a mass basis.

Detectives were sent to local radical publishing houses and to take their books. In addition, they were to find every private collection or library in the possession of any radical, and to make the arrangements for obtaining them in their entirety. Thus, when the GID discovered an obscure Italian-born philosopher who had a unique collection of books on the theory of anarchism, his lodgings were raided by the Bureau

<sup>49</sup> *Ibid.*, p. 85.

<sup>50</sup> *Ibid.*, pp. 86–87.

and his valuable collection became one more involuntary contribution to the huge and ever-growing library of the GID.

Similar contributions came from others, among them the anarchist philosophers who had retired to farms or elsewhere. A number of them had, over the years, built up private libraries in pursuit of their studies; these are discovered by the General Intelligence Division, and it was soon able to report that "three of the most complete libraries on anarchy were seized." The Bureau took over the contents of a school library which it discovered in a rural community of radicals. It also obtained the library of a boys' club, and assured Congress that the library was "in possession of this department. . . ." Catalogs of these acquisitions were prepared, including a "catalog of the greatest library in the country which contains anarchistic books."

In the search for literature, the Bureau sent many of its men to join radical organizations, to attend radical meetings, and to bring back whatever they could lay their hands on. The book-seekers, and the raiding detectives tipped off by them, were directed to find the places where specially valuable books, pamphlets, and documents might be guarded against possible burglary; they were to ransack desks, to tap ceilings and walls; carpets and mattresses had to be ripped up, and safes opened; everything "hanging on the walls should be gathered up"—so the official instructions to the detectives read.<sup>51</sup>

In an attempt to improve upon the wartime surveillance records of the Bureau, and to enhance the GID information store, Hoover created a card file system containing "a census of every person and group believed by his detectives to hold dangerous ideas."

The index also had separate cards for "publications," and for "special conditions"—a phrase the meaning of which has never been made clear. In addition, Mr. Hoover's index separately assembled all radical matters pertaining to each city in which there were radicals. Each card recorded full details about its subject—material regarded by the detectives as revealing each man's seditious ideas, and data needed to enable the Government's espionage service to find him quickly when he was wanted for shadowing or for arrest. The Intelligence Division reported that its task was complicated by reason of "the fact that one of the main characteristics of the radicals in the United States is found in their migratory nature."

The GID assured Congress that Mr. Hoover had a group of experts "especially trained for the purpose." This training program was directed to making them "well informed upon the general movements in the territory over which they have supervision;" they were also trained to manage and develop the intricate index; and they had to keep up with its fabulous growth. The first disclosure by the GID showed 100,000 radicals on the index; the next, a few months later, 200,000;

<sup>51</sup> *Ibid.*, pp. 87-88.

the third, a year later, 450,000. Within the first two and one-half years of indexing, the General Intelligence Division had approximately half a million persons cataloged, inventoried, and secretly recorded in Government records as dangerous men and women.

A considerably older unit of the Department of Justice, its Bureau of Criminal Identification, had long maintained an index of actual criminals. In 1923, after several years of trying, the Bureau of Investigation took over the older bureau and the 750,000-name index it had developed in the course of a quarter of a century. Whether the two indices were merged or kept separate has not been announced. Hence, when Mr. Hoover stated in 1926 that his Bureau's index contained 1,500,000 names, it is not clear whether this was the total for both indices or for one only.<sup>52</sup>

Also, in addition to indexing radicals, GID prepared biographical profiles of certain of them deemed to be of special importance.

The writing up of lives and careers proceeded rapidly, so that within three and one-half months of the GID's existence its biographical writers had written "a more or less complete history of over 60,000 radically inclined individuals," according to the official information supplied the Senate. Included were biographies of persons "showing any connection with an ultra-radical body or movement," in particular "authors, publishers, editors, etc."

Rigorous secrecy has been imposed on the list of names of newspapermen, authors, printers, editors, and publishers who were made the subjects of GID's biographical section. How many additional biographies have been written since the middle of November 1919, who were the GID's first or later biographers, how they were trained so promptly, and how they managed to write 60,000 biographies in 100 days—these questions have never been answered.<sup>53</sup>

Besides all of this activity, the General Intelligence Division prepared and circulated a special weekly intelligence report.

For this purpose, the Division first "engaged in the collection, examination, and assimilation of all information received from the field force or from other sources." On the basis of such preparation, it drafted a report, every week, on the state of radicalism in America that week. Only top echelon people in the Government of the United States were allowed to see these secret reports: their names could not be disclosed, nor could the GID describe them to Congress any more revealingly than to say that they were "such officials as by the nature of their duties are entitled to the information." Every copy that left the closely guarded Washington headquarters of GID left only "under proper protection." Congress was informed that the weekly GID bulletin covered three classes of

<sup>52</sup> *Ibid.*, pp. 90-91.

<sup>53</sup> *Ibid.*, p. 91.

facts: First, "the entire field of national and international operations;" second, "the latest authoritative statements or definitions of tactics, programs, principles or platforms of organizations or movements;" and third, "a bird's eye view of all situations at home or abroad which will keep the officials properly informed."<sup>54</sup>

Such were the Bureau of Investigation's efforts at intelligence operations and the generation of an intelligence product during World War I and the years immediately following. As a consequence of both presidential and public displeasure with Attorney General Harry M. Daugherty, new leadership came to the Justice Department in 1924; Harlan F. Stone became Attorney General and J. Edgar Hoover assumed the leadership of the Bureau of Investigation. Official concern with radicals diminished when a more conscientious effort at responsible law enforcement was made by Stone in his attempt to instill public confidence in the agency which Daugherty had sullied and which had to deal with the bold advances of organized crime and the gangsterism brought on by National Prohibition.

#### *IV. American Protective League*

The understaffed nature of the Federal intelligence institutions and mounting fears of internal subversion, disloyalty, and espionage conspiracies among the American public during the world war prompted an extraordinary development in intelligence practices: the cultivation of a private organization to provide supplementary assistance to government agencies having responsibilities for the detection surveillance, and capture of individuals thought to be a threat to the nation's security. Just before the eruption of hostilities in Europe, the Bureau of Investigation had fostered an informer network in efforts to combat white slave traffic.

In 1912, Bureau Chief A. Bruce Bielaski directed his agents to ask waiters, socialites, and members of various organizations to eavesdrop on private conversations and to forward tips to Bureau offices if their suspicions were aroused. Many prosecutions had resulted from these tips. From using volunteers against organized vice to using them against conspiracy to commit espionage and sabotage was an easy transition.<sup>55</sup>

What made the espionage-sabotage detection arrangement unique was its private organization character: it functioned as an institution in parallel to the Federal intelligence agencies. Called the American Protective League, the group was a product of the efforts of Chicago advertising executive Albert M. Briggs and two other wealthy businessmen, Victor Elting and Charles D. Frey.<sup>56</sup> In late 1916, Briggs became concerned about the inadequate strength and equipment of the Bureau of Investigation and subsequently urged Bureau Chief Bielaski and Attorney General Thomas W. Gregory to establish an auxil-

<sup>54</sup> *Ibid.*, p. 92.

<sup>55</sup> Jensen, *op. cit.*, p. 19.

<sup>56</sup> For the authorized, but unreliable, history of the League see Emerson Hough, *The Web*. Chicago, The Reilly and Lee Company, 1919.

iary force to assist in pursuing security risks. As presented to the Justice Department, Briggs' proposal gave the following details.

**Its Purpose:** A volunteer organization to aid the Bureau of Investigation of the Department of Justice.

**The Object:** To work with and under the direction of the Chief of the Bureau of Investigation, of the Department of Justice, or such attorney or persons as he may direct, rendering such service as may be required from time to time.

**Membership:** This organization is to be composed of citizens of good moral character who shall volunteer their service and who may be acceptable to your Department.

**Construction:** It is proposed that national headquarters be established either in Washington, or perhaps, Chicago, because of its geographical location, and that branch organizations be established in such cities as your Department may direct.

**Finances:** It is proposed that headquarters organization and branch organizations shall finance themselves either by outside subscriptions or by its members.

**Control:** It is proposed that each unit of this organization shall be under the control of the Government but will report to and be under the direction of the nearest Department of Justice headquarters.<sup>57</sup>

Approval of the idea was given on March 20, 1917, and cities with high alien populations were targeted as organization centers for the A.P.L. "Notices went out the same day to Bureau agents across the country announcing that Briggs was forming 'a volunteer committee or organization of citizens for the purpose of co-operating with the department in securing information of activities of agents of foreign governments or persons unfriendly to this Government, for the protection of public property, etc.'"<sup>58</sup> The group would supply information upon request and at its own volition, was to operate in a confidential manner, and could exercise no arrest power "except after consultation with the Federal authorities," according to Bielaski's notices.

APL organizing activities proceeded with great speed and amazing secrecy, in view of the method of recruiting and the numbers of individuals involved, during the first war months. Not until September, 1917, did miniscule newspaper notices acknowledge publicly the existence of the league; Justice Department requests to publishers for cooperation in retaining APL anonymity achieved results. In midsummer, 1917, the league numbered 90,000 members organized in 600 locals. By war's end 350,000 APL agents staffed 1,400 local units across the country. By January, 1918, every Federal attorney had an APL local at his disposal. From a free taxi service in Chicago, the APL developed swiftly into a nationwide apparatus.<sup>59</sup>

<sup>57</sup> Jensen, *op. cit.*, pp. 22-23.

<sup>58</sup> *Ibid.*, pp. 24-25.

<sup>59</sup> Harold M. Hyman. *To Try Men's Souls: Loyalty Tests in American History*. Berkeley and Los Angeles, University of California Press, 1959, p. 273.

With the national office in Washington, League locals received instructions through State directors, who also functioned as internal inspectors general for the organizations, and directly from headquarters.<sup>60</sup> Out of the capital command post flowed circular instructions to locals, manuals of operation, assignments to investigations, and the League's weekly journal, the *Spy Glass*. Funding appears to have been entirely private, deriving from contributions and membership fees.

At the local level, organization followed a military pattern with ranks, badges, and sworn oaths of loyalty. Large factories and businesses with many League members in their employ became self-contained divisions with a pyramid-structured leadership.<sup>61</sup> But, while the A.P.L. was a mass membership group, recruitment was selective and class conscious.

With great acuity the league directors searched among the upper social, economic, and political crust of each community for local chiefs and members. Bankers, businessmen, mayors, police chiefs, postmasters, ministers, attorneys, newspaper editors, officers of religious, charitable, fraternal, and patriotic societies, factoryowners and foremen, YMCA workers and chamber of commerce leaders, insurance company executives, and teachers were favored sources of league personnel. Such men possessed means and leisure to devote to APL work, and opened their professional, business, and official records for APL use. Many were also members of draft boards, war-bond sale committees, food- and fuel-rationing units, and state defense councils, affording the league illicit access to information denied even to commissioned government investigators.<sup>62</sup>

The intelligence mission which most often inspired Leaguers to probe privileged files and otherwise private depositories of personal information was its responsibility as primary loyalty investigator for the civil and military services.

When the war started no adequate mechanism existed for security clearances. The APL, with Gregory's permission, assumed this task. APL instruction manuals and special issues of the *Spy Glass* offered neophyte APL investigators advice on how to make character investigations. One such article suggested that the final success or failure of American arms would depend upon the quality of officer leadership. Every applicant for a military commission, every civil servant with more than clerical responsibilities, all welfare group officials who were to do overseas work, rated loyalty investigations. The APL newspaper warned leaguers that a loyalty inquiry implied no guilt, and that unjustified innuendos of disloyalty might ruin a career and a life. A confidential APL manual warned that "no two cases are exactly alike for the reason that no two men are exactly alike." The pamphlet advised all APL loyalty testers to examine a substantial cross section of the subject's ancestors in enemy countries, his social, po-

<sup>60</sup> See Jensen, *op. cit.*, pp. 130-134.

<sup>61</sup> See *Ibid.*, pp. 25-26.

<sup>62</sup> Hyman, *op. cit.*, p. 275.

litical, and church affiliations, his attitude toward the *Lusitania* sinking and the rape of Belgium, what he had said about war bonds, draft dodgers, and the Espionage Act. Had he purchased enough bonds, dug victory gardens, and appeared at patriotic rallies? Did neighbors recall untoward statements he might have made, did he own stock in enemy-held corporations, was his labor union respectable? But caution was the watchword in loyalty-hunting, and the manual pleaded for objectivity and fullness in reporting. Officials would normally put full credence in the decision of the loyalty investigator; APL reports received almost complete acceptance in Washington. Thus the APL agents became the judge, the jury, and sometimes the executioner in the lives of many who knew nothing of its existence.<sup>63</sup>

The League became active in other Federal policy areas apart from loyalty investigation, including capturing suspicious immigrants,<sup>64</sup> enforcing liquor and vice control around military cantonments,<sup>65</sup> investigating the background of certain passport applicants,<sup>66</sup> and probing the qualifications of persons applying for American citizenship.<sup>67</sup>

Aside from the Bureau of Investigation, the League's other great champion and supporter was Colonel Ralph Van Deman and the Military Intelligence Division of the War Department. Van Deman had sought League assistance shortly after it was established.<sup>68</sup> Later, M.I.D. crushed efforts to create a competitor to the A.P.L. and directed that field personnel use only League assistance in civilian investigations.<sup>69</sup> In the matter of policing war material production plants under strike, the League and Military Intelligence worked closely to control labor unrest.<sup>70</sup>

Eventually, both Justice and War would sour on the zealous antics of the A.P.L., trampling personnel sanctities, privacy, and civil liberties. Badges, which bore the legend "Secret Service" for a time, were flaunted as official authority to do about anything the bearers wanted to do; Treasury Secretary McAdoo protested that they gave the public the impression that their holders were agents from his Department, a viewpoint which Leaguers did little to discourage.<sup>71</sup> A.P.L. raiders made arrests without proper authorization and many carried firearms on their missions. In an effort to assist the Justice Department, some League locals even tapped and tampered with telegraph and telephone lines.<sup>72</sup>

Even when APL'ers contented themselves with investigations, the result was wholesale abuse of civil liberties and invasions of privacy. An investigation typically began with a request forwarded from APL headquarters in Washington to the city chief, who assigned the case to one of his opera-

<sup>63</sup> *Ibid.*, pp. 276-277.

<sup>64</sup> Jensen, *op. cit.*, p. 127.

<sup>65</sup> *Ibid.*, p. 135; Hyman, *op. cit.*, pp. 276, 180-185.

<sup>66</sup> Jensen, *op. cit.*, pp. 178-179.

<sup>67</sup> *Ibid.*, p. 243.

<sup>68</sup> *Ibid.*, p. 86.

<sup>69</sup> *Ibid.*, p. 122.

<sup>70</sup> *Ibid.*, pp. 276, 279-280, 286.

<sup>71</sup> *Ibid.*, pp. 48-49.

<sup>72</sup> *Ibid.*, pp. 149-150.

tives. Once the operative received this request, he had numerous investigative weapons from which to choose. Membership in the APL provided each operative with an entree to the records of banks and other financial institutions; of real estate transactions, medical records, and, inevitably, legal records. Any material ordinarily considered confidential by private firms or corporations could be made available to operatives. Even institutions customarily regarded as repositories of confidence and trust compromised their standards. Bishop Theodore Henderson helped to spread the APL throughout the Methodist Church, with the result that Methodist ministers could often be approached for information about members of their congregations. Liaison was also established with Catholic, Jewish, and Protestant churches. The Maryland Casualty Company of Baltimore asked its agents throughout the country to join the League so that insurance information was readily available. Private detective agencies would check old records and disclose their contents. Anti-labor and nativistic groups opened their secret files to the APL.<sup>73</sup>

Official interest in the services of the A.P.L. waned with the arrival of Attorney General A. Mitchell Palmer in the spring of 1919. The death knell sounded with the arrival of the Republicans two years later. Still the old ties were not easily broken.

As late as 1924 Military Intelligence officers were being instructed to maintain friendly relations with former APL members as well as other counterradical groups who might be called upon in time of trouble. Counterespionage investigations had been discontinued, but questionnaires were being sent out to collect information on domestic affairs. A few men in the Military Intelligence realized that the MID's roving activities among the civilian population had given them an "evil reputation" that they must live down by scrupulously avoiding civilian investigations in the future. One book on Military Intelligence, published in 1924, alarmed some officers because it told how the secret service of the general staff had operated far beyond military limits. But 1924 marked the end of anti-radical activity for both the War Department and the Justice Department.<sup>74</sup>

No agency of the Federal government would ever again attempt to cultivate so ambitious and visible an intelligence auxiliary as the American Protective League.<sup>75</sup>

<sup>73</sup> *Ibid.*, p. 148.

<sup>74</sup> *Ibid.*, p. 288.

<sup>75</sup> Nevertheless, there are private intelligence organizations in existence today which, as part of an anti-communist program, maintain vast files on the political activities of their fellow Americans: prominent among these groups are the American Security Council and the Church League of America. See: Harold C. Relyea. *Hawks Nest: The American Security Council*. *The Nation*, v. 214, January 24, 1972: 113-117; George Thayer. *The Farther Shores of Politics*. New York, Simon and Schuster, 1967, pp. 256-262; Wallace Turner. *Anti-Communist Council Prepares A Voting 'Index' on Congress*. *New York Times*, August 17, 1970; William W. Turner. *Power On The Right*. Berkeley, Ramparts Press, 1971, pp. 134-140, 199-215.

## V. Other Factors

In addition to the War, Navy, and Justice Department intelligence organizations, there were also various Federal investigative agencies which, during and immediately after the war, engaged in activities bearing upon the intelligence function but not clearly resulting in an intelligence product.

By authority of its organic act (22 Stat. 403) of 1883, the Civil Service Commission was empowered, indeed, required, to make investigations in the enforcement of its rules. Trained personnel, however, were not immediately available for this task.

Without a staff of investigators, the Civil Service Commission couldn't make any personal investigations to determine the character or fitness of the job applicants. The Commissioners had to rely on questionnaires filled out by the job-hunters and vouchers certifying they were of "good moral character."

In 1913, however, Congress for the first time allowed [38 Stat. 465] the Commission to hire investigators. To get trained men, the Commission tapped the Postal Inspection Service for four investigators who concentrated mainly on charges of misconduct.

In 1917, President Wilson made the first stab at the type of investigation that occupies most of the time of the Civil Service Commission's sleuths today. He issued an order requiring the commission to investigate the experience, fitness, character, success and adaptability of applicants for the job of postmaster where the incumbent was not to be reappointed. For the first time, the investigators were to look behind the answers on questionnaires and make personal investigations into the background of the job-seekers.<sup>76</sup>

It was also in 1917 that the Chief Executive, by confidential directive, instructed the Commission to

. . . remove any employee when . . . the retention of such employee would be inimical to the public welfare by reasons of his conduct, sympathies, or utterances, or because of other reasons growing out of the war. Such removal may be made without other formality than that the reasons shall be made a matter of confidential record, subject, however, to inspection by the Civil Service Commission.

Commenting on the Commission's operationalization of this authority, one expert in this policy area has said:

The Civil Service Commission assumed the power to refuse all applications for employment "if there was a reasonable belief that . . . [this] appointment was inimical to the public interest owing to . . . lack of loyalty." Its agents conducted 135 loyalty investigations in 1917, and 2,537 more in 1918. In the latter year 660 applicants were debarred from federal employment for questionable loyalty, a tiny percentage of the total of federal workers. But there were many agencies not under com-

<sup>76</sup> Miriam Ottenberg. *The Federal Investigators*. Englewood Cliffs, Prentice-Hall, 1962, pp. 232-233.

mission control, and thousands of loyalty investigations were conducted by other internal security agencies. Despairing of slow civil service recruiting practices, federal departments employed tens of thousands of workers outside civil service procedures, with the result that the established loyalty regulations were only partially effective in their coverage.<sup>77</sup>

This type of investigation virtually ceased with the end of the war. The Commission did, however, continue its inquiries into the fitness and character of certain new applicants, such as those seeking postmaster positions, and loyalty-security checks would not enter consideration again until warfare once more engulfed Europe.<sup>78</sup>

The new kind of investigative work prompted the Commission to establish a separate Division of Investigation and Review in 1920. The following year, the President ordered the Civil Service Commission to investigate postmasters for reappointment as well as for their original appointment.

Law enforcement officers were the next to come under the personal scrutiny of the Civil Service Commission's investigators. When Congress, in 1927, brought all positions in the Bureau of Prohibition into the classified civil service, the Commission decided the prohibition enforcers should be investigated because of the special temptations that came their way. To carry out this chore, the Commission hastily recruited and trained 40 investigators.

In two years, the investigators completed more than 3,000 investigations into the background of Bureau of Prohibition employees. The results were startling. About 40 per cent of those investigated—including many already working for the Bureau of Prohibition—had records which showed them unfit for Federal service.

The Commission, with the blessing of Congress, decided it had better take a look into the background of other law enforcement officers. It doubled its investigative staff and started making personal investigations of customs inspectors and border patrolmen.

By 1939, the Commission's investigative program required investigations of the character and fitness of job applicants wherever practicable. Since its sights were set higher than its funds, however, it could only use its authority to check on the background of those going into key positions.

Up to this time, the question of loyalty to the Government had been recognized as something to consider, but it hadn't played a major part in investigations. Congress and the Commission had been more concerned with cleaning up political favoritism in Federal Jobs and rooting out criminal elements and grafters.<sup>79</sup>

<sup>77</sup> Hyman, *op cit.*, p. 269: the portion of the President's confidential directive quoted above appears in *Ibid.*, pp. 268-269.

<sup>78</sup> The most ambitious loyalty-security program was established after World War II; see Eleanor Bontecou. *The Federal Loyalty-Security Program*. Ithaca, Cornell University Press, 1953.

<sup>79</sup> Ottenberg, *op. cit.*, pp. 233-234.

On the eve of World War II, the Civil Service Commission had both the techniques and available loyalty-security files to again screen Federal employees. The files could have been scrutinized by other government agencies in pursuit of an intelligence objective or utilized by the Commission itself to contribute to an intelligence product. It would seem quite apparent, in any regard, that the Commission's investigative files had a potential for intelligence matters.

The Post Office Department, temporarily established in 1789 (1 Stat. 70) and given Cabinet status in 1872 (17 Stat. 283), also developed the potential for providing an intelligence product with regard to both criminal detection and internal security matters. Investigations on behalf of this agency trace their origins to the pre-Federal era when Benjamin Franklin, appointed Postmaster General by the Continental Congress, created the position of "surveyor of the Post Office," the predecessor to modern postal inspectors. When Congress created (21 Stat. 177) the Chief Post Office Inspector position in 1880, a force of ninety men were ready for investigative duties within the department.<sup>80</sup> Prior to World War I, the inspectors cooperated with the Treasury and Justice Departments in preventing frauds against the government, robberies of mail, and other crimes within the Federal purview and postal service jurisdiction. During the war, inspectors assisted the military and naval authorities and the Justice Department in monitoring foreign mail traffic and identifying espionage networks. To the extent that an information store was maintained on these criminal and security matters, such materials would seem to have a potential for contributing to an intelligence product. As in the case of the Civil Service Commission, these holdings could have been examined by other government agencies in pursuit of an intelligence objective or utilized by the Post Office Department itself for such purpose.

From the earliest days of the Republic, special care had been taken to protect American diplomatic communications through the use of codes and ciphers, the creation of secure facilities, and qualification tests for all persons entrusted with such communiques.

It took the twentieth century, however, with its international stresses, its hot and cold wars, to propel the State Department into establishing a security force. In 1916, Secretary of State Robert Lansing created a Bureau of Secret Intelligence headed by a Chief Special Agent. It was such a hush-hush outfit that the Chief Special Agent drew his operating funds from a confidential account and even paid his agents by personal check.

The Chief Special Agent's job was to advise the Secretary of State on matters of intelligence and security. By 1921, his staff amounted to 25 men.

One of the first problems of these special agents involved passports and visas. Beginning in 1914, European nations began demanding proof of identity. The United States had previously issued passports on request but most people didn't

<sup>80</sup> See *Ibid.*, 310-313; of related interest, see: E. J. Kahn, Jr. *Fraud*. New York, Harper and Row, 1973; P. H. Woodward. *The Secret Service of the Post Office Department*. Hartford, Connecticut, Winter and Company, 1886.

bother to get them. With the outbreak of World War I, United States missions abroad were authorized to issue emergency passports but by the end of 1918, Congress passed a law [40 Stat. 559] requiring every departing American to have a passport from the State Department and every alien to show a passport from his homeland and a visa from one of our consular offices before he could enter this country.

The Chief Special Agent's force started sorting out American Communists seeking passports for trips to Moscow and Soviet agents using fraudulent passports. Through the 1920's and 1930's, the State Department investigators uncovered passport frauds world-wide in scope and involving chains of subversive agents on four continents. The investigators pinned down the Soviet use of American passports taken from American volunteers in the Spanish civil war, exposed several elaborate passport frauds to supply traveling Communists and thwarted at least two Nazi espionage plots centering on the use of American passports.

With the outbreak of World War II, the Chief Special Agent's office was expanded to cope with the problem of internment and exchanging diplomatic officials of enemy powers and screening Americans—or those claiming American citizenship—after they were expatriated from enemy controlled areas.<sup>81</sup>

Granted authority (12 Stat. 713 at 726) in 1863 to appoint not more than three revenue agents, the Treasury Department, by the time of American entry into World War I, had a variety of investigative arms, each with a potential for contributing to the intelligence effort. In addition to the Customs Division, the Secret Service gathered information pursuant to its mission of protecting the President, conducted security investigations of government and war production facilities, made loyalty checks on the employees of some agencies, cooperated with the Food Administration and War Trade Board in uncovering violations of the Food and Fuel Control Act (40 Stat. 276), and uncovered fraudulent activities in connection with war risk insurance. Often during the war years the Secret Service and Justice Department's Bureau of Investigation duplicated each other's efforts and quarreled over jurisdictions.<sup>82</sup> Treasury Secretary McAdoo also vigorously protested the use of the "Secret Service" referent on American Protective League badges and documents, arguing that the Attorney General should halt this practice by his auxiliary allies. In his disputes with Justice over these various matters, Secretary McAdoo had proposed the creation of a central intelligence agency to coordinate the various intelligence activities and operations occurring during the war.<sup>83</sup>

Additional wartime taxes and controls on the production of distilled spirits and intoxicating liquors also added to the Treasury Department's surveillance duties.

<sup>81</sup> Ottenberg, *op. cit.*, pp. 26-27.

<sup>82</sup> See Jensen, *op. cit.*, pp. 40-41, 91-93, 95-97.

<sup>83</sup> See *ibid.*, pp. 40-41, 54, 95-96.

Internal Revenue's Intelligence Division started out more as a weapon against corruption within the service than crime without. Early in 1919, Commissioner of Internal Revenue Daniel C. Roper, who later became Secretary of Commerce, began to hear sordid complaints that some of his tax-collecting employees were taking bribes or extorting money from taxpayers. Mr. Roper had previously served as First Assistant Postmaster General and knew the work of the postal inspectors in ferreting out dishonest employees as well as mail fraud. He wanted a similar unit in Internal Revenue, and he wanted to man it with postal inspectors.

On July 1, 1919, six postal inspectors were transferred to the Bureau of Internal Revenue. Their assignment: to investigate serious violations of revenue laws through collusion, conspiracy, extortion, bribery or any other manipulation aimed at defrauding the government of taxes.<sup>84</sup>

During the war the Justice Department bore the responsibility of controlling aliens and alien property. The Bureau of Immigration and Naturalization (then located in the Department of Labor) apparently had no investigators, as such, of its own and seems to have utilized agents from the Justice Department's Bureau of Investigation to monitor espionage suspects entering the United States as aliens. The Secret Service also was active in alien surveillance.

Within the Justice Department there was established, under the authority of the Trading With the Enemy Act (40 Stat. 415), an Office of Alien Property Custodian which was to receive, administer, and account for money and property within the United States belonging to a declared enemy or ally of such enemy.<sup>85</sup> A. Mitchell Palmer held the Custodian's position until he became Attorney General in 1919 and Francis P. Garvan took over the duties of the office. The unit had its own investigation bureau, created shortly after the agency was established, which lasted until 1921. As noted with other investigative bodies, the Office of Alien Property Custodian had a potential for contributing to an intelligence product, but it is not known to what extent, if any, such actually occurred.

There is also evidence of some type of intelligence activity on the part of the Federal government with regard to foreign trade. After the United States formally entered the war, the President, in August, 1917, created the Exports Administrative Board, which replaced the Exports Licenses Division of the Commerce Department, to administer and execute the laws relating to the licensing of exports. The Board had a War Trade Intelligence Section which apparently did some investigative work. In October, 1917, the War Trade Board was created (E.O. 2729-A), succeeding the Exports Administrative Board. Three days after this entity came into being, a War Trade Intelligence Bureau was established to replace the War Trade Intelligence Section of the E.A.B. The duties of the Bureau were to determine the enemy or non-enemy status or affiliations of persons trading with any individual or firm in the United States, to supply the Enemy Trade Bureau

<sup>84</sup> Ottenberg, *op. cit.*, p. 252.

<sup>85</sup> See Willoughby, *op. cit.* pp. 319-327.

with information concerning applicants for licenses to trade with the enemy, and to act as a clearinghouse for war trade intelligence for the United States and its allies.<sup>86</sup> Once again, the intelligence potential for such an investigative body is recognized, but its actual contribution to an intelligence product cannot be determined. In May of 1919 the Intelligence Bureau was absorbed by the Enemy Trade Bureau and a month later the entire War Trade Board was transferred to the State Department.

### VI. *Red Scare*

In the closing weeks of World War I, fears of revolutionaries, anarchists, Bolsheviks, radicals and communists began to mount in America. A series of bombings aimed at public officials, labor unrest, remnants of wartime hysteria and xenophobia, and zealous government investigators eager to prove their worth in ferreting out the despoilers of democracy contributed to the frenzy.<sup>87</sup> Reflective of this mood, Congress, in late 1918, enacted (40 Stat. 1012) legislation designed to exclude and expel from the United States certain aliens belonging to anarchistic groups or otherwise found to be in sympathy with the tenets of anarchism. The opening paragraph of the statute stipulated.

That aliens who are anarchists; aliens who believe in or advocate the overthrow by force or violence of the Government of the United States or of all forms of law; aliens who disbelieve in or are opposed to all organized government; aliens who advocate or teach the assassination of public officials; aliens who advocate or teach the unlawful destruction of property; aliens who are members of or affiliated with any organization that entertains a belief in, teaches, or advocates the overthrow by force or violence of the Government of the United States or of all forms of law, or that entertains or teaches disbelief in or opposition to all organized government, or that advocates the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, or that advocates or teaches the unlawful destruction of property shall be excluded from admission into the United States.

Although this law was not a criminal statute, did not outlaw specified beliefs and actions, and contained no authority for prosecution, it soon became a punitive device in the hands of the new Attorney General, Alexander Mitchell Palmer. A former Democratic Member of the House of Representatives from Pennsylvania (1909-1915) and recently the Alien Property Custodian (1917-1919), Palmer came to the Wilson Cabinet as the country's chief legal officer in March, 1919.

<sup>86</sup> See *Ibid.*, pp. 128-143.

<sup>87</sup> On the mood of the country at this time, see Murray B. Levin, *Political Hysteria In America*, New York, Basic Books, 1971; for a concise history of this episode, see Robert K. Murray, *The Red Scare: A Study in National Hysteria*, Minneapolis, University of Minnesota Press, 1955.

He rode the tide of prevailing sentiment and launched an attack upon radicals of all persuasion, perhaps in an effort to marshal public opinion in an eventual bid for the White House.

The atmosphere which prevailed after World War I was such that anti-radicalism and xenophobia became inseparably fused. Thus, the deportation statute was made to order for an Attorney General who combined with his own person an overdose of the spirit of the times and a will to propel himself into the limelight as the very model of a modern anti-radical.

The anti-radicalism of that period was not much ado about nothing. Rather, it was much too much ado about something: a gross over-reaction. For a host of Americans, a real problem had assumed fictional proportions.

Radical violence existed. Its advocates were, for the most part, members of the Industrial Workers of the World, Bolsheviks, or members of one wing of the anarchist movement—the other wing being pacifist. The hopes to which the revolutionary radicals geared their actions were wildly unrealistic. There was no danger of their overthrowing the Government. But there was danger of their causing an intolerable destruction of life and property.<sup>88</sup>

The wonder of the episode is that the intelligence agencies failed so badly in conveying the reality of the situation; the truth of the experience is that accurate intelligence was not sought and political expedience otherwise, ruled the day. Palmer gave the Bureau of Investigation the primary investigative/enforcement mission. The other intelligence units were either incapable or unwilling to temper, qualify, or modify the assault which manifested itself in raids, harassments, arrests, and expulsions from the land.

The Labor Department had jurisdiction over the deportation statute. Secretary of Labor [William B.] Wilson was responsible for deciding which bodies, by reason of their beliefs and practices, so clearly fitted the terms of the statute that membership in them would be sufficient basis for an alien's being deported. He named the Communist Party; and the Department's Solicitor, called upon to make a decision when the Secretary was absent, named the Communist Labor Party—a decision which Mr. Wilson reversed some months later. These two parties were the prime targets of Palmer's "Red raids."

Arrest warrants had to be issued by Labor; but Justice, in a cooperating capacity, could request their issuance—and did so in wholesale lots. After arrests were made, the evidence was turned over to the Secretary of Labor. The Assistant Secretary, Louis B. Post, had the task of evaluating the evidence to determine whether or not it justified, in individual cases, the signing of deportation orders.

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<sup>88</sup> Overstreet, *op. cit.*, p. 41.

These details may seem academic. But one factor which led, in the end, to Congressional hearings and an aroused public interest was a collision between the Attorney General's policy of mass arrests and Post's policy of judging cases on an individual basis—and cancelling a host of warrants.<sup>89</sup>

The first raids on alleged anarchists and radicals occurred in November, 1919, but it was in January the following year when massive dragnet operations began in earnest. In spite of Post's cautious administration, it has been estimated that more than 4,000 suspected alien radicals were imprisoned during the winter of 1919-1920 and eventually the deportation of "a wretched few hundred aliens, who never had the opportunity to plead their innocence and whose guilt the government never proved."<sup>90</sup>

And what were the techniques of the Bureau of Investigation in pursuing the radical quarry? Tactics utilized included reliance on undercover informants to identify and locate suspects,<sup>91</sup> keeping State and local authorities ignorant of moves against suspects so that Federal supremacy in this area of arrests would be assured,<sup>92</sup> and engaging in the physical entrapment of suspects.

The radicals seemed so numerous that GID [Hoover's General Intelligence Division] decided to try to herd big groups of them into meeting halls on the nights assigned for raiding their membership. The way this was done in the case of the Communists was revealed in the secret instructions to the Bureau's special agents from its headquarters dated December 27, 1919 in a document which the Bureau's agents, were required to produce in . . . [a] . . . Boston trial. It read:

"If possible, you should arrange with your undercover informants to have meetings of the Communist Party and Communist Labor Party held on the night set.

"I have been informed by some of the Bureau officers that such arrangements will be made. This, of course, would facilitate the making of arrest."<sup>93</sup>

Other practices included night raids to facilitate obtaining confessions and to discourage interference by counsel,<sup>94</sup> coordination of all raids from Washington by communications with intelligence chief Hoover,<sup>95</sup> simultaneous arrest of all suspects, whether at the target meeting halls or in their homes,<sup>96</sup> and a hierarchy of arrest locations.

The places where the largest hauls might be expected were the meeting rooms of the radical organizations. Next in im-

<sup>89</sup> *Ibid.*, pp. 42-43; for his own account of these matters see Louis F. Post, *The Deportations Delirium of Nineteen-Twenty*. Chicago, Charles H. Kerr and Company, 1923.

<sup>90</sup> Hyman, *op. cit.*, p. 320.

<sup>91</sup> See Lowenthal, *op. cit.*, pp. 149, 153.

<sup>92</sup> See *Ibid.*, p. 149.

<sup>93</sup> *Ibid.*

<sup>94</sup> See *Ibid.*, pp. 156, 161.

<sup>95</sup> See *Ibid.*, p. 156.

<sup>96</sup> See *Ibid.*, p. 157.

portance were the choral societies and the schools for foreign-born adults. Here the Bureau's agents picked up both teachers and students, including those on their way to class, and others on the street suspected of having that destination.

Next in importance were small shops operated by suspected radicals, in which the police picked up the customers as well as the businessmen—this was the case at an East St. Louis tailor's shop, where men were standing about in the evening hours, chatting with the proprietor. In some exceptional cases, customers were left behind; thus, when a barber was arrested in his Bridgeport, Conn., place of business, and the raiders were in too big a hurry to let him get his overcoat and to permit him to make his premises secure, they did not bother to wait for the half-shaved customer in the chair.

Other places for arresting customers in considerable numbers were restaurants, cafes, bowling alleys, billiard and pool parlors, social rooms for playing checkers and other games, and similar points of resort. In cases where concerts or lectures, no matter on what subject, were being given at halls frequented by radicals, the raiders arrested everyone present.<sup>97</sup>

The campaign became so enthusiastic that American citizens who had spent the war period overseas were seized,<sup>98</sup> raiders engaged in violence, the destruction of radical's presses, threatened suspects at gunpoint, and made incarcerations without arrest warrants.<sup>99</sup> Those imprisoned were harassed, coerced, and otherwise forced into confessions of guilt which were frequently thrown out by Assistant Secretary Post or rejected by the courts.<sup>100</sup> Similarly, the Bureau delayed and denied bail to jailed suspects or demanded exorbitant bonding.<sup>101</sup>

All in all, the episode demonstrated a shameless disregard for human rights on the part of the Justice Department, evoked a contemptuous attitude toward the Bureau of Investigation on the part of both Congress and the public, and undoubtedly contributed in some degree to the failure of the Democrats to retain control of the White House in 1920. Better intelligence and/or the proper use of available intelligence might have averted the fiasco. But politics was in ascension and intelligence activities were in decline in the aftermath of the war. What was to follow was the further disintegration of the Justice Department under Harry Daugherty, the Teapot Dome scandal, crime wars, and the decomposition of the intelligence structure.

### *VII. American Black Chamber*

Not everyone within the Federal intelligence community, however, succumbed to the pronouncements of idyllic world peace in the aftermath of the European conflagration which witnessed the collapse of

<sup>97</sup> *Ibid.*, pp. 157–158.

<sup>98</sup> See *Ibid.*, pp. 159–160.

<sup>99</sup> See *Ibid.*, pp. 161–168, 185–198.

<sup>100</sup> See *Ibid.*, pp. 209–223.

<sup>101</sup> See *Ibid.*, pp. 223–237.

the Hapsburg, Hohenzollern, the Romanov empires.<sup>102</sup> For some with intelligence responsibilities, the war had brought their organizations into full flower and provided an opportunity to scrutinize the intelligence capabilities of both ally and enemy. Thus, there was an unwillingness to return to prewar intelligence infancy. And it was this climate of opinion which fostered the creation of the secret cryptanalysis structure which came to be known as the American Black Chamber.

Born in April 1889, in Worthington, Indiana, Herbert O. Yardley had wanted to become a criminal lawyer but, after learning the skills of a telegraph operator, he came to the State Department in 1913 and, imbued with a strong sense of history and penchant for deciphering masked communications, he soon discovered that existing American codes could be easily broken.<sup>103</sup> Having attempted, with little effect, to encourage improvements in the diplomatic codes, Yardley obtained a commission in the Army at the time of United States entry into world hostilities and went to work for Ralph Van Deman and the Military Intelligence Division.<sup>104</sup> Within the War Department he organized and directed the Cryptographic Bureau which eventually became MI-8.<sup>105</sup> In August, 1918, he sailed for England where he studied British cryptographic and decoding methods and then went on to Paris to assist the American delegation to the peace conference.<sup>106</sup> In April, 1919, Yardley returned to the United States for the scaling down of Military Intelligence for peacetime conditions.

After several conferences with responsible officials of the State, War and Navy Departments, we decided to demobilize the Shorthand Subsection; demobilize the Secret-Ink Subsection, transfer the Code Compilation Subsection to the Signal Corps (. . . Army regulations required the Signal Corps to compile codes); and restore Military Intelligence Communications to the Adjutant-General of the Army.

This, then, left only the Code and Cipher Solution Section.

My estimate for an efficient Cipher Bureau called for one hundred thousand dollars per annum. The State Department agreed to turn over to Military Intelligence forty thousand dollars per annum out of special funds, provided the Navy Department was entirely excluded, for they refused to share their secrets with the Navy. This left a deficit of sixty thousand dollars, which Military Intelligence managed to obtain from Congress after taking some of the leaders into their confidence. I was told that there was a joker in the Depart-

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<sup>102</sup> The "lust" for world peace was apparent in the organization of the League of Nations and the treaties resulting from the Washington armament conference of 1921-1922. It reached its zenith in 1928 with the curious Kellogg-Briand Pact which outlawed war. Simultaneous with these developments were embittering encroachments and manipulations of the economics and politics of the recently defeated central powers by certain victors in the world war, ambitions of empire by the Japanese in the Pacific, and the rise of totalitarian regimes in both Europe and Asia.

<sup>103</sup> See David Kahn, *The Code Breakers, Revised Edition*, New York, New American Library, 1973, pp. 167-168; Herbert O. Yardley, *The American Black Chamber*, London, Faber and Faber, 1931, pp. 3-11.

<sup>104</sup> See Yardley, *op. cit.*, pp. 11-15.

<sup>105</sup> See Kahn, *op. cit.*, pp. 168-172; Yardley, *op. cit.*, pp. 15-16, 22-23.

<sup>106</sup> See Kahn, *op. cit.*, p. 172; Yardley, *op. cit.*, pp. 160-166.

ment of State special funds: they could not legally be expended within the District of Columbia.

Since it seemed that we could not remain in the District of Columbia I was commissioned to go back to New York and find a suitable place where the famous American Black Chamber could bury itself from the prying eyes of foreign governments.<sup>107</sup>

On the first of October, the unit set up initial operations at 3 East 38th Street in Manhattan, a former town house owned by T. Sufferin Tailer, a New York society figure and political leader.

It stayed there little more than a year, however, before moving to new quarters in a four-story brownstone at 141 East 37th Street, just east of Lexington Avenue. It occupied half of the ornate, divided structure, whose high ceilings did little to relieve the claustrophobic construction of its twelve-foot-wide rooms. Yardley's apartment was on the top floor. All external connection with the government was cut. Rent, heat, office supplies, light, Yardley's salary of \$7,500 a year, and the salaries of his staff were paid from secret funds. Though the office was a branch of the Military Intelligence Division, War Department payments did not begin until June 30, 1921.<sup>108</sup>

All employees were relegated to civilian status. The mission: "We were to read the secret code and cipher diplomatic telegrams of foreign governments—by such means as we could. If we were caught, it would be just too bad!"<sup>109</sup> Materials first came to the unit in the form of documents held by the State Department.<sup>110</sup> Japanese secret codes were of special interest.<sup>111</sup> During the Washington armament conference of 1921–1922, the unit made over five thousand decipherments and translations.<sup>112</sup> According to Yardley's own reminiscences:

We solved over forty-five thousand cryptograms from 1917 to 1929, and at one time or another we broke the codes of Argentine, Brazil, Chile, China, Costa Rica, Cuba, England, France, Germany, Japan, Liberia, Mexico, Nicaragua, Panama, Peru, Russia, San Salvador, Santo Domingo, Soviet Union and Spain.

We also made preliminary analyses of the codes of many other governments. This we did because we never knew at what moment a crisis would arise which would require quick solution of a particular government's diplomatic telegrams. Our personnel was limited and we could not hope to read the telegrams of all nations. But we drew up plans for an offensive, in the form of code analyses, even though we anticipated no crisis. We never knew at what moment to expect a telephone call or an urgent letter demanding a prompt solution

<sup>107</sup> Yardley, *op. cit.*, pp. 166–167.

<sup>108</sup> Kahn, *op. cit.*, p. 173.

<sup>109</sup> Yardley, *op. cit.*, p. 167.

<sup>110</sup> See *Ibid.*, p. 168.

<sup>111</sup> See *Ibid.*, pp. 174–225; also see Kahn, *op. cit.*, pp. 173–176.

<sup>112</sup> Yardley, *op. cit.*, p. 225; also see *Ibid.*, pp. 199–225 and Kahn, *op. cit.*, pp. 176–

of messages which we had never dreamed would interest the Department of State.<sup>113</sup>

By the late 1920's, the Black Chamber had gained access to diplomatic telegraph traffic through cooperative arrangements with the Western Union Telegraph Company and the Postal Telegraph Company.<sup>114</sup>

In 1929, with the arrival of the new administration, Yardley, upon hearing Herbert Hoover's first presidential address to the nation, sensed a high moralism had gripped government leadership, a moralism which would not tolerate the continuance of the Black Chamber. Shortly after the new Secretary of State, Henry L. Stimson, took office, a series of important code messages, deciphered by the Black Chamber, was forwarded to acquaint the Secretary with the existence and activities of the cryptanalysis operation. The reaction was the one anticipated by Yardley.<sup>115</sup>

[Stimson] was shocked to learn of the existence of the Black Chamber, and totally disapproved of it. He regarded it as a low, snooping activity, a sneaking, spying, keyhole-peering kind of dirty business, a violation of the principle of mutual trust upon which he conducted both his personal affairs and his foreign policy. All of this it is, and Stimson rejected the view that such means justified even patriotic ends. He held to the conviction that his country should do what is right, and, as he said later, "Gentlemen do not read each other's mail." In an act of pure moral courage, Stimson, affirming principle over expediency, withdrew all State Department funds from the support of the Black Chamber. Since these constituted its major income, their loss shuttered the office. Hoover's speech had warned Yardley that an appeal would be fruitless. There was nothing to do but close up shop. An unexpended \$6,666.66 and the organization's files reverted to the Signal Corps, where William Friedman had charge of cryptology. The staff quickly dispersed (none went to the Army), and when the books were closed on October 31, 1929, the American Black Chamber had perished. It had cost the State Department \$230,404 and the War Department \$98,808.49—just under a third of a million dollars for a decade of cryptanalysis.<sup>116</sup>

Yardley could not find work in Washington and returned to his family home in Worthington where the Depression quickly devoured his existing resources. Out of financial desperation, he set about writing the story of the Black Chamber, serializing portions of the account in the *Saturday Evening Post* and then producing a book for Bobbs-Merrill in June 1931. Though the volume was an instant success, it was denounced by both the State and War Departments. In all, it sold 17,931 copies in America and appeared in French, Swedish, an unauthorized Chinese version, and in Japanese. In the Land of the Ris-

<sup>113</sup> Yardley, *op. cit.*, p. 235.

<sup>114</sup> Kahn, *op. cit.*, p. 177.

<sup>115</sup> See Yardley, *op. cit.*, pp. 262-263.

<sup>116</sup> Kahn, *op. cit.*, pp. 178-179.

ing Sun the book quadrupled American sales with 33,119 copies sold amidst much outrage over its revelations. Yardley was already at work on a second expose entitled *Japanese Diplomatic Secrets*, an account utilizing Japanese diplomatic cables transmitted during the 1921–1922 naval disarmament conference, when the State Department learned of his efforts and, subsequently, “United States marshals seized the manuscript on February 20, 1933, at the office of The Macmillan Company, to whom Yardley had submitted it after Bobbs-Merrill had declined it, on the grounds that it violated a statute prohibiting agents of the United States government from appropriating secret documents.”<sup>117</sup>

Yardley next turned his attention to writing fiction, at which he proved moderately successful, and some real estate speculation in Queens, New York. In 1938 he was hired by Chiang Kai-shek at about \$10,000 a year to solve the messages of the Japanese who were then invading China. Two years later he returned to the United States where he made a brief effort at being a Washington restaurateur, attempted to establish a cryptanalytic bureau in Canada though Stimson and/or the British forced the reluctant Canadian government to dispense with his services, and then served as an enforcement officer in the food division of the Office of Price Administration until the end of World War II. After the war he turned to his old card playing talent and offered instruction in poker. Out of this experience came another book, *The Education of a Poker Player*, which appeared in 1957. A year later, in August, he died of a stroke at his Silver Spring, Maryland, home.<sup>118</sup>

#### VIII. *Intelligence at Twilight*

While the period between the two world wars was largely one of dormancy or disintegration with regard to Federal intelligence activities and operations, there were certain exceptions to this situation, developments which, due to a few outstanding personalities and/or monumental events, marked the continued, but slow, evolution and advancement of intelligence capabilities.

In 1920, Marine Corps Commandant John A. Lejeune overhauled the headquarters staff in a manner emulating the Army's general staff reorganization of 1903 and the Navy's central administrative structure of 1915 when the Chief of Naval Operations position came into existence. Within the Operations and Training Division, which was one of seven administrative entities reporting directly to the Commandant, an intelligence section was instituted.<sup>119</sup> Little is known about the resources or activities of this unit but it appears to have developed combat intelligence products for the Corps and to have cooperated with Naval Intelligence in preparing war plans and strategic information.

One of the Marine officers who was concerned with such planning during the early 1920s was Major (later Lieutenant

<sup>117</sup> *Ibid.*, p. 181.

<sup>118</sup> *Ibid.*, pp. 181–183.

<sup>119</sup> Generally, see: U.S. Marine Corps. Headquarters. Historical Division. *A Brief History of Headquarters Marine Corps Staff Organization* by Kenneth W. Condit, John H. Johnstone, and Ella W. Nargele. Washington, Historical Division, Headquarters, U.S. Marine Corps, 1971, pp. 12–15; Robert Debs Heintz, Jr. *Soldiers of the Sea*. Annapolis, United States Naval Institute, 1962, pp. 253–255

Colonel) Earl H. Ellis. Like many other military officers, Ellis was cognizant of the Japanese threat in the Pacific. In 1920, the Office of Naval Intelligence prepared a study concerning the possibility of a transpacific war against Japan, and various agencies within the Navy Department were directed to implement the study with plans of their own. The Marine Corps contributed to what ultimately became known as the "Orange Plan," and Ellis made a major contribution to that portion of the plan which dealt with advanced base operations. The document he wrote, Operation Plan 712 (Advanced Base Operations in Micronesia), was approved by the Commandant on 23 July 1921.

In his writing, Ellis pointed out:

". . . it will be necessary for us to project our fleet and landing forces across the Pacific and wage war in Japanese waters. To effect this requires that we have sufficient bases to support the fleet, both during its projection and afterwards.

To effect [an amphibious landing] in the face of enemy resistance requires careful training and preparation to say the least; and this along Marine lines. It is not enough that the troops be skilled infantrymen or artillerymen of high morale; they must be skilled watermen and jungle-men who know it can be done—Marines with Marine training.<sup>120</sup>

Though the observations of Earl Ellis were prophetic, he never lived to realize their actuality for he was to become a martyr to the intelligence cause he served so well. A Kansas farm boy born in 1880, Ellis joined the Marine Corps at the turn of the century and sufficiently distinguished himself that he received a commission before American entry into World War I, advanced to major during the conflict and won four decorations as well. Closely associated with Lejeune since 1914, Ellis was brought to Washington when his superior assumed command of the Corps in 1920. He was apparently put to immediate work on Orange Plan studies which consumed so much of his time and energy that he was rarely seen outside of his office and eventually fell ill shortly after completing his paper. During his recovery, his views drew harsh criticism from the peace proponents and disarmament advocates of the hour.

Discharged after three months' hospitalization, he returned to duty. Two weeks later, with considerable casualness, he asked for 90 days leave "to visit France, Belgium and Germany."

There were two curious circumstances connected with his request for leave. In the first place the request was approved by the Secretary of the Navy the same day it was received.

<sup>120</sup> U.S. Marine Corps, Headquarters, Historical Division, *A Concise History of the United States Marine Corps 1775-1969* by William D. Parker. Washington, Historical Division, Headquarters, U.S. Marine Corps, 1970, p. 46; also see Heinl, *op. cit.*, pp. 255-257.

Returned the following day, the letter set an all-time record for prompt handling of official correspondence.

The second oddity was noticed by Gen Lejeune's secretary. Prior to his departure, Ellis called at the Commandant's office to say goodbye. During the apparently normal conversation between the two officers, the secretary noticed Ellis pass a sealed envelope to the General. Without comment, Lejeune unobtrusively slipped it into his desk drawer.

Having said his goodbyes, LtCol Ellis walked out of the front door of Marine Corps headquarters—and vanished.<sup>121</sup>

Ellis was never seen in Europe. No communication was received from him for almost a year. When his official leave expired and an inquiry was made as to how he was to be carried on the muster roll, the Adjutant Inspector ordered "Continue to carry on leave." Finally a friend received a cryptic cablegram from Ellis who was in Sydney, Australia. He had been treated for a kidney infection there and was enroute to Japan. Some six weeks later he was in the Philippines where he sent a classified and coded dispatch to Marine Corps Headquarters inquiring about the extension of his leave. The response, sent "Top Priority," was a single sentence: "Leave extension granted for period six months."

In mid-August, the U.S. Naval Hospital in Yokohama, Japan, was asked to attend to a desperately ill American at the Grand Hotel. The man was Ellis, again suffering from nephritis. He identified himself, indicating he was a Marine officer touring the Orient on leave. Two weeks later he was released, only to be admitted the following week with the same acute condition. Believing him to be an alcoholic, Navy medical authorities gave Ellis the choice of returning to the United States by the next transport or by Mail Steamer to facilitate his recuperation. Ellis chose the latter, wired his American bank for a thousand dollars on October 4, received the money two days later, and vanished that night from his hospital bed.

Nothing was heard about Ellis for six months. Then, on May 23, 1923, the State Department received the following from the American Embassy in Tokyo: "I am informed by the Governor General of Japanese South Sea Islands that E. H. Ellis, representative of Hughes Trading Company, #2 Rector Street, New York City, holder of Department passport No. 4249, died at Koror, Caroline Islands on May 12th. Remains and effects in possession of Japanese Government awaiting instructions."

As a matter of standard procedure, the State Department checked with the Hughes Trading Company. By a strange coincidence, the company's president turned out to be a retired Marine colonel. From him, State was surprised to learn that E. H. Ellis was not a commercial traveller at all. He was, in fact, a Marine Corps officer on an intelligence mission. At that point, a lot of Washington telephones began ringing, followed by a noticeable increase in Pacific cable traffic.<sup>122</sup>

<sup>121</sup> P. N. Pierce. *The Unsolved Mystery of Pete Ellis. Marine Corps Gazette*, v. 46, February, 1962: 36-37. This is the most complete account of the Ellis case to date and the material which follows is taken from this story.

<sup>122</sup> *Ibid.*, p. 38.

In many regards, the phones are still ringing, in need of someone to answer. Badgered by reporters, Lejeune reinforced his claim of innocence regarding Ellis's activities by finally claiming that the officer had been AWOL for some time; he apparently could not bring himself to use the contents of the sealed envelope which Ellis had given him—supposedly an undated letter of resignation, which the Commandant burned.

From various piecemeal sources it would appear that Ellis was, indeed, on an intelligence mission, surveying Japanese held islands in the Pacific, probably with a view to gathering as much information to support the Orange Plan suppositions regarding Japanese strategic power as he could observe. It would also seem that Ellis did not have a credible cover posing as a trader, had too much unaccounted for money with him, and was given to drinking bouts during which he very likely dropped his guard. In any event, the Japanese were aware of his real identity and mission in their territory. Confirmation of his true purposes for being in the Pacific has yet to be made through documentation and records. And, of course, the manner of Ellis's death, the reason for his remains being cremated, and the loss of his personal effects all still remain a mystery.<sup>123</sup>

The Army and the Navy continued their less daring attaché arrangements during the period between the wars, though there was reluctance on the part of the United States armed services to appoint air attachés during most of these years.<sup>124</sup> There were various tribulations which intelligence operatives faced at this time due to the prevailing disarmament fervor and the inability of defense leaders to appreciate the intelligence product when it was available. Captain Ellis M. Zacharias was a career Navy officer who went to Japan in 1920 to study the culture and language of the country and to report on strategic developments coming to his attention as well. Within the Office of Naval Intelligence, however, the whole Far East Section

. . . occupied just one room, holding one officer and one stenographer. ONI itself comprised a handful of officers and a few yeomen, filing the occasional reports of naval attachés about naval appropriations of the countries to which they were attached, a few notes on vessels building or projected, most of them clipped from local newspapers, and descriptions of parties given in honor of some visiting American celebrity. The last-named usually represented the most illuminating and comprehensive of these so-called intelligence reports.<sup>125</sup>

After three years and six months in Japan, Zacharias returned to Washington filled with trepidation and information regarding the plans and activities of imperialist Japan. However, his greeting at ONI was not enthusiastic.

<sup>123</sup> See *Ibid.*, pp. 39-40.

<sup>124</sup> Alfred Vagts. *The Military Attaché*. Princeton, Princeton University Press, 1967, p. 67. This account surveys the growth and development of the military attaché system in international politics, tracing its evolution from the 17th Century to the modern diplomatic period.

<sup>125</sup> Ellis M. Zacharias. *Secret Missions: The Story of an Intelligence Officer*. New York, G. P. Putnam's Sons, 1946, pp. 20-21.

The director listened to my report with gentlemanly boredom and evident condescension and then suddenly closed the discussion without any indication of a follow-up job for me. I soon found out that no one had given it the slightest thought. It was not in the routine. I had spent three years studying a forbidding language, penetrating the mind of a strange people, gathering data of vital importance, participating in secret missions—and now it was my turn for sea duty. To put it bluntly, I was to forget all extraneous matters and refit myself into the general routine of a naval career. I went to the Far East Section of Naval Intelligence, but there, too, I found but yawning indifference and complacency, regardless of the hostile attitudes then displayed by the Japanese in their vitriolic press. My reports were gratifyingly acknowledged but completely overlooked. I was concerned and frustrated, a state of mind which was hardly conducive to ingratiating myself to my superiors, but I could not arouse them to the dangers of the day.<sup>126</sup>

While in Japan, Zacharias and his colleagues had also experienced this indifference to intelligence operations and products in the limitation of their resources and number.

The limited means at our disposal prevented us from observing the Japanese in their administration of the mandated islands. Neither did we have means or men to find out Japanese intentions and aggressive plans beyond what we could pick up in the open market of peacetime intelligence. Captain Watson was concerned about these mandated islands, where the Japanese were reliably reported to be going about merrily violating the mandate which prohibited their fortification. The few reports which reached us from these Pacific islands indicated feverish activities: merchantmen discharging material obviously designed for the building of gun emplacements, bunkers, and underground passages; naval vessels calling at those islands and delivering heavy-caliber coast guns and other equipment—all contraband according to the provisions of the mandate. Although greatly concerned, Watson could not obtain permission to establish an effective check on these activities or to ascertain the accuracy of the numerous reports coming to his ears.<sup>127</sup>

Concern over the fortification of the mandated islands had also apparently prompted the mission of Earl Ellis, whom Zacharias and his colleagues scrutinized, but lost, in Yokohama.<sup>128</sup> Ironically, when the islands were seized during World War II, “we discovered that it was their weakness rather than strength that the Japanese were so anxious to conceal.”<sup>129</sup>

Before his second tour of duty in Japan, Zacharias, in 1926, gained acquaintance with the Navy’s cryptanalytic organization.

<sup>126</sup> *Ibid.*, pp. 71–72.

<sup>127</sup> *Ibid.*, pp. 40–41.

<sup>128</sup> See *Ibid.*, pp. 42–48.

<sup>129</sup> *Ibid.*, p. 48.

My days were spent in study and work among people with whom security had become second nature. Hours went by without any of us saying a word, just sitting in front of piles of indexed sheets on which a mumbo jumbo of figures or letters was displaced in chaotic disorder, trying to solve the puzzle bit by bit like fitting together the pieces of a jigsaw puzzle. We were just a few then in Room 2646, young people who gave ourselves to cryptography with the same ascetic devotion with which young men enter a monastery. It was known to everyone that the secrecy of our work would prevent the ordinary recognition accorded to other accomplishments. It was then that I first learned that intelligence work, like virtue, is its own reward.<sup>130</sup>

Zacharias had a second tour of duty in Japan, monitored and deciphered Japanese Navy radio messages from a station in Shanghai, headed the Far East Section of ONI at the time of the outbreak of war in Europe, became the director of Naval Intelligence in 1942, saw combat duty, was assigned to the Office of War Information at the time of the Japanese surrender, and retired from active duty in 1946 as a rear admiral. An author and lecturer on intelligence operations, he died in 1961.

Military Intelligence also had its professional problems during this period too, as was graphically demonstrated during the Bonus March.

In the summer of 1932, President Hoover faced one of the most trying problems imaginable, the presence in the nation's capital of thousands of needy veterans who were determined to force the immediate payment of the soldiers' bonus. From every part of the country, by almost every conceivable means of transportation, veterans flocked to Washington to demand that Congress relieve, by a flood of cash, the economic paralysis which had settled over the United States. Reminiscent of the followers of Coxey 40 years before, the veterans seized trains in East St. Louis and Baltimore and took temporary possession of the Pennsylvania Railroad yard at Cleveland. Their presence in Washington was described as a "supreme escape gesture."<sup>131</sup>

Although the House passed a bill allocating the funds sought by the marchers, the President let it be known he would not approve the measure. The legislation failed in the Senate and Congress, shortly thereafter, adjourned. Before leaving Washington, however, the Legislative Branch, at the Chief Executive's urging, provided \$100,000 to transport the veterans home. Still they came to the capital and tracing their advance was Military Intelligence which had sent the following request, in secret code, to all Corps Area commanders: "With reference to any movement of veteran bonus marchers to Washington originating or passing through your corps area, it is desired that a brief radio report in secret code be made to War Department indicating presence, if any, of communistic elements and names of leaders of known communistic leanings."

<sup>130</sup> *Ibid.*, p. 89.

<sup>131</sup> Bennett Milton Rich. *The Presidents and Civil Disorder*. Washington, The Brookings Institution, 1941, pp. 167-168.

Most of the replies to this were reasonably sane, if not too astute. Ninth Corps Area for example, could not discover when the Oregon contingent left Portland, a fact that was reported in the local newspapers. It did correctly evaluate the political complexion of Royal W. Robertson's Californians, pointing out not only the absence of Communist activity, but also that its leader was "firm in stand that [Communists] will not be tolerated." In neighboring Eighth Corps, however, an almost undiluted paranoia prevailed. The intelligence reports emanating from Fort Sam Houston, Texas, are simply incredible, and lend verisimilitude to at least the last proviso of the army legend that the brainy go to the engineers, the brave to the infantry, the deaf to the artillery, and the stupid to intelligence. In any event, the Texas-based intelligence experts convinced themselves that the Californians were dangerous Communists (with a leader named Royal P. Robinson) and that Metro-Goldwyn-Mayer was financing the whole movement. In case Washington didn't know what it was, Colonel James Totten told them:

Metro-Goldwyn-Mayer Picture Corporation is known to be 100 per cent Jewish as to controlling personnel, and that high officers of this company are in politics. An unconfirmed rumor circulated many months ago, stated that agents of U.S.S.R. had contacted motion picture companies in California, and contributed to some of them with a view to inserting propaganda and support of U.S.S.R. policies.

Other reports spoke of machine guns in the hands of bonus marchers, forged discharges available for fifty cents from "any pawn broker in Chicago" (this from an officer in Philadelphia), while another report, early in July, claimed that [Bonus Army leader Walter W.] Waters had the "assistance of gunmen from New York and Washington . . . [and] that the first blood shed by the Bonus Army in Washington is to be the signal for a communist uprising in all large cities."<sup>122</sup>

Of course, there was blood shed in Washington that summer, but not necessarily due to the ineptitude of Military Intelligence. The communist uprising? Some marchers took advantage of the congressional funds made available for their return home. But it was estimated that some 11,000 persons located at 24 separate camps in the capital remained behind. As a result of disturbances in and around Federal buildings undergoing demolition and a brief riot which followed one eviction scene where one veteran was killed at the scene and another fatally wounded, Federal troops, requested by the District of Columbia government, were brought into the city. A tank platoon and a cavalry squadron, together with an infantry battalion, were called into action. About 500 troops were located in the District with another 1,000 held in reserve at nearby military installations.

<sup>122</sup> Roger Daniels. *The Bonus March: An Episode of the Great Depression*. Westport, Connecticut, Greenwood Publishing Company, 1971, pp. 159-160; also see Donald J. Lisio. *The President and Protest: Hoover, Conspiracy, and the Bonus Riot*. Columbia, University of Missouri Press, 1974, pp. 87-109.

On the afternoon of July 28, these forces, under the command of General Douglas MacArthur, advanced on the Pennsylvania Avenue encampment of the veterans.

The cavalry led the way, followed by tanks, machine gunners, and infantry, all headed toward the "fort" of the B.E.F. [Bonus Expeditionary Force], a skeletonized building at Third Street. After a half hour's wait the troops donned gas masks and in a few minutes of tear gas bombing completely cleared the "fort". The troops were deployed in such a fashion as to drive the Marchers away from the business area and toward the encampment at Anacostia. This was accomplished without the troops firing a shot although, apparently, there was a considerable display of swinging cavalry sabres and prodding bayonets.<sup>133</sup>

After a brief halt at the edge of the Anacostia encampment of the veterans, the troops moved into the shacktown and, throughout the night, completed its destruction. Without any shelter, penniless, and unwanted, the veterans fled the District, reportedly "aghast at the failure of their confident prediction that no soldier would move into action against them."<sup>134</sup>

There were, of course, higher plateaus of Army intelligence during this time, the pinnacles being held by William F. Friedman and his Signal Corps colleagues who broke the intricate and sophisticated Japanese cipher known to Americans as the "purple" code. Born in Russia in 1891, Friedman emigrated to the United States with his parents the following year. He matriculated as one of ten honor students in a class of 300 at Pittsburgh Central High School in 1909 and received an undergraduate degree in genetics from Cornell University in 1914. Through an interest in the authorship of the plays of William Shakespeare and related literary questions, Friedman became a skilled cryptologist. During 1917 and 1918 he taught cryptanalysis to Army officers and produced some writing on the subject. In 1921 Friedman and his wife, also a skilled cryptologist, entered into a six-month contract with the Signal Corps and continued the relationship as civil servants on the War Department payroll until 1922 when he became Chief Cryptanalyst and head of the Code and Cipher Compilation Section, Research and Development Division, Office of the Chief Signal Officer.

Meanwhile, the Army had been studying its divided cryptologic operation and, shortly before the State Department withdrew support for Yardley's bureau, had decided to integrate both cryptographic and cryptanalytic functions in the Signal Corps. The closing of the Black Chamber eased the transition, and on May 10, 1929, cryptologic responsibility devolved upon the Chief Signal Officer. To better meet these new responsibilities, the Signal Corps established a Signal Intelligence Service in its War Plans and Training Division, with Friedman as director. Its officially stated mission was to prepare the Army's codes and ciphers, to intercept and

<sup>133</sup> Rich, *op. cit.*, p. 172.

<sup>134</sup> *New York Times*, July 29, 1932: 1.

solve enemy communications in war, and in peace to do the training and research—a vague enough term—necessary to become immediately operational at the outbreak of war. To carry out these duties, Friedman hired three junior cryptanalysts, all in their early twenties, at \$2,000 a year—the first of the second generation of American cryptologists. They were Frank Rowlett, a Virginian, and Solomon Kullback and Abraham Sinkov, close friends who had taught together in New York City high schools before coming to Washington and who both received their Ph. D.'s in mathematics a few years later. It was the beginning of an expansion that led to the *PURPLE* solution, the triumphs of World War II, and the massive cryptologic organization of today. At his death on November 2, 1969, he was widely regarded as the greatest cryptologist that science had ever seen.<sup>135</sup>

The breaking of the complicated “purple” code was part of a continuous effort by the Army and Navy to decipher and monitor Japanese communications. Largely under the immediate leadership of Friedman since its creation sometime in 1936, the project had been dubbed MAGIC.

The cipher machine that Americans knew as *PURPLE* bore the resounding official Japanese title of 97-shiki O-bun In-ji-ki. This meant Alphabetical Typewriter '97, the '97 an abbreviation for the year 2597 of the Japanese calendar, which corresponds to 1937. The Japanese usually referred to it simply as “the machine” or as “J,” the name given it by the Imperial Japanese Navy, which had adapted it from the German Enigma cipher machine and then had lent it to the Foreign Ministry, which, in turn, had further modified it. Its operating parts were housed in a drawer-sized box between two big black electrically operated Underwood typewriters, which were connected to it by 26 wires plugged into a row of sockets called a plugboard. To encipher a message, the cipher clerk would consult the YU GO book of machine keys, plug in the wire connections according to the key for the day, turn the four disks in the box so the numbers on their edges were those directed by the YU GO, and type out the plaintext. His machine would record the plaintext while the other, getting the electrical impulses after the coding box had twisted them through devious paths, would print out the ciphertext. Deciphering was the same, though the machine irritatingly printed the plaintext in the five-letter groups of the ciphertext input.

The Alphabetical Typewriter worked on roman letters, not kata kana. Hence it could encipher English as well as romaji—and also roman-letter codetexts. . . . Since the machine could not encipher numerals or punctuation, the code clerk first transformed them into three-letter codewords, given in a small code list, and enciphered these. The receiving clerk

<sup>135</sup> Kahn, *op. cit.*, pp. 191–192.

would restore the punctuation, paragraphing, and so on, when typing up a finished copy of the decode.

The coding wheels and plugboards produced a cipher of great difficulty. The more a cipher deviates from the simple form in which one ciphertext letter invariably replaces the same plaintext letter, the harder it is to break. A cipher might replace a given plaintext letter by five different ciphertext letters in rotation, for example. But the Alphabetical Type-writer produced a substitution series hundreds of thousands of letters long. Its coding wheels, stepping a space—or two, or three, or four—after every letter or so, did not return to their original positions to re-create the same series of paths, and hence the same sequence of substitutes, until hundreds of thousands of letters had been enciphered. The task of the cryptanalysts consisted primarily of reconstructing the wiring and switches of the coding wheels—a task made more burdensome by the daily change of plugboard connections. Once this was done, the cryptanalyst still had to determine the starting position at the coding wheels for each day's messages. But this was a comparatively simple secondary job.<sup>136</sup>

The first complete solution of a "purple" communique was made in August, 1940.<sup>137</sup> By the time of the Pearl Harbor attack, decoded Japanese messages were circulating at the highest levels of the Federal government. Though this decipherment advantage was not sufficient, in itself, to prevent the surprise bombing of Hawaii and simultaneous aggression against American Pacific outposts, the ability to decode Japanese communications served military and naval strategists well during the war.

But there was another war, of sorts, fought within the United States prior to the outbreak of hostilities once again in Europe and also in Asia. This was the war against organized crime. A variety of law enforcement agencies were involved in the Federal government's attack upon the lawless and various intelligence developments occurred during this effort.

With the arrival of Harlan F. Stone at the Justice Department as the new Attorney General in March, 1924, the General Intelligence Division of the Bureau of Investigation began to be phased out of existence. But the interests of G.I.D. did not fail to continue to receive attention upon its demise if only because the unit's leader, J. Edgar Hoover, ultimately became, on December 10, 1924, the head of the entire Bureau. Other intelligence resources which were developed at this time included special capabilities with regard to the identification of kidnappers and their victims and a fingerprint data bank.

On July 1, 1936 the Bureau had on file 6,094,916 fingerprint records, consisting of 5,571,995 criminal records and 522,921 personal identification, Civil Service, and miscellaneous non-criminal records. On that date, 9,904 law-enforcement officials and agencies throughout the United States and foreign countries were contributing 4,700 fingerprint cards daily.

<sup>136</sup> *Ibid.*, pp. 21-22.

<sup>137</sup> *Ibid.*, p. 25.

Six months later, that is, on December 31, 1936, the number of fingerprint records had increased to 6,682,609; and the number of contributing agencies, to 10,229.<sup>138</sup>

Not only did this elementary intelligence information prove useful in the necessity of establishing a basic positive identification of certain individuals, but it also provided a basis for information exchange between the Bureau and sub-national law enforcement agencies as well as a relationship between the Bureau and international or foreign law enforcement units.

The Bureau also established a technical laboratory during the latter part of 1932. While the facility is largely concerned with the application of scientific techniques to criminal evidence, certain aspects of its program might be viewed as having a potential for contributing to an intelligence product.<sup>139</sup>

Increased responsibilities with regard to taxation, narcotics control, and National Prohibition during this period brought about various intelligence function developments within the units of the Treasury Department.

Most of the other federal crime-control agencies are in the habit of filing identification material on a comparatively small scale. The Secret Service maintains an identification file of single fingerprints of all known makers of counterfeit money and their associates arrested since 1928. The names of these offenders and their aliases are arranged alphabetically for convenient reference. The Service also maintains an identification file of regular fingerprints of persons arrested and convicted for counterfeiting, which also contains the photographs and previous criminal records of such offenders. The Enforcement Division of the Alcohol Tax Unit operates an elaborate filing and cross-reference system for identification and classification purposes. An identification file is maintained in the Bureau of Narcotics. Included are the fingerprints, photographs, and criminal records of persons arrested for violation of the federal narcotics laws. The field offices of the Customs Agency Service, including the Customs Patrol, maintain identification files of individuals and also indexes of various known smuggling vessels.<sup>140</sup>

With regard to its special mission of protecting the President, the Secret Service continued, during this time, to "exercise, in general, a tactful but effective surveillance over all those who come into contact with the Chief Executive."<sup>141</sup>

The United States Coast Guard, created (38 Stat. 800) in 1915 by combining the Life-Saving Service and the Revenue Cutter Service, had a single intelligence officer attached to the Commandant's staff until prohibition era duties prompted the creation of intelligence units within field offices. The first such intelligence group was established in

<sup>138</sup> Arthur C. Millspaugh. *Crime Control By The National Government*. Washington, The Brookings Institution, 1937, p. 90; also see Whitehead, *op. cit.*, pp. 154-166.

<sup>139</sup> See Millspaugh, *op. cit.*, pp. 94-96; Whitehead, *op. cit.*, pp. 166-178.

<sup>140</sup> Millspaugh, *op. cit.*, pp. 92-93.

<sup>141</sup> *Ibid.*, p. 116.

the New York office in 1930 with San Francisco, Mobile, and Boston being favored with intelligence personnel during the next four years. In 1936 the Coast Guard not only obtained (48 Stat. 1820) general criminal law-enforcement powers, but also created an Intelligence Division at its Washington headquarters.<sup>142</sup>

The purpose of these special intelligence field units was largely to monitor radio communications between ships hovering outside the 12-mile limit laden with illegal liquor and distilled spirits and their land-based accomplices.

The operation was directed from clandestine shore radio stations, but since the smugglers were aware that the radio messages could be intercepted, they communicated the time and place of rendezvous between speedboats and supply vessels by way of complex codes. Obviously, if the Coast Guard could break the ever-changing codes in a hurry, it could catch up with the liquor-laden speedboats much more effectively than through a blind search of the coast line.

By the spring of 1927, an enormous number of code messages had accumulated on the desk of the one-man intelligence office at Coast Guard headquarters. The secret communications had been intercepted on both the Atlantic and Pacific coasts and the volume was increasing daily. At that point, an expert cryptanalyst, Mrs. Elizabeth Smith Friedman, was brought into the Coast Guard to solve the hundreds of messages on file. Within two months, she had reduced the mass of coded messages from unknown to known. It was then that the Coast Guard decided to launch an intelligence service based on fast translation of whatever secret messages fell into its hands.<sup>143</sup>

The Coast Guard's expert was the wife of William F. Friedman, the man who directed the MAGIC task force destined to break the Japanese "purple" code. As a consequence of her efforts, the Coast Guard, prior to World War II, maintained an intelligence staff of investigators and cryptanalysts which did not exceed 40 individuals during the 1930s.<sup>144</sup>

And within the Bureau of Internal Revenue there was the Intelligence Unit which one contemporary account described, saying:

The Intelligence Unit is located in the immediate office of the Commissioner of Internal Revenue. At the end of 1936 the Unit consisted of three divisions: (1) the Personnel, Enrollment, and Records Divisions; (2) the Fraud Division; and (3) the Field Districts. The district were fifteen in number; and the field force on June 30, 1936 numbered 196 men.

In addition to the investigation of violations of internal revenue laws, the Intelligence Unit is concerned with serious infractions of disciplinary rules or regulations on the part of officials and employees of the Bureau of Internal Revenue; and, when directed by the Secretary of the Treasury, the Unit investigates alleged irregularities by officials and employees

<sup>142</sup> See Ottenberg, *op. cit.*, pp. 136-137.

<sup>143</sup> *Ibid.*, p. 136.

<sup>144</sup> *Ibid.*, p. 137.

of other branches of the Treasury Department. In addition, a large part of the work of the Unit relates to investigations of applicants for positions in the Bureau and in certain other branches of the Department. To the Unit is also assigned the investigation of applicants for admission to practice before the Treasury Department as attorneys and agents, and the investigation of charges against enrolled attorneys and agents.<sup>145</sup>

These were the intelligence forces engaged in warfare against organized crime, racketeers, and gangsterism. But a larger scale and far more ominous warfare was in the offering as the 1930s spent themselves and international politics witnessed the arrival of totalitarianism in Europe and Asia. Adolf Hitler came to power in Germany in 1933 and in six years led that nation in rearmament, a fanatic belief in racial supremacy, dictatorial government, and a territorial expansion which included portions of Czechoslovakia, all of Austria, and threatened the Polish corridor and the Saar region. Japan, in the meantime, had colonized Manchuria (renamed Manchukuo) and Korea and continued to pressure the Chinese for more territory as troops spilled southward toward the Nanyang peninsula. While these developments occurred, the United States espoused and continued to maintain an official policy of strict neutrality with regard to diplomatic entanglement and brewing overseas hostilities. However, this position of international neutrality did not mean that the United States would not prepare for its own defense or fail to take steps to maintain its own domestic well-being during the period of crisis. If conscientious intelligence personnel were not alerted to the gravity of the world situation prior to the outbreak of war in Europe, then they soon became so informed when, one week later, on September 8, 1939, President Roosevelt declared (54 Stat. 2643) a condition of "limited" national emergency, thereby making certain extraordinary powers available to the Chief Executive and "limited" only in the sense that neither the defense of the country nor its internal economy would be placed upon a war footing.<sup>146</sup> It was a time of watching and waiting.

<sup>145</sup> Millspaugh, *op. cit.*, pp. 205-206.

<sup>146</sup> Such a proclamation had apparently been contemplated in late 1937 at the time Japanese aircraft bombed the American gunboat *Panay* on the Yangtze River in China. The desire was to seize Japanese assets and investments in the United States and to extract payment for damages. The idea for a national emergency proclamation on the matter was outlined by Herman Oliphant, a Treasury Department legal expert and close personal assistant to Treasury Secretary Henry Morgenthau who was also involved in developing the plan. Although a memorandum on the scheme reached President Roosevelt's desk, he did not implement it and there is no evidence to indicate it was consulted on the occasion of preparing the 1939 proclamation. Oliphant died in January, 1939. See John Morton Blum, *Roosevelt and Morgenthau*. Boston, Houghton Mifflin Company, 1970, pp. 225-230.

For a list of statutory powers granted under a proclamation of national emergency at this time see Frank Murphy, *Executive Powers Under National Emergency*. Washington, U.S. Govt. Print. Off., 1939. (76th Congress, 2d session. Senate. Document No. 133) : on the evolution and use of emergency powers generally, see U.S. Congress. Senate. Special Committee on National Emergencies and Delegated Emergency Powers. *A Brief History of Emergency Powers in the United States* by Harold C. Relyea. Committee print, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974.

## PART THREE

### THE NATIONAL SECURITY COLOSSUS (1939-75)

The calendar recorded the completion of a decade, but the events of 1939 would mark the passage of an era. The world stood watching, transfixed by what Winston Churchill called "the gathering storm," awaiting the final climactic acts in what he described as "another Thirty Years' War."<sup>1</sup> Hitler had been tolerated; *Der Fuehrer* had been appeased; and then, with the invasion of Poland on the first day of September, the aggression of Nazism had to be halted. While England, supported by the British empire, was destined to be Germany's primary opponent for two years prior to American entry into the European hostilities, His Majesty's Government had only recently come to a wartime posture. Production of modern fighter aircraft—the Spitfire and Hurricane types—had not gotten underway until 1937; it has been estimated that, in 1938 and the initial months of 1939, "Germany manufactured at least double, and possibly triple, the munitions of Britain and France put together, and also that her great plants for tank production reached full capacity."<sup>2</sup> Conscription was not effected in the United Kingdom until April 1939. Churchill did not form a government until May 1940, approximately nine months after the declaration of war.

The British did have some advantages, one of them being the development and deployment of radio direction-finding techniques or *radar*. Experimental stations were erected in March 1936, for aircraft detection and efforts were also made to track ships at sea utilizing this device. According to Churchill:

By 1939, the Air Ministry, using comparatively long-wave radio (ten metres), had constructed the so-called coastal chain, which enabled us to detect aircraft approaching over the sea at distances up to about sixty miles. An elaborate network of telephonic communication had been installed under Air-Marshall Dowding, of Fighter Command, linking all these stations with a central command station at Uxbridge, where the movements of all aircraft observed could be plotted on large maps and thus the control in action of all our own air forces maintained. Apparatus called *I.F.F.* (Identification Friend or Foe) had also been devised which enabled our coastal chain radar stations to distinguish British aircraft which carried it from enemy aircraft. It was found that these long-wave stations did not detect aircraft approaching at low

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<sup>1</sup> For Churchill's own account of events leading to the outbreak of World War II see Winston S. Churchill. *The Gathering Storm*. Boston, Houghton Mifflin Company, 1948.

<sup>2</sup> *Ibid.*, p. 336.

heights over the sea, and as a counter to this danger a supplementary set of stations called *C.H.L.* (Chain Stations Home Service Low Cover) was constructed, using much shorter waves (one and a half metres) but only effective over a short range.<sup>3</sup>

In June 1938, Churchill was introduced to another detection technique, the *Asdics*, "the name which described the system of groping for submarines below the surface by means of sound waves through the water which echo back from any steel structure they met."<sup>4</sup> This process also stood ready for application at the time when open warfare erupted on the Continent.

But, while these technological innovations would soon be replicated by Germany, Britain obtained one inestimable intelligence advantage over the Nazis which has only recently been publicly revealed. In 1938, through the intervention of a Polish mechanic just fired from the production facility in eastern Germany, British intelligence learned that the Nazis were developing an improved Enigma mechanical cipher process. Soon the Polish Secret Service proved successful in purloining one of the machines. By the eve of war, the British had mastered the operation of the device and its resultant code. Simultaneously, Germany, unaware of the British intelligence advantage, put the new Enigma process into service and utilized it all during the war.<sup>5</sup>

### *I. Neutral America*

With the outbreak of hostilities on the Continent, the United States remained in a state of peace and qualified neutrality. But a policy of detachment from international conflict did not signify that American officials were unaware that the nation's territory, resources, and politics were subject to penetration and exploitation by the European belligerents. During his first term as President, Franklin D. Roosevelt had become sufficiently concerned about the traffickings of Fascists and Communists in the country that he had urged Federal Bureau of Investigation Director J. Edgar Hoover to begin probing the activities of these ideologues.<sup>6</sup>

Late in 1938, President Roosevelt had approved a \$50,000 appropriation for the FBI to conduct espionage investigations (a sum later raised by Congress to \$300,000). Hoover regarded this authorization of funds by the President as giving primary responsibility in the civilian field to the FBI. No similar appropriation was earmarked for any other nonmilitary investigative agency. As a result, the FBI and the War Department's Military Intelligence Division worked out a cooperative program, with approval of the Office of Naval Intelligence, to exchange information in subversive investigations. This arrangement was approved in principle by the new Attorney General, Frank Murphy. On February 7, 1939, the

<sup>3</sup> *Ibid.*, pp. 155-156.

<sup>4</sup> *Ibid.*, p. 163.

<sup>5</sup> Further details on the breaking of the German code and its use during the war may be found in F. W. Winterbotham, *The Ultra Secret*. New York, Harper and Row, 1974.

<sup>6</sup> See Don Whitehead, *The FBI Story*. New York, Pocket Books, 1958; first published 1956, pp. 188-197.

Assistant to the Attorney General, Joseph B. Keenan, informed other investigative agencies of the agreement. He asked that they send any information regarding espionage or subversion to the FBI. Hoover advised his special agents that Keenan's letter meant "all complaints relating to espionage, counterespionage, and sabotage cases should be referred to the Bureau, should be considered within the primary jurisdiction of the Bureau, and should, of course, receive preferred and expeditious attention."<sup>7</sup>

Keenan's letter elicited angry reactions from the other various Federal investigative agencies, protesting both the coordination plan and the usurpation of aspects of their jurisdiction by the FBI. Assistant Secretary of State George S. Messersmith called a conference with War, Navy, Treasury, Post Office, and Justice Department (but not FBI) representatives and announced that the President had selected him to coordinate probes of foreign agents. When this assertion could not be substantiated, Messersmith reversed his position, advocating that espionage investigations be divided among the various agencies.<sup>8</sup>

Hoover felt that responsibility should be concentrated and a pattern of close cooperation established. War and Navy agreed: their intelligence units had already asked the FBI to handle "within the United States and its territories" the civilian aspects of such espionage investigations as they were conducting from the military angle. The State Department, however, felt that its Office of Security must keep unshared control over "sensitive" information—because of its extreme delicacy and its relationship to foreign-policy decisions.

One fact which appears to have weighted the scales in favor of a coordinated plan was that nobody wanted a repetition of the bungling which had, during World War I, resulted from snarled lines of responsibility. Another was that, without coordination, various federal bodies might all be keeping tabs on the same individual, each from the angle of its own work, without the pieces ever being put together to form a pattern.<sup>9</sup>

Ultimately, it was the President who concluded that espionage, counter-espionage, and sabotage information had to be coordinated. Accordingly, the following directive was issued on June 26, 1939, to members of the Cabinet.

It is my desire that the investigation of all espionage, counterespionage, and sabotage matters be controlled and handled by the Federal Bureau of Investigation of the Department of Justice, the Military Intelligence Division of the War Department, and the Office of Naval Intelligence of the Navy Department. The directors of these three agencies are to function as a committee to coordinate their activities.

<sup>7</sup> *Ibid.*, p. 198.

<sup>8</sup> *Ibid.*

<sup>9</sup> Harry and Bonaro Overstreet. *The FBI In Our Open Society*. New York, W. W. Norton and Company, 1969, pp. 85–86.

No investigations should be conducted by any investigative agency of the Government into matters involving actually or potentially any espionage, counterespionage, or sabotage, except by the three agencies mentioned above.

I shall be glad if you will instruct the heads of all other investigative agencies than the three named, to refer immediately to the nearest office of the Federal Bureau of Investigation any data, information or material that may come to their notice bearing directly or indirectly on espionage, counterespionage, or sabotage.

This was subsequently followed by another presidential directive pertaining to F.B.I. intelligence responsibilities, issued September 6, a few days after formal declarations of war had been made by the European powers. It said:

The Attorney General has been requested by me to instruct the Federal Bureau of Investigation of the Department of Justice to take charge of investigative work in matters relating to espionage, sabotage, and violations of the neutrality regulations.

This task must be conducted in a comprehensive and effective manner on a national basis, and all information must be carefully sifted out and correlated in order to avoid confusion and irresponsibility.

To this end I request all police officers, sheriffs, and all other law enforcement officers in the United States promptly to turn over to the nearest representative of the Federal Bureau of Investigation any information obtained by them relating to espionage, counterespionage, sabotage, subversive activities, and violations of the neutrality laws.

On September 8, President Roosevelt declared (54 Stat. 2643) a national emergency within the nation, thereby granting extraordinary powers to the Executive short of a condition of war.<sup>10</sup>

Four months later, on January 5, 1940, Hoover told the [House] Subcommittee on Appropriations about the steps he had taken to ready the Bureau for its intelligence function, and also about the consequences of this new assignment and the outbreak of war in Europe as measured in terms of workload.

The field offices which had been requested earlier by Army and Navy Intelligence had been opened in the Canal Zone, Puerto Rico, and the Philippines. Field offices had been opened, also, near six large shipping centers or military bases: in Albany, Baltimore, Savannah, Grand Rapids, Phoenix, and San Diego.

With an eye to preventing espionage and sabotage, the Army and Navy had asked the FBI to assume jurisdiction for them over "plant production activities" in places that

<sup>10</sup> See Frank Murphy, *Executive Powers Under National Emergency*. Washington, U.S. Govt. Print. Off., 1939. (76th Congress, 2d session. Senate. Document No. 133).

manufactured articles for their use. A procedure which involved no policing, but which was educational and consultative, was currently being applied in 540 plants; and it was capable of expanding to reach as many as 12,000 in "a time of greater emergency." Most plant owners had welcomed it and were giving "excellent cooperation."

At Washington headquarters, a General Intelligence Division—forerunner of today's Domestic Intelligence Division—had been created to coordinate and supervise all work related to "espionage, sabotage, and other subversive activities and violations of the neutrality regulations." Its Translation Section made available for use the substance of subversive foreign-language "communications, documents, and papers." Its Code Section broke down codes and decoded intercepted messages.

Also, special investigations were being made of persons reported to be active in "any subversive activity or in movements detrimental to the internal security." With reference to those who might have to be more fully investigated in the event of an acute national emergency, the results of the special investigations were being kept on file.<sup>11</sup>

Still, in many other regards, the American intelligence community was insufficient to actual needs during the twilight prior to the nation's entry into the world war. As one authority has observed:

As late as 1938 army counterintelligence in the United States and its possessions abroad consisted of no more than three officers and eighteen agents, exactly one of whom spoke a foreign language. Even worse, the limited numbers involved in intelligence and counterintelligence included many who had neither the qualifications nor the feel for intrigue. Frequently career naval and air officers who demonstrated no special aptitude in other branches of service life were relegated to intelligence work simply to be got rid of. In 1939, despite memories of the substantial American commitment in the First World War and an awareness that a new war was threatening to follow the earlier pattern, the national secret services amounted to very little.<sup>12</sup>

On May 27, 1941, the President issued (55 Stat. 1647) a second proclamation of national emergency, saying, in part:

I have said on many occasions that the United States is mustering its men and its resources only for purposes of defense—only to repel attack. I repeat that statement now. But we must be realistic when we use the word "attack;" we have to relate it to the lightning speed of modern warfare.

Some people seem to think that we are not attacked until bombs actually drop in the streets of New York or San Francisco or New Orleans or Chicago. But they are simply

<sup>11</sup> Overstreet, *op. cit.*, pp. 89–90.

<sup>12</sup> Richard Wilmer Rowan with Robert G. Deindorfer, *Secret Service: Thirty-Three Centuries of Espionage*. London, William Kimber, 1969, p. 613.

shutting their eyes to the lesson that we must learn from the fate of every Nation that the Nazis have conquered.

The attack on Czechoslovakia began with the conquest of Austria. The attack on Norway began with the occupation of Denmark. The attack on Greece began with occupation of Albania and Bulgaria. The attack on the Suez Canal began with the invasion of the Balkans and North Africa, and the attack on the United States can begin with the domination of any base which menaces our security—north or south.

Nobody can foretell tonight just when the acts of the dictators will ripen into attack in this hemisphere and us. But we know enough by now to realize that it would be suicide to wait until they are in our front yard.<sup>13</sup>

The watching and waiting were over. America was preparing for war. Seven months later war was a reality.

## *II. Attack*

On Sunday morning, December 7, 1941, Japanese aircraft attacked American military and naval installations at Pearl Harbor in Hawaii. The surprise engagement lasted approximately two hours; resolution of the Pacific conflict would occur four years later with the arrival of the atomic age. Simultaneous with the raid on Oahu, the Japanese launched assaults on the Philippines, Guam, and Midway Island. These events tragically condemned the pitiful condition of American intelligence efforts. The following day Congress declared war on Japan. Three days later, the United States extended the declaration to Germany and Italy.

The initial months of the Pacific conflict were desperate and devastating for American forces. At Pearl Harbor, 19 ships were sunk or disabled; about 150 planes were destroyed; 2,335 soldiers and sailors were killed and 68 civilians perished. The Japanese seized Guam (December 13) and Wake Island (December 22). The Philippine invasion (December 10) repelled the American defenders with Manila and Cavite soon falling to the Japanese (January 2). After a siege of more than three months endurance, Bataan collapsed (April 9) and American forces withdrew to Corregidor Island where 11,500 ultimately were forced to surrender (May 6) to the Japanese.

The costly Battle of the Java Sea (February 27–March 1) traded vital naval war material and precious lives for time; having regrouped its forces, the Navy halted the Japanese advance in the Battle of the Coral Sea (May 7–8), the first engagement in history in which surface ships did not directly destroy each other as all fighting was done by carrier-based aircraft. A month later, in the Battle of Midway, the Japanese suffered their first major defeat—4 aircraft carriers sunk and 275 planes lost—and the tide of the Pacific war began turning against Nippon.

American forces did not actively join in the offensive against Germany and Italy until 1942. The first independent United States bomb-

<sup>13</sup> Samuel I. Rosenman, comp. *The Public Papers and Addresses of Franklin D. Roosevelt: 1941 Volume, The Call to Battle Stations*. New York, Harper and Brothers, 1950, pp. 188–189.

ing raid in Europe was conducted (August 17) by the Eighth Air Force from England in an assault upon the railroad yards at Rouen. By autumn, British and American troops under the command of General Dwight D. Eisenhower executed Operation Torch with landings (November 8) in North Africa. By the new year, Eisenhower was appointed (February 6) commander in chief of all allied forces in Africa and by the spring (May 13) had succeeded in liberating that continent. Out of this campaign came the strategic advantage for the invasion of Italy (September 3-9) and recognition of Eisenhower, soon transferred (January 16, 1944) to command of Allied Expeditionary Forces in London, as a brilliant organizer and leader of the diverse allied armies. Six months after assuming command of the European Theater, Eisenhower was executing (June 6) Operation Overload, the invasion of France along the Normandy peninsula. It was the beginning of the end of the Nazi empire.

During the spring and summer months of 1945, World War II came to a halt. On May 1 the provisional German government announced Hitler was dead, a suicide in the ruins of Berlin. An instrument of surrender was signed at Allied headquarters at Reims on May 7; V-E Day, the formal end of the war in Europe, occurred the following day; and the German surrender was ratified in Berlin on May 9. Three months later, United States aircraft dropped atomic devices on Hiroshima (August 6) and Nagasaki (August 10). Agreement as to the conditions for Japan's surrender was achieved on August 14; V-J Day, the formal end of war in the Pacific, occurred the following day; and the Japanese surrender was finalized on September 2. Official termination of the declaration of war against Germany took place on October 19, 1951 (65 Stat. 451); official termination of war with Japan came on March 20, 1952, with the Senate ratification of the treaty of peace.

### *III. Office of Strategic Services*

Although various defense and civilian departments and agencies of the Federal Government maintained units for intelligence purposes during World War II, it was during this period of international tumult that the first centralized intelligence structure came into existence. The man proposing the new intelligence entity was William J. Donovan, a much decorated hero of World War I, an attorney, a Republican, an internationalist, and an ardent foe of totalitarianism.

President Roosevelt welcomed the suggestion of a single agency which would serve as a clearinghouse for all intelligence, as well as an organ of counterpropaganda and a training center for what were euphemistically called "special operations." and invited Colonel Donovan to be its head. At first Donovan was reluctant. His World War I antipathy to desk generalship was still strong, and though he was now fifty-eight he preferred to lead a combat division; but the prospect of organizing a unified intelligence, sabotage and subversive warfare unit, the first in American history, was most tempting. After a lengthy discussion with the Presi-

dent, he agreed to form the new agency, under the somewhat misleading title of Coordinator of Information.<sup>14</sup>

Born in Buffalo, New York, on New Year's Day, 1883, William Joseph Donovan's paternal grandparents had immigrated to the United States from Ireland in about 1840. His father sold real estate at one time and later operated an insurance business. After attending St. Joseph's Collegiate Institute and Niagara University (B.A., 1905), William studied at Columbia University (LL.B., 1907) and was admitted to the New York bar in 1908. Four years later he formed his first law partnership and began his military career, enlisting in the 1st Cavalry of the New York National Guard. He saw nine months of active duty along the Rio Grande during the Mexican campaign in 1916. When the United States entered the European hostilities the following year, Donovan was assistant chief of staff of the 27th Division of the New York National Guard. With the formation of the 42nd "Rainbow" Division, he was assigned to the 165th Infantry and subsequently became a colonel with the Fighting 69th Regiment. Wounded three times during twenty-one months of active service overseas, Donovan became one of the most decorated soldiers of the Great War. His own government awarded him the Congressional Medal of Honor, the Distinguished Service Cross, and the Distinguished Service Medal. He was the only member of the armed forces to receive these three cherished decorations during World War I.

In the summer of 1919, returned to civilian life and about to resume his law practice in Buffalo, Donovan and his wife of five years left the United States on a long-deferred honeymoon to Japan. It was then that he began his intelligence activities.

They had relaxed in Tokyo but a few days when the American ambassador, Roland Morris, called Donovan on urgent business. Morris was about to depart for Siberia to evaluate the reportedly unstable status of the White Russian government at Omsk, headed by Admiral Alexander Kolchak, and advise the State Department whether the Kolchak regime should be supported by the United States. He needed someone with Donovan's background and training to accompany him on his confidential mission. Ruth Donovan reconciled herself to what would become a pattern of similar missions over the next forty years.<sup>15</sup>

A variety of other government positions soon beckoned Donovan. He became a U.S. Attorney for the Western District of New York in 1922. Shortly thereafter he served as a delegate to a Canadian-American customs conference held in Ottawa, which produced a treaty of cooperation in preventing international crimes. In 1924 Donovan was appointed Assistant Attorney General in charge of Federal criminal matters; the following year he became the assistant

<sup>14</sup> Corey Ford. *Donovan of OSS*. Boston, Little, Brown and Company, 1970, p. 108.

<sup>15</sup> *Ibid.*, p. 59.

to Attorney General John G. Sargent, a position he held until 1929. Returning to New York, Donovan acted as counsel for the panel revising the state laws pertaining to the Public Service Commission. During the 1930's he traveled to Ethiopia as an impartial observer of the invasion by Italy; next he was in Spain scrutinizing the development of the civil war in that land. Through friends and contacts in Europe, he kept well informed on the progress of totalitarianism on the Continent. With the outbreak of war in 1939, Donovan became a valuable operative for neutral America. In July, 1940, he went to Great Britain to observe the Blitz for Secretary of the Navy Frank Knox. Upon his return he made a vigorous effort to publicize England's ability to survive the German assault and to secure aid for the embattled British. In December he was again on a reconnaissance mission, touring Gibraltar, Malta, Egypt, Greece, Bulgaria, Yugoslavia, Turkey, Cyprus, Palestine, Spain, Portugal, and again to Great Britain.<sup>16</sup> With his observations on the military, political, and economic conditions in these nations he also offered the suggestion for creating a centralized intelligence agency. The impetus for such an organization derived not only from felt need for such an entity at the Federal level, but also from a close familiarity with the Special Operations structure of the British government.<sup>17</sup> Once the American counterpart to the British intelligence office was established, Donovan became its chief, but served from the fall of 1941 to the spring of 1943 without a government salary or an active duty military rank.<sup>18</sup>

In the summer of 1941, four months before the Japanese struck Pearl Harbor, President Roosevelt issued a directive (7 F.R. 3422-3423) designating a Coordinator of Information which said:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Army and Navy of the United States, it is ordered as follows:

1. There is hereby established the position of Coordinator of Information, with authority to collect and analyze all information and data which may bear upon national security; to correlate such information and data, and to make such information and data available to the President and to such departments and officials of the Government as the President may determine; and to carry out, when requested by the President, such supplementary activities as may facilitate the securing of information important for national security not now available to the Government.

2. The several departments and agencies of the Government shall make available to the Coordinator of Information all and any such information and data relating to national security as the Coordinator, with the approval of the President, may from time to time request.

3. The Coordinator of Information may appoint such committees, consisting of appropriate representatives of the vari-

<sup>16</sup> On Donovan's overseas observation missions see *Ibid.*, pp. 78-107.

<sup>17</sup> *Ibid.*, p. 107.

<sup>18</sup> *Ibid.*, p. 174.

ous departments and agencies of the Government, as he may deem necessary to assist him in the performance of his functions.

4. Nothing in the duties and responsibilities of the Coordinator of Information shall in any way interfere with or impair the duties and responsibilities of the regular military and naval advisers of the President as Commander in Chief of the Army and Navy.

5. Within the limits of such funds as may be allocated to the Coordinator of Information by the President, the Coordinator may employ necessary personnel and make provision for the necessary supplies, facilities, and services.

6. William J. Donovan is hereby designated as Coordinator of Information.

Dated July 11, 1941, this purposely vague directive provided Donovan with an intelligence function, which might include special actions requested by the President, and a propaganda mission. After a year of operations, it was felt that the propaganda duties of the Coordinator were inappropriate to his intelligence activities. Subsequently, on June 13, 1942, these propaganda responsibilities were transferred to the newly created (E.O. 9182) Office of War Information established within the Office for Emergency Management. By military order (7 F.R. 4469-4470) of the same date, the Coordinator's office was renamed the Office of Strategic Services and placed under the jurisdiction of the Joint Chiefs of Staff. Donovan's new charter said :

By virtue of the authority vested in me as President of the United States and as Commander-in-Chief of the Army and Navy of the United States, it is ordered as follows :

1. The office of Coordinator of Information established by Order of July 11, 1941, exclusive of the foreign information activities transferred to the Office of War Information by Executive Order of June 13, 1942, shall hereafter be known as the Office of Strategic Services, and is hereby transferred to the jurisdiction of the United States Joint Chiefs of Staff.

2. The Office of Strategic Services shall perform the following duties :

a. Collect and analyze such strategic information as may be required by the United States Joint Chiefs of Staff.

b. Plan and operate such special services as may be directed by the United States Joint Chiefs of Staff.

3. At the head of the Office of Strategic Services shall be a Director of Strategic Services who shall be appointed by the President and who shall perform his duties under the direction and supervision of the United States Joint Chiefs of Staff.

4. William J. Donovan is hereby appointed as Director of Strategic Services.

5. The Order of July 11, 1941 is hereby revoked.

Although this directive clarified the duties of Donovan's organization, it did not insure the gadfly agency's operational status.

Executive Order 9182 [divesting Donovan of propaganda production responsibilities] had insured, at least for the moment, the continuance of Donovan's controversial experiment in organized intelligence and paramilitary service; but the transfer of its jurisdiction from the President to the Joint Chiefs of Staff (which Donovan had personally requested) posed even more critical problems. Now the struggling COI had a new supervisor as well as a new name, and its functions and the extent of its authority were entirely dependent upon the decision of the JCS. This meant that all funds to operate OSS must come from Congress, primarily the House and Senate Appropriations Committees, and its budget requests must first be submitted to and approved by the gimlet-eyed Bureau of the Budget. The immediate problem of maintaining OSS during the transition period was temporarily bridged by instructions from the JCS that it should carry on as usual, pending further study of its wartime functions; but Donovan and his top staff were keenly aware that OSS faced a critical struggle to convince the Joint Chiefs and other ranking officials of the government not only that OSS should be given adequate written authority and manpower and supplies, but in fact that it should exist at all.<sup>19</sup>

Preparing his own case, Donovan, with staff assistance, drafted and redrafted a proposed OSS directive establishing the agency's operational authority. He was adamant that OSS should never be absorbed by or subject to the control of any other government office or the armed forces. In brief, OSS would assist and serve all segments of the Federal structure but would be subservient to none. His painstaking effort completed, Donovan forwarded the model directive and an explanatory memorandum to the Joint Chiefs.<sup>20</sup> His time was then consumed by preparations for Operation Torch—the invasion of North Africa—and the execution of this first assault against the totalitarian forces holding the Old World captive. Among other triumphs deriving from the incursion, the

pre-invasion charts and estimates, and the OSS-pioneered technique of keeping commanders informed of conditions ashore up to the very moment of landing, had clearly demonstrated the new agency's value; but Donovan's draft directive, submitted to the JCS before Torch, was still being debated in committee hearings. Early in December Donovan had an informal chat with his old friend Frank Knox, Secretary of the Navy. Knox was surprised to learn that so long a period had elapsed without any formal or comprehensive instructions from the Joint Chiefs, and he took up the matter with President Roosevelt, who told General George C. Marshall, chairman of the JCS: "I wish you would give Bill Donovan a little elbow room to operate in." Shortly afterward the Joint Chiefs appointed committees of high-ranking officers, including Admiral Frederick Horne and Generals Joseph T. McNarney and Albert Wedemeyer, to make a personal inspec-

<sup>19</sup> *Ibid.*, pp. 128–129.

<sup>20</sup> See *Ibid.*, p. 131.

tion of OSS and recommend what should be done. The committee promptly rendered reports (which were not made available to OSS), and on December 23, 1942, six months after it was created, the agency received its long-awaited directive, almost word for word the draft which Donovan had prepared.

In the field of intelligence, OSS was given the independent status which Donovan sought, climaxing the bitter feud with the rival service agencies. The Joint Psychological Warfare Board, on which OSS had a minority of members, was abolished by the JCS. Henceforth OSS was the sole agency of the JCS authorized to operate in the fields of intelligence, sabotage, and counterespionage, to conduct guerrilla operations, and to direct resistance groups in all enemy-occupied or controlled territory. General Marshall stated in a personal letter to Colonel Donovan, written on the same day the directive was issued:

"I regret that, after voluntarily coming under the jurisdiction of the JCS, your organization has not had smoother sailing. Nevertheless, it has rendered invaluable service, particularly with reference to the North African Campaign. I am hopeful that the new Office of Strategic Services' directive will eliminate most, if not all, of your difficulties."<sup>21</sup>

Donovan's original idea for a centralized intelligence agency had derived from his exposure to the British intelligence structure during his 1940 observation missions.<sup>22</sup> Faced with the necessity of quickly organizing an effective intelligence operation for the United States, Donovan again relied upon the British.

William Stephenson had developed an undercover organization in the United States, called British Security Coordinator (BSC), which was staffed with experienced officers; and they supplied the pioneer American agency at the outset with much of its secret intelligence. Experts in counterespionage and subversive propaganda and special operations were put at Donovan's disposal, and he was shown their methods of communicating with resistance forces behind the lines. In the early days, COI agents were trained at a school near Toronto, Canada, later a model for some of the training schools of OSS. Donovan said after the war: "Bill Stephenson and the British Intelligence Service gave us an enormous head start which we could not otherwise have had."<sup>23</sup>

With information and expertise being supplied by the British, the next task involved structuring the new intelligence entity.

Colonel Donovan brought a trained legal mind to the task of organizing his fast-growing agency—OSS was to employ some thirty thousand people by the war's end—and set it up as he would prepare a trial case, with research experts to analyze the evidence and skilled assistants to conduct the

<sup>21</sup> *Ibid.*, pp. 162-163.

<sup>22</sup> See *Ibid.*, p. 107.

<sup>23</sup> *Ibid.*, pp. 112-113.

prosecution. At the top of the chart were Donovan as director and [G. Edward] Buxton as [assistant] director, and beside them were the Planning Group and the Planning Staff. Under Donovan were his three deputy directors, with staff but not command status, who were charged with the duty of coordinating the three main OSS functions: intelligence (research and analysis, secret intelligence, counterespionage, and collateral offices), operations (sabotage, guerrilla warfare, psychological warfare, and related activities), and schools and training. A chief of services supervised the work of the offices of budget, procurement, finance, and related problems. In addition, there were some eighteen essential offices which could not be assigned effectively to any subordinate command. Thus the Security Office reported directly to Donovan, since security involved all procedures and all personnel regardless of rank. Other offices which served the entire organization were also placed under the director, including medical services, special funds, field photographic, communications, Navy and Army Commands which handled the administrative problems of OSS naval and military personnel, and a liaison office to maintain relations with other government agencies. The functions of the principal branches were:

*Research and Analysis (R&A)* To produce the economic, military, social and political studies and estimates for every strategic area from Europe to the Far East.

*Secret Intelligence (SI)* To gather on-the-spot information from within neutral and enemy territory.

*Special Operations (SO)* To conduct sabotage and work with resistance forces.

*Counterespionage (X-2)* To protect our own and Allied intelligence operations, and to identify enemy agents overseas.

*Morale Operations (MO)* To create and disseminate black [covert] propaganda.

*Operational Groups (OG)* To train and supply and lead guerrilla forces in enemy territory.

*Maritime Unit (MU)* To conduct maritime sabotage.

*Schools and Training (S&T)* In overall charge of the assessment and training of personnel, both in the United States and overseas.

Not only did this departmentalization increase the agency's effectiveness, but it helped to maintain security. Each branch of OSS had its own secret file of information, which was available to members of other branches only on an official "need to know" basis. Donovan himself was not told the real names of some of his most successful agents, nor did he seek to learn them. Complete anonymity was the best safeguard against detection by the enemy.<sup>24</sup>

<sup>24</sup> *Ibid.*, pp. 167-68.

With the establishment of the Office of Coordinator of Information a recruitment of new faces into the intelligence system was inaugurated. Most would continue their service with OSS until the end of the war.

Heading Donovan's early staff was Colonel Edward Buxton, a close friend since World War I days, who left his business in Rhode Island to become the [assistant] director of the COI. James Murphy, formerly Donovan's secretary when he was Assistant Attorney General, was made his personal assistant. Dr. William L. Langer, distinguished Coolidge professor of history at Harvard, who had seen action as a sergeant in the Argonne and at St.-Mihiel, headed the key Research and Analysis division, following the resignation of Dr. James Phinney Baxter, president of Williams College and a brilliant administrator, who served briefly as the first chief of R&A. Dr. Edward S. Mason, later director of Harvard's School of Public Administration and a prominent economist, Dean Calvin Hoover of Duke University, and the late Dr. Edward Meade of Princeton's Institute for Advanced Study, and Dr. Henry Field, curator of physical anthropology at Chicago's Field Museum, joined Donovan's expanding unit. David K. E. Bruce, later to be named U.S. ambassador to the Court of St. James's, came to Washington to head COI's Special Activities Bruce (SAB), the agency's secret intelligence branch; and M. P. Goodfellow left his newspaper business to head the sabotage branch (Special Activities Goodfellow—or SAG). (Both of these branches existed in the training stages only, since the U.S. was not yet at war.) Robert E. Sherwood, noted American playwright and an intimate of President Roosevelt assumed responsibility for the Foreign Information Service (FIS).<sup>25</sup>

When OSS was created, Sherwood became director of overseas operations at the Office of War Information. Most of the personnel staying with OSS donned uniforms and held some type of rank in the armed forces; nevertheless, they took their direction from Donovan and were not subjected to the command of the Army and Navy.

From the beginnings of COI before Pearl Harbor to the termination of OSS after V-J Day, the Research and Analysis branch was the very core of the agency. The cloak-and-dagger exploits of agents infiltrated behind the lines captured the public imagination; but the prosaic and colorless grubbing of Dr. Langer's scientists, largely overlooked by the press, provided far and away the greater contribution to America's wartime intelligence. From the files of foreign newspapers, from obscure technical journals, from reports of international business firms and labor organizations, they extracted pertinent figures and data. With infinite patience, they fitted the facts together into a mosaic of information—the raw material

<sup>25</sup> *Ibid.*, pp. 110-111.

of strategy, Donovan called it—on which the President and his Chiefs of Staff could form their operational decisions.<sup>26</sup>

The R&A branch gained sufficient prestige that other Federal agencies sought its assistance. The Board of Economic Warfare, for example, asked R&A to determine if Soviet requests for American goods under lend-lease were justified by the conditions of their economy. On this particular matter, OSS findings proved to be more accurate than those of British intelligence.<sup>27</sup>

At the start, Donovan established an R&A Board of Analysts, consisting of half a dozen scholars, each of whom took charge of some major activity and played an important role in recruiting further staff members. In this way, he was able to secure the high classifications needed to get the very best people for a general directorate. (Subsequently this Board of Analysts provided the model for the CIA Board of National Estimates, set up in 1950 by Dr. Langer for General Bedell Smith.) Due to its many-sided and brilliant staff, R&A was credited with producing the most accurate estimates made by the Allies in World War II.<sup>28</sup>

In addition to its research and analysis achievements, OSS was to prove inventive and innovative in another capacity. These were the products of the research and development unit (R&D) headed by Stanley Lovell.

Dr. Stanley Lovell, in charge of the agency's calculated mischief, was a sunny little nihilist, his spectacles twinkling and his chubby face creasing with merriment as he displayed his latest diabolic devices. This simple candle could be placed by a female agent in the bedroom of an amorous German officer. Lovell chuckled, and would burn perfectly until the flame touched the high explosive contained in the lower half of the candle. This innocent-looking plastic cylinder called the Firefly, dropped furtively into the gas tank of a car by a Maquis filling-station attendant, would explode after the gasoline had swelled a rubber retaining ring. If the vehicle were a German tank—Lovell had to pause to wipe his spectacles and dab the tears of laughter from his eyes—the occupants would be cremated before they could open the escape hatch. This anerometer, a barometric fuse attached to a length of hose packed with explosive, could be slid into the rear of the fuselage of an enemy aircraft; at five thousand feet altitude, he

<sup>26</sup> *Ibid.*, p. 148: popular accounts of OSS cloak-and-dagger activities, which were often heroic and valiant efforts, may be found in Steward Alsop and Thomas Braden, *Sub Rosa: The O.S.S. and American Espionage*, New York, Reynal and Hitchcock, 1946; and Corey Ford and Alastair McBain: *Cloak and Dagger: The Secret Story of OSS*, New York, Random House, 1946. An excellent account of OSS field operations may be found in R. Harris Smith, *OSS: The Secret History of America's First Central Intelligence Agency*, Berkeley, University of California Press, 1972.

<sup>27</sup> See Ford, *op. cit.*, p. 152: for an appreciation of the general approach of R&A to intelligence analyses, see Sherman Kent, *Strategic Intelligence for American World Policy*, Princeton, Princeton University Press, 1949.

<sup>28</sup> Ford, *op. cit.*, p. 150.

explained gleefully, the entire tail section would blow off. This limpet, fastened by a powerful magnet to the side of a ship below waterline, would detonate when the magnesium alloy was eroded by salt water, long after the saboteur had left the area. It was used effectively by the Norwegian underground to sink Nazi troop-ships in the narrow fjords of Oslo and Narvik—Lovell doubled up and slapped his knees at the thought—and sent untold thousands of German soldiers to a watery grave.<sup>29</sup>

In spite of the various intelligence accomplishments of OSS, not everyone in Washington was happy about the creation and existence of Donovan's organization.

J. Edgar Hoover, perhaps fearing that COI would steal the spotlight long enjoyed by his FBI, was not satisfied until he had Roosevelt's word that Donovan would be expressly forbidden to conduct any espionage activities within the United States. Nelson Rockefeller, Chairman of the State Department's Committee to Coordinate Inter-American Affairs (once called, even more pretentiously, the Committee on Cultural and Commercial Relations Between North and South America) echoed the FBI in seeking assurance that Donovan would likewise be excluded from his established bailiwick in the southern hemisphere. Major General George V. Strong, later chief of Army G-2, could not understand that G-2 represented tactical military intelligence and COI strategic intelligence of all kinds; and Strong therefore felt there was a definite conflict of interests. He vigorously fought Roosevelt's proposal that Colonel Donovan should be returned to active duty with the rank of major general—a grade more commensurate with his new duties—and offered the irrelevant argument that "Wild Bill" was too independent to be a team player. "If there's a loose football on the field," Strong protested, "he'll pick it up and run with it." Isolationist senators such as Burton Wheeler and Robert Taft likewise opposed Donovan's advance in rank, and Taft rose on the Senate floor to warn his colleagues of the danger of White House control of intelligence and investigative units. Realizing that the suggested promotion might cause a prolonged Congressional fight, Roosevelt yielded, at least for the moment, and Donovan took over as head of COI in a civilian capacity.<sup>30</sup>

Though the President granted the FBI exclusive intelligence jurisdiction over South and Latin America, OSS still made forays into the region.<sup>31</sup> The rivalry between the two agencies also exemplified itself in other ways.

<sup>29</sup> *Ibid.*, p. 170; R&D also produced or at least considered a number of bizarre and totally impractical schemes and devices; see Stanley P. Lovell, *Of Spies and Stratagems*. Engelwood Cliffs, Prentice-Hall, 1963.

<sup>30</sup> Ford, *op. cit.*, p. 109.

<sup>31</sup> See Smith, *op. cit.*, p. 20.

In January 1942 Donovan's officers secretly penetrated the Spanish embassy in Washington and began photographing the code books and other official documents of Franco's pro-Axis government. Hoover learned of this operation and was angered because the COI men were invading his operational territory. The FBI did not bother to register a formal protest. While the COI officers were making one of their nocturnal entries into the embassy in April, two FBI squad cars followed. When Donovan's men were in the building, the cars pulled up outside the embassy and turned on their sirens. The entire neighborhood was awakened and the COI interlopers were sent scurrying. Donovan protested this incredible FBI action to the White House. Instead of reprimanding Hoover, Roosevelt's aides ordered the embassy infiltration project turned over to the Bureau.<sup>32</sup>

OSS was also restricted from entering the Pacific Theater (but not Asia) by General Douglas MacArthur. The agency's intelligence materials were utilized by MacArthur in his invasion of and return to the Philippines; Admiral Chester Nimitz had a small OSS maritime unit for underwater demolition action with his fleet; and another OSS force delivered special weapons to the Tenth Army for the Okinawa landing, but Donovan's agents were otherwise unauthorized to operate in MacArthur's command area.<sup>33</sup>

General MacArthur's intransigence is difficult to explain. His personal relationship with Donovan was cordial, they had served together in the Rainbow Division during the First World War, and both were highly decorated heroes. Donovan entertained the deepest regard for MacArthur's brilliance as a military strategist, and never offered any reason for his adamant opposition to OSS; but members of the agency had their private theories. Some speculated that [Charles] Willoughby [MacArthur's intelligence chief], anxious to insure full credit for his intelligence unit, feared that "Wild Bill" would grab the spotlight. Others held that MacArthur, a West Pointer and firm believer in the chain of command, objected to the presence of a uniformed civilian acting independently in his theater. A few intimates, who knew Donovan's own determination, suspected that it was the inevitable clash between two strong personalities, equally fixed in purpose.<sup>34</sup>

In spite of these jurisdictional limitations placed on OSS by the FBI and the Army, the agency gathered its intelligence materials from all over the globe by whatever means available. Agreements were negotiated regarding "special operations" by OSS at the outset of efforts to liberate Europe, beginning with the North African invasion.

In planning the invasion, political problems posed themselves immediately. Roosevelt secured Churchill's agreement

<sup>32</sup> *Ibid.*

<sup>33</sup> See Ford, *op. cit.*, p. 253.

<sup>34</sup> *Ibid.*, pp. 253-254; as commander of United Nations troops in Korea in 1951, MacArthur also refused to allow the Central Intelligence Agency to operate in his theater.

that the landings, code-named TORCH, should be a predominantly American operation (with the United States handling the diplomatic aspects). The President and his advisors believed that anglophobic French commanders in North Africa would offer less resistance to a landing led by American troops with British forces remaining in the background.

At the secret service level, a similar agreement had been reached in June 1942 as part of a comprehensive operational accord with the British SOE [Special Operations Executive], negotiated in London by OSS Colonels Preston Goodfellow . . . and Garland Williams, an official of the New York Narcotics Commission. In the first of several war-time delineations of "spheres of influence" for clandestine activity, OSS took primary responsibility for subversion in North Africa (as well as China, Korea, the South Pacific, and Finland). The British, in turn, assumed temporary predominance in India, West Africa, the Balkans, and the Middle East. Western Europe was considered joint territory.<sup>35</sup>

Such agreements, of course, were of momentary importance and required renegotiations as new areas came under liberation and whenever the grand strategists shifted their attack objectives and designs for routing the enemy. In the midst of such planning, old jealousies and new antagonism flared against OSS.

Back in the early days of COI, London had been most cooperative, sharing its training facilities and operational techniques with the struggling new agency. As OSS grew stronger, however, SIS [the British Secret Intelligence Service] showed an increasing reluctance to accept its American counterpart as a full and equal partner.

Britain's position was enhanced by the Theater Command's lack of sympathy with OSS objectives. Throughout 1942-43, the practice of ETOUSA (European Theater of Operations) was to rely mainly on British Intelligence and ignore OSS offers of assistance, thus inadvertently aiding SIS efforts to subordinate the younger American organization. The U.S. Theater Command staff based their policy on Britain's greater experience in the field; but they overlooked the fact that OSS could provide new and different information to supplement or even refute the intelligence from other sources, and would serve long-range U.S. strategic needs best if it remained independent.

The issue came to a head in September of 1943 when ETOUSA refused to give OSS authority to conduct espionage on the European continent unless it operated under British supervision. General Donovan insisted that freedom from the knowledge and influence of any outside power was essential to the success of his Secret Intelligence branch, and he strongly opposed the SIS efforts to force an amalgamation. In an appeal to the Joint Chiefs of Staff, he pointed out that Britain's proposal "suggests 'coordination' and 'agree-

<sup>35</sup> Smith, *op. cit.*, pp. 51-52.

ment,' but as employed here the word 'coordination' means 'control' and 'agreement' means 'dependence.' . . . This attempt of the British, by reason of their physical control of territory and communication, to subordinate the American intelligence and counterintelligence service is shortsighted and dangerous to the ultimate interests of both countries.'

As a result of his arguments, a new JCS directive on October 27, 1943 gave OSS full and unqualified authority to operate on the Continent, ETOUSA accordingly reversed its position, and the independence of American long-range espionage was assured. Rather than engage in destructive competition, the British yielded. OSS Special Operations (SO) and Counterintelligence (X-2) greatly strengthened their ETO and were given access to the extensive files which Britain had taken decades to develop. In turn, OSS provided funds, manpower, resistance supplies, three sub-chasers for Norwegian operations, and a squadron of Liberator bombers for airdrops to occupied countries. Thenceforth, throughout the war American and British intelligence worked in productive though discreet partnership.<sup>36</sup>

On occasion, unusual organization schemes facilitated Donovan's efforts at maintaining an effective intelligence operation. Early in the war, influential German emigres to the United States were recruited by Shortwave Research, Inc., a COI front, to broadcast anti-Nazi messages to their homeland.<sup>37</sup> To retain an OSS foothold in China, Donovan found it necessary to agree to creating the Sino-American Cooperative Organization, headed by Chiang Kai-shek's feared and hated secret police chief, Tai Li, described by one OSS report as "not the Admiral Canaris of China, but the Heinrich Himmler."

The deputy director of the unit was Captain Milton "Mary" Miles who, while chief of OSS Far Eastern operations and commander of Navy Group/China, had befriended Tai Li. The scheme was harshly criticized by the theater commander, General Joseph Stilwell and his highly experienced State Department political advisors, John Paton Davies, Jr. and John Service. The new organization soon began to disintegrate; Miles became hostile toward OSS headquarters and autocratic in terms of controlling OSS field operations in China. Eventually, Donovan personally intervened, fired Miles, and challenged Tai Li to try and halt OSS agents operating in his country. Donovan also enlisted the help of General Claire Chennault in establishing independence for OSS operations in China and championing the agency's activities.<sup>38</sup>

And in the middle of neutral Switzerland, attached to the American Legation at Bern as a Special Assistant to the Minister, was Allen Dulles, an OSS master agent literally surrounded by the Nazi regime. Dispatched in November 1942, Dulles was instrumental in intelligence gathering and directing special operations within enemy territory. From February to May 1945, he served as the negotiator and conciliator in efforts which led to the unconditional surrender of close to a

<sup>36</sup> Ford, *op. cit.*, pp. 165-166.

<sup>37</sup> Smith, *op. cit.*, p. 405n.

<sup>38</sup> See Ford, *op. cit.*, pp. 265-275; Smith, *op. cit.*, pp. 242-285.

million men occupying Northern Italy and the termination of hostilities on that front.<sup>39</sup>

In the autumn of 1944, as Allied troops continued to roll across Europe and press closer to Japan in the Pacific, President Roosevelt sought Donovan's thinking on the matter of a permanent intelligence organization for the period after the end of the war. In response to the Chief Executive's request, Donovan offered the following classified memorandum:

NOVEMBER 18, 1944.

Pursuant to your note of 31 October 1944, I have given consideration to the organization of an intelligence service for the post-war period.

In the early days of the war, when the demands upon intelligence services were mainly in and for military operations, the OSS was placed under the direction of the JCS.

Once our enemies are defeated the demand will be equally pressing for information that will aid us in solving the problems of peace.

This will require two things:

1. That intelligence control be returned to the supervision of the President.

2. The establishment of a central authority reporting directly to you, with responsibility to frame intelligence objectives and to collect and coordinate the intelligence material required by the Executive Branch in planning and carrying out national policy and strategy.

I attach in the form of a draft directive (Tab A) the means by which I think this could be realized without difficulty or loss of time. You will note that coordination and centralization are placed at the policy level but operational intelligence (that pertaining primarily to Department action) remains within the existing agencies concerned. The creation of a central authority thus would not conflict with or limit necessary intelligence functions within the Army, Navy, Department of State and other agencies.

In accordance with your wish, this is set up as a permanent long-range plan. But you may want to consider whether this (or part of it) should be done now, by executive or legislative action. There are common-sense reasons why you may desire to lay the keel of the ship at once.

The immediate revision and coordination of our present intelligence system would effect substantial economies and aid in the more efficient and speedy termination of the war.

Information important to the national defense, being gathered now by certain Departments and agencies, is not being used to full advantage in the war. Coordination at the strategy level would prevent waste, and avoid the present confusion that leads to waste and unnecessary duplication.

Though in the midst of war, we are also in a period of transition which, before we are aware, will take us into the

<sup>39</sup> See Ford, *op. cit.*, pp. 291-295; also see Allen Dulles, *The Secret Surrender*. New York, Harper and Row, 1966.

tumult of rehabilitation. An adequate and orderly intelligence system will contribute to informed decisions.

We have now in the Government the trained and specialized personnel needed for the task. This talent should not be dispersed.

WILLIAM J. DONOVAN, *Director.*

TAB A

Substantive Authority Necessary in Establishment of a  
Central Intelligence Service

In order to coordinate and centralize the policies and actions of the Government relating to intelligence:

1. There is established in the Executive Office of the President a central intelligence service, to be known as the \_\_\_\_\_, at the head of which shall be a Director appointed by the President. The Director shall discharge and perform his functions and duties under the direction and supervision of the President. Subject to the approval of the President, the Director may exercise his powers, authorities and duties through such officials or agencies and such manner as he may determine.

2. There is established in the \_\_\_\_\_ an Advisory Board consisting of the Secretary of State, the Secretary of War, the Secretary of the Navy, and such other members as the President may subsequently appoint. The Board shall advise and assist the Director with respect to the formulation of basic policies and plans of the \_\_\_\_\_.

3. Subject to the direction and control of the President, and with any necessary advise and assistance from the other Departments and agencies of the Government, the \_\_\_\_\_ shall perform the following functions and duties:

(a) Coordination of the functions of all intelligence agencies of the Government, and the establishment of such policies and objectives as will assure the integration of national intelligence efforts;

(b) Collection either directly or through existing Government Departments and agencies, of pertinent information, including military, economic, political and scientific, concerning the capabilities, intentions and activities of foreign nations, with particular reference to the effect such matters may have upon the national security, policies and interests of the United States;

(c) Final evaluation, synthesis and dissemination within the Government of the intelligence required to enable the Government to determine policies with respect to national planning and security in peace and war, and the advancement of broad national policy;

(d) Procurement, training and supervision of its intelligence personnel;

(e) Subversive operations abroad;

(f) Determination of policies for an coordination of facilities essential to the collection of information under subparagraph "(b)" hereof; and

(g) Such other functions and duties relating to intelligence as the President from time to time may direct.

4. The \_\_\_\_\_ shall have no police or law-enforcement functions, either at home or abroad.

5. Subject to Paragraph 3 hereof, existing intelligence agencies within the Government shall collect, evaluate, synthesize and disseminate departmental operating intelligence, herein, defined as intelligence required by such agencies in the actual performance of their functions and duties.

6. The Director shall be authorized to call upon Departments and agencies of the Government to furnish appropriate specialists for such supervisory and functional positions within the \_\_\_\_\_ as may be required.

7. All Government Departments and agencies shall make available to the Director such intelligence material as the Director, with the approval of the President, from time to time may request.

8. The \_\_\_\_\_ shall operate under an independent budget.

9. In time of war or unlimited national emergency, all programs of the \_\_\_\_\_ in areas of actual or projected military operations shall be coordinated with military plans and shall be subject to the approval of the Joint Chiefs of Staff. Parts of such programs which are to be executed in a theater of military operations shall be subject to the control of the Theater Commander.

10. Within the limits of such funds as may be made available to the \_\_\_\_\_, the Director may employ necessary personnel and make provision for necessary supplies, facilities and services. The Director shall be assigned, upon the approval of the President, such military and naval personnel as may be required in the performance of the functions and duties of the \_\_\_\_\_. The Director may provide for the internal organization and management of the \_\_\_\_\_ in such manner as he may determine.<sup>40</sup>

Three months later, on February 9, 1945, the isolationist press triumvirate—the *Chicago Tribune*, the *New York Daily News*, and the *Washington Times-Herald*—carried an article by Walter Trohan characterizing the proposed agency as an "all-powerful intelligence service to spy on the postwar world" and one which "would supercede all existing Federal police and intelligence units." The column continued with full quotations from the memorandum and draft directive prepared by Donovan. The effect of the story was to raise a multiplicity of fears about such an entity being established and to also unleash a profusion of jealousies among the existing Federal intelligence and investigative units. The source of the leak regard-

<sup>40</sup> Ford, *op. cit.*, pp. 340-342.

ing Donovan's communique to the President was thought to be FBI Director Hoover.<sup>41</sup>

A second blow was delivered to OSS in April when the man who had urged its creation and had remained appreciative of its mission vis-a-vis the other intelligence functionaries died suddenly in Warm Springs, Georgia. In many ways, the war, due to end in four months, claimed one more fatality in the case of Franklin D. Roosevelt. But it also seized a President who understood and championed the unique intelligence activities of OSS. The new Chief Executive would be far less appreciative.

It must be conceded, in fairness to Harry Truman, that he had never been taken into the full confidence of President Roosevelt. Their relationship was less than full or intimate; and, deliberately or due to carelessness, he had failed to brief his Vice-President on the dangers of an intelligence gap in the dawning atomic age. Whether it would have saved Donovan's plan for a centralized and independent postwar intelligence service is questionable. Truman was a practical politician; and he saw OSS as a political liability because it gave the opposition, both extreme right and extreme left, a chance to attack the administration. The cry was on to cut the military expenditure, to disarm, to bring the boys home. Roosevelt might have refused to yield to public pressure, but Truman could not count on the same support of the American people.<sup>42</sup>

Without consulting Donovan or the Joint Chiefs of Staff, President Truman, on September 20, directed (E.O. 9621) that OSS terminate operations effective October 1, 1945. The Bureau of the Budget, prompted by Secretary of State James F. Byrnes, insisted on relocating the R&A section of OSS within the State Department to facilitate research needs there. "At Secretary Byrnes's request, Dr. Langer came to State in 1946 for six months, to set up the intelligence unit, but the regional desks were not particularly interested at the time."<sup>43</sup> Established as the Interim Research and Intelligence Branch, the unit became the Office of Intelligence Research in 1947 and the Bureau of Intelligence and Research a decade later.

The Secret Intelligence (SI) and Counterespionage (X-2) sections were transferred to the War Department where they formed the Strategic Services Unit which, in one expert's view, "was nothing more than a caretaker body formed to preside over the liquidation of the OSS espionage network."<sup>44</sup>

Only after the integrated mechanism of OSS had been scrapped, and the majority of its trained personnel, who would have liked to continue, had drifted away in disgust, did the truth dawn on Truman that he was no longer able to obtain overseas information of the type available during

<sup>41</sup> See *Ibid.*, pp. 300-305; Smith, *op. cit.*, pp. 363-365.

<sup>42</sup> Ford, *op. cit.*, p. 312.

<sup>43</sup> *Ibid.*, p. 314n.

<sup>44</sup> Smith, *op. cit.*, p. 364.

World War II. As General Donovan had predicted, a critical intelligence gap had developed, leaving the United States far behind the other major powers. So urgent was the need for knowledge that in January, 1946, at far greater expense and effort than would have been necessary if Donovan's advice had been followed, Truman set up an intermediate National Intelligence Authority, made up of the Secretaries of State, War and Navy, and the Chief of Staff to the President. Under this agency was a so-called Central Intelligence Group (CIG), headed by Rear Admiral Sidney Souers, an acquaintance of Truman's from Missouri whose intelligence background consisted of a tour as deputy director of ONI [Office of Naval Intelligence] and who is said to have been instrumental in persuading Truman to set up the NIA and the CIG. He was to be succeeded less than six months later by Lieutenant General Hoyt Vandenburg, a capable Air Force strategist but equally lacking in intelligence experience, who in less than a year returned to the Air Force.<sup>45</sup>

While one authority credits OSS with a wartime budget of \$135 million,<sup>46</sup> another expert source has written: "From 1942 through 1945, excluding the salaries of members of the armed forces on active duty with the agency, and a substantial part of overseas logistics support, the cost of OSS averaged less than thirty-seven million a year."<sup>47</sup> While much of the agency's money was provided in unvouchered funds, there was apparently close accounting of its expenditure.

"Donovan was the first man to whom Congress made a grant of twenty-five million dollars without requiring an accounting," Dr. Langer notes. "I recall the morning when the General announced this at a staff meeting, and at once turned a cold douche on our elation. This does not mean, he said, that a single dollar is going to be spent irresponsibly, because I know when the war is over this agency will be in a very exposed position unless its record is spotless. For this reason I have asked one of the leading New York accountants to join the OSS, and he will see to it that all expenditures are accounted for to me, even though I am under no such obligation to Congress."<sup>48</sup>

However, the vigilant bookkeeping applied to OSS expenditures does not seem to have extended to the maintenance of its membership list.

No one can even guess the actual size of OSS at its wartime peak. Over thirty thousand names were listed on the agency's roster; but there were countless Partisan workers in the occupied countries whose identities were never known, who were paid OSS money and armed with OSS weapons and

<sup>45</sup> Ford, *op. cit.*, pp. 314-315.

<sup>46</sup> Rowan and Deindorfer, *op. cit.*, p. 619.

<sup>47</sup> Ford, *op. cit.*, p. 173.

<sup>48</sup> *Ibid.*, p. 173n.

performed OSS missions, yet for the most part were unaware that their direction came from Washington. Each field agent employed several local subagents, and they in turn recruited anonymous friends from the surrounding countryside, sometimes numbering in the thousands. One lone parachutist, Ernst Floege of Chicago, who dropped into the Hericourt district of France, wound up the war in command of an underground force of thirty-five hundred; another French-American agent named Duval organized and personally led an estimated seven thousand resistance fighters in the Lyons area. Altogether, the Maquis in France, the Kachin tribesmen in Burma formed a worldwide shadow army which served under OSS in close support of the Allied military effort, and which faded back into obscurity when the fighting ceased.<sup>49</sup>

Once he left the directorship of OSS, Donovan also began fading back into obscurity. In the years immediately after the war he devoted much of his time to the cause of European federalism as chairman of the American Committee on United Europe. He was also a strong advocate for wresting the initiative from the U.S.S.R. in the so-called cold war. After serving as ambassador to Thailand during 1953-1954, he worked, as national chairman of the International Rescue Committee, to assist refugees coming from North Vietnam to South Vietnam and later, in 1956, he organized a campaign to raise a million dollars for Hungarian refugee relief. Never again was he called into service as an intelligence leader. Speculation ran high in 1947, with the creation of the Central Intelligence Agency, that Donovan would be selected to direct the new organization, but the position went to Rear Admiral Roscoe H. Hillenkoetter, the last head of the Central Intelligence Group. And again, in 1953, when President Eisenhower was searching for a new CIA Director to replace the departing Bedell Smith, Donovan's name was prominent among the candidates; but, once again, and for the final time, the call went to someone else—on this occasion to his old friend and OSS colleague, Allen Dulles. Six years later, on February 8, 1959, William J. Donovan died in the nation's capital.

#### *IV. Air Intelligence*

The dawning of world war in 1939 found the United States rather unprepared in another area of intelligence operations, a relatively new field, but, nevertheless, a function which Japan and the principal European powers had greatly refined at that time. Air intelligence had been inaugurated in the American armed forces at the outbreak of the Civil War with balloonists or aeronauts serving both with the field armies and with the Signal Corps.<sup>50</sup> The loosely organized balloon corps of the Union Forces, disbanded in June 1863, did not exceed seven balloons and nine trained aeronauts during its period of opera-

<sup>49</sup> *Ibid.*, pp. 203-204.

<sup>50</sup> Generally, see F. Stansbury Haydon, *Aeronautics in the Union and Confederate Armies*. Baltimore, The Johns Hopkins University Press, 1941.

tion.<sup>51</sup> Its mission was observation, a most rudimentary intelligence task.

During the Spanish-American War, the Signal Corps dispatched its only available balloon and two aeronauts to Cuba where they apparently saw two brief, but effective days of service in the attack on San Juan Hill. Although a second balloon unit was organized at Tampa, Florida, to accompany a new expeditionary force to Puerto Rico, the armistice rendered their departure unnecessary.<sup>52</sup>

Almost four years after the Wright brothers successfully demonstrated the ability of a machine-powered heavier-than-air apparatus to carry man aloft, the Chief Signal Officer of the Army, Brigadier General James Allen, established, on August 1, 1907, an Aeronautical Division in his office. Two years and one day later, after a number of trial tests, approval was granted for the purchase of the first Army flying machine from the Wrights.<sup>53</sup>

By the time of the long-delayed recognition of the Wright brothers in 1909, the Army's interest in aviation had been primarily for the purpose of improving reconnaissance. The first heavier-than-air craft, as well as lighter-than-air craft, was evaluated by the military solely in terms of collecting information. It took only a few years of Army experimentation with airplanes to conclude that there was a greater development potential for military reconnaissance in the airplane than in captive or dirigible balloons; therefore, practically all available funds for aeronautics in the Signal Corps, beginning with fiscal year 1912, were devoted to the purchase and maintenance of heavier-than-air craft. This was a bold decision because limited airplane performances by that time had not demonstrated any military value other than that the Army could extend its range of vision. Airplanes were valued for their relatively passive role of spying out the enemy's disposition and not as actively aggressive weapons in themselves. Despite experiments made in shooting machine guns, taking pictures, and dropping explosives from planes, the Signal Corps decided to adopt two types of airplanes and both for reconnaissance missions. The "Scout" was desired for service with ground troops, for carrying two pilots and radio and photographic equipment, and for travelling at least 45 mph for four hours. The "Speed Scout" was designed to carry only one pilot at a minimum speed of 65 miles [sic] for three hours.<sup>54</sup>

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<sup>51</sup> U.S. Air Force Department, Air University Research Studies Institute, "Development of Intelligence Function in the USAF, 1917-1950" by Victor H. Cohen, Typescript, January 1, 1957, Chapter I, p. 16. Copies of this study bear the marking "Secret;" the copy utilized in this study was declassified and supplied by the Office of the Secretary of Defense.

<sup>52</sup> *Ibid.*, Chapter I, pp. 24-26.

<sup>53</sup> *Ibid.*, Chapter I, pp. 26-27.

<sup>54</sup> *Ibid.*, Chapter I, p. 28.

In 1913, the House Military Affairs Committee explored the possibility of creating an air unit apart from the Signal Corps, but found little favor for the idea.<sup>55</sup>

Three years later, Army airmen were afforded their first opportunity to operate under combat conditions when the First Aero Squadron was deployed in support of Brigadier John J. Pershing's Mexican border campaign. While a number of missions were successfully completed,

the most significant lesson which was brought forcibly to the attention of the Government and the people, especially in the face of the rapid development of aviation during the European war, was the need for increasing and properly equipping an air force to accomplish the missions assigned to it. Consequently, Congress appropriated \$500,000 and over \$13,000,000 in March and August of 1916 to expand the Aviation Section of the Signal Corps, which had been established in 1914. The total of these sums was thirteen times greater than all the money that hitherto had been appropriated for Army aviation purposes.<sup>56</sup>

As generous as these appropriations were, they proved insufficient to significantly improve the air corps for immediate participation in hostilities when the United States entered World War I the following year.

[T]he United States entered World War I without a single pursuit or combat type airplane; hardly a single flying officer was adequately familiar with aircraft machine guns, bombing devices, aerial photography, or other aviation instruments well known to the aviators of England. In all respects, the nation was several years behind European aviation development. In fact, the Director of Military Aeronautics reported that in contrast to European developments "the United States at the time of its entry into the war stood very little ahead of where it had been before the world war broke out." If the United States had a doctrine for aerial employment, it centered on the use of the few aircraft for the support of ground forces as observation and courier vehicles. At the time of America's declaration of war, the Aviation Section consisted of 65 officers, two flying fields with 224 airplanes, mostly training types, "nearly all obsolete in type when compared with the machines then in effective service in France. In addition, there was little combat experience or knowledge of European war lessons upon which to base an adequate statement of aerial mission and a plan for aerial production to implement that mission; for a long period, European nations guarded certain things, especially about airplanes, from American observers. Unfortunately, actual American participation in war was necessary before the concept of aviation as

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<sup>55</sup> See U.S. Congress, House, Committee on Military Affairs, *Aeronautics in the Army*. Hearings, 63rd Congress, 1st session, Washington, U.S. Govt. Print. Off., 1913.

<sup>56</sup> Cohen, *op. cit.*, Chapter I, p. 31.

a flexible and mobile instrument of war, and not merely as an intelligence collecting agent, could be given a preliminary trial.<sup>57</sup>

Once the declaration of war had been made, efforts got underway to organize air intelligence activities.

Prior to America's entry into World War I, military aviation was considered nothing more than an information collecting service performed by lighter and heavier-than-air craft for the use of individual ground commanders. Adequate intelligence organizations for the systematic collection, collation, evaluation, and dissemination of information to all commanders concerned did not exist. It was the prevailing concept that troop commanders in combat should use their own available means and resources for securing information about the enemy. Higher commanders would get what they needed by means of their own agencies or by direct request to commanders in contact with the enemy.<sup>58</sup>

At no time during the war did the Military Intelligence Division in Washington have a sub-section responsible for air intelligence matters.<sup>59</sup> Such was not the case in France. "Under the general theory of intelligence prevailing among the associated powers, intelligence units in the AEF [American Expeditionary Force] were established in all organizations beginning with the battalion, and each echelon was responsible for intelligence on its own front."<sup>60</sup>

The task of obtaining, assembling, weighing, and distributing information on all phases of the enemy's aviation—including its organization, materiel, personnel, operations, and the location of its units—was the responsibility of the office of air intelligence, G-2-A-7, the [AEF] Military Information Division's seventh sub-section which had been organized in March 1918 by Lt. Prentiss M. Terry, who was later succeeded by Maj. C. F. Thompson.

As officers in charge of the air intelligence sub-division, they were responsible for furnishing the General Staff on GHQ, the staff of armies and corps, and the Air Service, with intelligence concerning the enemy air arm. The first three months of G-2-A-7's existence were consumed in organizing the work of the office, in collecting intelligence information from French and British Intelligence Offices, and in visiting Air Service Headquarters for the purpose of determining how best it could be served.<sup>61</sup>

The sub-section ultimately established five units for performing its duties: an interrogation of prisoners section (staffed by one officer), the air order of battle section (responsible for tracking the size, organization, markings, location, duties, equipment, and personnel of

<sup>57</sup> *Ibid.*, Chapter I, pp. 35-36.

<sup>58</sup> *Ibid.*, Chapter II, p. 1.

<sup>59</sup> *Ibid.*, Chapter II, p. 2.

<sup>60</sup> *Ibid.*, Chapter II, p. 2A.

<sup>61</sup> *Ibid.*, Chapter II, pp. 3-3A.

enemy air units), a bomb targets section, a technical section (responsible for assembling and disseminating information on the production, performance, and maintenance of enemy aircraft), and an enemy air activity section (responsible for collecting, assembling, and disseminating intelligence on enemy air strategy and tactics, enemy aviation training, and the effects of Allied air operations.)<sup>62</sup>

In view of the limited air operations during World War I, the list of air intelligence functions to be performed by approximately 7 officers and 16 enlisted men in G-2's Office of Air Intelligence sounded more imposing than they actually were. Before the office could gain much experience in the new branch of military intelligence dealing with air matters, the war ground to a halt. Nevertheless, G-2-A-7 was destined to become a prototype of the air intelligence organization of the next World War.<sup>63</sup>

Liaison between the AEF/MID air intelligence subsection and units of the air service was conducted by Branch Intelligence Officers who were under the supervision of G-2-A-7 and had staffs consisting of a clerk, two draftsmen, and an orderly.<sup>64</sup> Sent to air groups and squadrons by the Office of Air Intelligence, the Branch Intelligence Officers did not merely confine themselves to obtaining intelligence information about the enemy air arm, they, in fact, acted as the intelligence officers of the air unit to which they were assigned.

But the control over intelligence operations in air units by BIO's, who were detached officers from the Military Intelligence Division of the GHQ, AEF, was objectionable to the Air Service and its predecessor organization which had been headed by Lt. Colonel William Mitchell, Aeronautical Officer, AEF. The work of air intelligence was believed to belong properly to the Air Service, and that such intelligence would be made available to G-2 at Headquarters AEF through channels and liaison activities. The thesis of the supporters of this idea was that air intelligence officers required a technical knowledge of aviation for the proper performance of their duty; if possible, intelligence officers should be qualified aerial observers so that they could better appreciate the problems of observation and be better able to interrogate observers returning from intelligence gathering missions. It was impossible, they said to get good results from a system which gave prominent place to intelligence officers detailed to the Air Service as representatives of G-2, but not responsible to the Air Service. If squadron intelligence officers were integral parts of the air squadrons, they could be selected from among candidates for pilots and observers and they could be partially trained during the squadron's organization and training period. During that time, the air intelligence officer would be able to build up comradeship and a sense of responsibility which could not be expected from a General Staff representa-

<sup>62</sup> *Ibid.*, Chapter II, pp. 3B-3F, 29-32.

<sup>63</sup> *Ibid.*, Chapter II, p. 3G.

<sup>64</sup> *Ibid.*, Chapter II, p. 5A.

tive who did not join a unit until it was at the front. Inasmuch as corps and army aviation commanders were responsible for the actual collection of air intelligence by means of visual and photographic reconnaissance, they should be better able to exercise closer supervision over the collection and dissemination of air intelligence by lower units than any Branch Intelligence Officer. Moreover, adherents to the doctrine of air force control over air intelligence believed that such control would make the Air Service more independent and freer in its effort to be progressive and efficient.<sup>65</sup>

Because of this sentiment, the flying corps sought some vehicle to serve its needs regarding intelligence production and placed its trust for this function in the Information Section.

The Information Section of the Air Service could be considered a quasi-air intelligence organization which duplicated G-2-A-7 operations for the avowed purpose of disseminating air intelligence and information more quickly and widely throughout the Air Service. ISAS had its origin in General Order 21, Headquarters AEF, 13 August 1917, which directed departments and corps, including the Air Service, to designate an officer specifically charged with the collection and dissemination of military information relating to his organization. Early in September an Information Department was inaugurated in the Air Service. It was charged with the "collection, preparation, and distribution of all information of special interest to the Air Service; liaison with the Intelligence Section, General Staff, A.E.F.; and the organization and supervision of air information officers attached to Air Service units." Little information of the personnel and records of that Department are available; evidently it passed through different commands until February 1918, at which time its duties were absorbed by the Intelligence Division of the Training Section, Air Service, A.E.F.<sup>66</sup>

The Training Section's intelligence unit had been inaugurated in Paris in December, 1917. A month later efforts were being made by the section chief, Captain Ernest L. Jones, to expand his unit from training responsibilities to central intelligence operations for the entire Air Service. On March 28, 1918, the Intelligence Division was given its mandate to serve the intelligence needs of the entire air corps and was renamed Information Section, Air Service. "By the end of the war, the ISAS had grown into six subdivisions: Statistics, Library, General Information, Editorial and Research, Production, and History; its personnel had increased from an original staff of two officers and one enlisted man to 10 officers, 30 enlisted men, and three civilians."<sup>67</sup>

The trials and tribulations of the ISAS in finding its place in a new service under wartime conditions were essentially repeated by its comparable organization in America. The genesis

<sup>65</sup> *Ibid.*, Chapter II, pp. 8-9.

<sup>66</sup> *Ibid.*, Chapter II, pp. 13-13A.

<sup>67</sup> *Ibid.*, Chapter II, pp. 13A-15A.

of the first air intelligence office in the Army Air arm appears to be early in March 1917 when Lt. Col. John B. Bennet, officer in charge of the Aeronautical Division of the Signal Corps, recommended on the basis of a General Staff memorandum that his division be expanded in functions and personnel; his plans included the establishment of an air intelligence unit. The reorganization of the Aeronautical Division, approved on 16 March by Gen. George O. Squier, Chief Signal Officer, provided for an air intelligence office under the Personnel Sub-division which was redesignated Correspondence Subdivision shortly after the United States declared war. The functions of the small intelligence office, headed by Capt. Edgar S. Gorrell, were to collect, codify, and disseminate aeronautical information.<sup>68</sup>

A few months later, in June, the unit was renamed the Airplane Division and a reorganization placed the intelligence section on a par with the other three new major sub-divisions for Training, Equipment, and Organization. Placed in charge of the new intelligence unit was Major Henry H. ("Hap") Arnold, destined to become World War II Chief of Staff for Air, assisted by Ernest L. Jones, long time owner, editor, and publisher of *Aeronautics* magazine.

The duties of the Intelligence Section at this time consisted largely of collecting and filling military aeronautical data of every nature and from all sources, and making digests of pertinent information for interested officials. Intelligence material from military attaches and other representatives abroad had been flowing into the OCSO since the early days of aeronautics in the Signal Corps, but after the United States entered the war, the British, French, and Italian governments released information of greater value and volume. The pressures of war caused further expansion and changes in the Airplane Division. On 1 October the Air Division succeeded the Airplane Division; Brig. Gen. Benjamin D. Foulois continued as Chief, with colonel Arnold as Executive in charge of the 15 sections constituting the entire Air Division of the Signal Corps. The Intelligence Section was redesignated the Information Section and Capt. Harold C. Candee succeeded Lieutenant Jones as officer in charge. The latter was soon promoted to captain and order overseas to continue similar work in the AEF [Training Section, Intelligence Division].<sup>69</sup>

Although further organizational alterations occurred, there was little variation in the Information Section's functions until President Wilson, by an Executive order of May 20, 1918, designated the Division of Military Aeronautics, which had been created within the Signal Corps during the previous month.

an independent agency with the duty of performing every aviation function heretofore discharged by the Signal Corps.

<sup>68</sup> *Ibid.*, Chapter II, p. 23.

<sup>69</sup> *Ibid.*, Chapter II, pp. 24-24A.

except those pertaining to the production of aircraft and aircraft equipment. The newly established and independent Bureau of Aircraft Production (BAP), created on 24 April 1918, was given complete control over the production of airplanes, airplane engines, and aircraft equipment for the use of the Army. In August, Mr. John D. Ryan, then 2nd Assistant Secretary of War, was appointed Director of Air Service in charge of both the BAP and DMA. As a result of these reorganizations, the Information Section on 21 May became the Intelligence Branch of the Executive Section of the DMA. About two months later it was redesignated the Aeronautical Information Branch, which, by the end of August had been organized into seven sub-branches: Procurement, Confidential Information, Publicity and Censorial, Statistics, Clerical Detail, Auxiliary, and Headquarters Bulletin.

Throughout the war, the functions of the air intelligence or information sections in the Signal Corps, and their successor, the Aeronautical Information Branch of the DMA, primarily consisted of the collection and dissemination of information pertaining to domestic and foreign aviation activities, including those of the enemy; the maintenance of a library and complete files, properly cross-indexed, of all information and statistics on hand; the continuance of a liaison system with the AEF, foreign governments, and other U.S. government departments; and the censoring of articles and photographs for publication submitted through the Committee on Public Information. The American information unit exchanged bulletins and other material with its counterpart in the AEF, the Information Section of the Air Service. The general information and technical bulletins published on both sides of the ocean pertained to every phase of aviation. Indeed, the Washington air information office, like its analogous section overseas, was a quasi-intelligence organization concerned in part with knowledge about the enemy.<sup>70</sup>

One other wartime structure is of interest at this juncture, the Research Information Committee.

The RIC, with branch committees in Paris and London, had been organized in the early part of 1918 by the joint action of the Secretaries of War and Navy, and with the approval of the Council of National Defense. In cooperation with the offices of military and naval intelligence, the RIC was to secure, classify, and disseminate scientific, technical, and industrial research information, especially relating to war problems, between the United States and its allies. By this plan, the Government endeavored to establish a central clearing exchange information service by means of which the Army General Staff, the various bureaus of the Army and Navy, the committees of the Council of National Defense, and the scientific organizations in the United States working on

<sup>70</sup> *Ibid.*, Chapter II, pp. 26-27.

war production and inventions, could be kept posted on technical and scientific developments at home and abroad. The RIC in Washington consisted of a civilian member representing the National Research Council, a technical assistant, the Chief of the Military Intelligence Section (MIS), and the Director of Naval Intelligence. As a result of its membership on the RIC, the Military Intelligence Section was made responsible for securing and disseminating scientific and technical research information for all branches of the Army. The MIS was assisted in its duties by the liaison representatives to the RIC from the DMA, BAP, and other military bureaus. In certain instances when information could only be obtained by sending experts to Europe, the individuals so designated were supposed to clear through the RIC, which would check to see if the information was available in this country or if the research was necessary. Those cleared for travel were instructed to contact the RIC's Paris or London committee through which any information collected would be dispatched to the RIC in Washington; this was to be done even though different communication channels were employed at the same time by those sent abroad. The overseas committees each consisted of the military, naval, and scientific attaches and a technical assistant. In addition to serving as the clearing house for information flowing from both sides of the Atlantic, those committees were designated to serve the commander-in-chief of the military and naval forces in Europe, and to cooperate and render assistance to the offices of the military and naval attaches in the collection, analysis, and dissemination of scientific and industrial research information.<sup>71</sup>

With the end of World War I came the exhaustive task of reorganizing the Air Service for peacetime operations. In January, 1919, the Director of the Air Service was made more directly responsible for the supervision and direction of the Division of Military Aeronautics and the Bureau of Aircraft Production. By mid-March, it was decided that the Air Service would adopt the structure of its AEF operation in France, thereby causing it to gain direct control over both DMA and BAP.<sup>72</sup>

The Information Group in the ODAS was designated to receive its intelligence information primarily through the Military Intelligence Division of the WDGS [War Department General Staff] and from foreign missions. Information on military and commercial aeronautics in the United States came from information officers at military posts and from liaison officers with other governmental and civilian air activities. A Special Division was added to the Information Group toward the latter part of 1919 for the purpose of collecting and disseminating meteorological information and for handling such special activities as publicity, and correspondence

<sup>71</sup> *Ibid.*, Chapter II, pp. 33-35.

<sup>72</sup> *Ibid.*, Chapter IV, pp. 1-2.

relative to congressmen and municipal landing fields for airplanes.<sup>73</sup>

The Army Reorganization Act of 1920 (41 Stat. 759) had little impact upon the intelligence structure of the military organization: the Air Service became a coordinate combat branch of the line and the Division of Military Aeronautics was formally abolished. "The Director of Air Service was henceforth known as the Chief of Air Service (CAS), similar to the title of 'Chief' held by the other heads of the combatant arms of the Army."<sup>74</sup>

On May 29, 1919, the Research Information Committee, renamed the Research Information Service, was reorganized for peacetime operations under the National Research Council.

It was not until shortly after Maj. Gen. Mason M. Patrick succeeded General [C. T.] Menoher as CAS on 5 October 1921 that another reorganization of the Air Service was adopted. The new structure was patterned after General Pershing's 1921 reorganization of the War Department General Staff (WDGS) into the following five divisions: Personnel (G-1), Military Intelligence (G-2), Operations and Training (G-3), Supply (G-4), and War Plans; it was natural that the WDGS be organized along the lines of Pershing's AEF. General Patrick's reorganization of 1 December 1921 abolished the groups and created the Personnel, Information, Training and War Plans, Supply, and Engineering Divisions. It was not surprising that General Patrick, who had been Pershing's Chief of Air Service, AEF, should follow the organizational model of his war and peace time commander.

The new Information Division was assigned a more practical mission than its predecessor, the Information Group. Instead of trying to collect "every kind of information" on aeronautics, the primary function of the Information Division was the collection of "essential aeronautical information from all possible sources." Greater concern was shown for the collection of information of an intelligence nature by the requirement that one of the three general classes of information should be concerned with "the uses of aircraft in war, including the organization of the Air Forces of the world, tactical doctrines, types of aircraft used, organization of the personnel operating and maintaining aircraft." The other two classes of information dealt with technical matters and information relative to other phases of military aviation. Because of reduced military appropriations and the lack of personnel, Collection and Dissemination Divisions were abolished during the reorganization and their duties were assumed by the Library and Reproduction Sections, respectively.<sup>75</sup>

In 1925, the Information Division created a military intelligence section which worked in liaison with the Collection Section of the

<sup>73</sup> *Ibid.*, Chapter IV, p. 6.

<sup>74</sup> *Ibid.*, Chapter IV, p. 7.

<sup>75</sup> *Ibid.*, Chapter IV, pp. 8-9.

Military Intelligence Division of the General Staff. This MID unit (M.I. 5) administered the military attache system, maintained official contact with State, Commerce and other Executive Departments involved with foreign matters, and functioned as adviser to the Foreign Liaison Officer on questions concerning the distribution of aeronautical information to foreign countries. However, very little could be accomplished by the understaffed unit.<sup>76</sup>

With the passage of the Air Corps Act (40 Stat. 780) on July 2, 1926, "the Information Division remained on the coordinating staff level of the newly designated Office of the Chief of the Air Corps (OCAC) as the counterpart to the Military Intelligence Division of the WDGS."<sup>77</sup>

In placing the Air Corps Act into effect, the organizational changes made in December 1926, among other things, divided the Information Division of the OCAC into four sections and re-named them to indicate their major functions: The Air Intelligence Section became the successor to the MID Section and inherited the responsibility for maintaining liaison with the MID of the War Department General Staff; the new section was also charged with the procurement, evaluation and dissemination of foreign and domestic aeronautical information, and with the maintenance and supervision of the Air Corps Library. The Photographic Section was made responsible for collecting, filing, and distributing all photographs taken by the Air Corps; a voluminous file of negatives of scientific, historical, and news value was maintained. The Publications Section received the duties of printing, reproducing, and distributing all publications and documents such as Information Circulars, Airport Bulletins, Air Navigation maps, etc. The Press Relations Section, replacing the Special Section, was charged with the preparation and release of all news items, and with Air Corps publicity matters.<sup>78</sup>

These efforts at reorganization, however, did not necessarily result in a better air intelligence capability.

Functionally . . . the Information Division, in the early part of the thirties, had reached a new low. The Plans Division, OCAC, took over part of the Information Division's functions of collecting, evaluating, and disseminating intelligence information because of the latter's failure to send out copies of important reports to the Tactical School and to various Air Corps instructors and individuals. When Lt. Col. Walter R. Weaver became Chief of the Information Division in June of 1933, his first moves were to protest vigorously against this usurpation of functions and to strengthen his organization. His actions were backed by the Chief of the Air Corps who then confirmed the Information Division's responsibilities for (1) the collection and dissemination of air intelligence information concerning foreign countries; (2) the

<sup>76</sup> *Ibid.*, Chapter IV, pp. 9-10.

<sup>77</sup> *Ibid.*, Chapter IV, p. 10A.

<sup>78</sup> *Ibid.*, Chapter IV, pp. 10B-11.

compilation and distribution of information on military aviation; and (3) the coordination of matters of interest between the Air Corps, and the State Department and the Military Intelligence Division of the WDGS.

Under Colonel Weaver's guidance, the Information Division increased its effectiveness, and by mid 1934 it had added a number of additional duties, including the collection of comparative data on plane and personnel strength, air budgets, and general organization of the air arms of England, France, Italy, Japan, and the United States. This function was assumed by the Intelligence Section, which for many years was staffed by one officer and from two to five civilian employees. Nevertheless, the Section during fiscal year 1935 not only made comparative studies of national air forces, but it also was able to initiate a digest of foreign aviation information. The evaluation and distribution of such air intelligence, the Chief of the Air Corps said later "has been of vital importance and interest. Owing to the increased aviation activities abroad the volume of this particular type of work within the Intelligence Section has materially increased."<sup>79</sup>

Recalling his thoughts on the eve of war in Europe, General "Hap" Arnold, appointed Chief of Air Corps on September 29, 1938, wrote:

Looking back on it, I think one of the most wasteful weaknesses in our whole setup was our lack of a proper Air Intelligence Organization. It is silly, in the light of what we came to know, that I should still have been so impressed by the information given me in Alaska by that casual German who called my hotel and told me about their "new bomber." I know now there were American journalists and ordinary travelers in Germany who knew more about the Luftwaffe's preparations than I, [then] the Assistant Chief of the United States Army Corps.

From Spain, where our Army observers watched the actual air fighting, reports were not only weak but unimaginative. Nobody gave us much useful information about Hitler's air force until Lindbergh came home in 1939. Our target intelligence, the ultimate determinate, the compass on which all the priorities of our strategic bombardment campaign against Germany would depend, was set up only after we were actually at war. Part of this was our own fault; part was due to the lack of cooperation from the War Department General Staff's G-2; part to a change in the original conception of the B-17 as a defensive weapon to a conception of it as a weapon of offense against enemy industries.<sup>80</sup>

And what had Arnold learned from the Lone Eagle which neither military nor air intelligence could supply?

Lindbergh gave me the most accurate picture of the Luftwaffe, its equipment, leaders, apparent plans, training meth-

<sup>79</sup> *Ibid.*, Chapter IV, pp. 12-12B.

<sup>80</sup> H. H. Arnold. *Global Mission*. New York, Harper and Brothers, 1949, pp. 168-169.

ods, and present defects that I had so far received. Chief of the German Air Force's shortcomings at that time seemed to be its lack of sufficient trained personnel to man the equipment already on hand, a fact which might make unlikely powerful sustained operations through 1940.

Goering's neglect of strategic bombardment and logistics was not yet apparent. On the contrary, German industrial preparations were enormous, and bombers with a range for strategic attacks almost anywhere in Europe made up a large part of his force, though these same DO-17's and HE-111's could also be employed for direct support of ground troops. Lindbergh felt that Hitler held the destruction of any major city on the continent, or in Britain, in his hands.<sup>81</sup>

Arnold had been made aware of the deficiencies of air intelligence operations from other quarters, including the chief of his Plans Section, Lt. Col. Carl Spaatz. As war plans were developed by the War Department and the strategic employment of air power applied, accurate air intelligence became essential for the execution of those plans. But, as Spaatz informed Arnold in August of 1939, such intelligence data was "not being maintained ready for issue in the Office of the Air Corps, or elsewhere."<sup>82</sup>

As a result of Spaatz's counsel, an Air Corps Board was convened a week before Hitler's attack on Poland to determine the nature, scope, and form of intelligence required for aerial operations; also, the Board was to make recommendations as to the methods and procedures for obtaining and processing that intelligence. After meeting daily for several days, the Board, composed of intelligence representatives from the OCAC, ACTS, and GHQ AF, made what was doubtless the most comprehensive analysis for air intelligence requirements to that time.

The intelligence needed by the Air Corps, the Board stated, fell into three categories: (a) that required by the C/AC for strategic planning in connection with the preparation or revision of Joint Basic War Plans and the employment of air power in any theater, (b) that required for technical planning to insure American leadership both in the production of planes and equipment and in the development of adequate tactics and techniques for aerial operations, (c) that required for tactical planning and execution of plans.

The Board recognized G-2's responsibility for collecting and processing all intelligence information. Except for the processing required for War Department estimates, however, the Board believed the Air Corps to be better qualified to handle intelligence information on certain phases of foreign aviation. Accordingly, the Board recommended that the Air Corps should continue its current task of preparing air technical intelligence and should assume the responsibility for

<sup>81</sup> *Ibid.*, pp. 188-189; Cp. Leonard Mosley, How the Nazis used Lindbergh, *New York*, v. 9, March 3, 1976: 32-38.

<sup>82</sup> Cohen, *op. cit.*, Chapter VII, p. 7.

processing information pertaining to tactical operations and to the use of aircraft in antiaircraft defense. For strategic intelligence required by the Air Corps, G-2 was considered to be in a better position not only to prepare economic, political, and combat estimates, but also to determine the vulnerability of potential air objectives and systems of objectives, together with an estimate of the probable effect of the destruction thereof.

The Board also suggested that General Arnold, as Chief of the Air Corps and principal adviser on air matters to the Chief of Staff, WDGS, be allowed to establish in his office an air intelligence agency considerably larger than the existing Information Division's Intelligence Section. . . .<sup>83</sup>

Never submitted for or otherwise given War Department approval, this report marked the beginning of a controversy, continuing into the time of United States entry into the war, between the Military Intelligence Division, War Department, and the Air Corps' Intelligence organization over air intelligence activities and responsibilities. When the Information Division, OCAC, started collecting intelligence information outside of G-2 channels, the MID directed that this activity cease and that requests for such data be routed through the Military Intelligence Division. This action occurred in the autumn of 1939; relenting somewhat in May of the following year, G-2 permitted the Air Corps' Information Division to make direct contacts for intelligence information with all Federal agencies except the Navy and State Department.<sup>84</sup>

The War Department's G-2 had been cognizant for some time of the incompetency of the personnel in his Intelligence Branch to maintain digests of aviation information. Moreover, as the Branch was organized on a geographic basis with each geographic section being responsible for all phases of intelligence for the countries assigned, it became obvious that a separate unit was needed to evaluate and interpret the voluminous amount of air intelligence being received. Shortly after Hitler's attack on Poland, a separate Air Section was established in the Intelligence Branch of the MID for the purposes of coordinating all air intelligence activities, of maintaining a current summary of air operations, and of supervising the preparation of air intelligence.

The Air Section, apparently, was not formally established until March, 1940 when Maj. Ennis C. Whitehead, who was Chief of the Southern European Section of the Intelligence Branch and the only Air Corps officer on duty with G-2, was named Chief of the new Air Section. For the first four months he was assisted only by Lt. Marvin L. Harding; in July, Mrs. Irma G. Robinson was transferred to the Air Section from the Air Corps' intelligence office. When Whitehead, who had been promoted to Lieutenant Colonel, was replaced by Lt. Col. Jack C. Hodgson in the late summer of 1941, the total person-

<sup>83</sup> *Ibid.*, Chapter VII, pp. 8-9.

<sup>84</sup> *Ibid.*, Chapter VII, pp. 12-13.

nel in the Air Section consisted of five officers, three analysts, and four clerk-stenographers. Attempts were made to enlarge the Section by acquiring more airmen, but the AAF itself had an urgent need for personnel to fill its numerous vacancies and made a counteroffer for the removal of G-2's Air Section to the Intelligence Division of OCAC where it would operate on behalf of G-2. Of course, the offer was declined and the extension of air intelligence activities in the MID was retarded. Until Pearl Harbor Day, the Air Section could only process the air files for the British Empire, Germany and satellites, France and Italy; eventually, as personnel became available, full responsibility was assumed for the G-2's air files of all countries.<sup>85</sup>

Not only were air intelligence activities hampered by jurisdictional disputes but the security procedures of MID also impeded operations in this sphere.

In an early effort to clarify one phase of the jurisdictional problem relating to [intelligence] dissemination, the War Department on 15 November 1939 formally stated the functions of the MID and the arms and services. Unless documents were marked "No Objection to Publication in Service Journals" reproduction and redistribution of G-2 reports by arms and services required the consent of the Assistant Chief of Staff, G-2. Each document permitted to be reproduced also had to contain a statement of sources and its classification could not be lower than the original document.

For the Air Corps, such a policy meant that G-2 information could be circulated, but not reproduced even for dissemination to the limited number of Air Corps Headquarters Agencies. Hence, intelligence was sometimes stale by the time it was circulated to an interested user. Security, not economy, was the basis for limiting distribution. The MID, highly security conscious because of the character of its work, was especially desirous that the intelligence currently being supplied be carefully safeguarded.

But the necessity for securing G-2's approval before reproducing and distributing each intelligence report emanating from his office hampered the Air Corp's efforts to keep pace with aviation developments arising from the experiences in the European war. Consequently, General Arnold secured blanket authority on 1 March 1940 to reproduce and disseminate one or two copies of G-2 materials to major operating Air Corps agencies, but they were prohibited from making additional copies. G-2 thought the exception granted Arnold was justified so long as Europe was at war and while the Air Corps was engaged in an expansion program. Shortly thereafter, reproduction restrictions were further modified by G-2's permission to the OCAC to make as many as five copies of any confidential or restricted MID document.<sup>86</sup>

<sup>85</sup> *Ibid.*, Chapter VII, pp. 13-15.

<sup>86</sup> *Ibid.*, Chapter VII, pp. 17-18.

Still the intelligence dissemination problems continued in spite of G-2's reluctant grants of approval for increased copy distribution within the Air Corps. In an effort to further ameliorate intelligence dissemination difficulties, a conference of OCAC intelligence representatives and MID personnel was held in the spring of 1941. Among the various views expressed at this meeting,

Brig. Gen. Sherman Miles, Acting AC/S, G-2, was especially fearful that if the C/AC were to determine what MID intelligence should be disseminated to his units then it would be possible for the Air Corps to authorize the reproduction of verbatim secret reports from military attaches or Executive departments of the Government, from strategic studies required in war planning, and from papers prepared in compliance with specific requests of the War Department and other government agencies.

Although the air arm would have been limited in its reproduction and redistribution by regulations on safeguarding military information, protecting the source of information, and limiting distribution to those with a need-to-know, General Miles refused to permit any exceptions to existing rules. Moreover, he advised "intelligence agencies under control of the Chief of the Army Air Forces [to] confine their dissemination of information to the Air Forces generally to tactical and technical matters directly affecting the Air Forces, and that no dissemination be made by those agencies, without the consent of this Division, of any secret or confidential information regarding the present disposition, strength or effectiveness of foreign forces, ground or air."

Such a restriction, along with the others requiring approval of G-2 prior to reproducing and disseminating intelligence, hampered air intelligence operations not only at the AAF Headquarters level but also down to and including the commands. A-2 [Air Force intelligence] obviously knew the intelligence needs of air units better than an outside agency and he continued his efforts to secure exemptions from the irksome prohibition placed upon him by the WDGS. But freedom for the AAF to reproduce and redistribute G-2 material did not come until Independence Day in 1942 when the Chief of the Military Intelligence Service, MID, authorized the commanding generals of the AAF and the air commands to reproduce and distribute to lower echelons any and all classified military information received from G-2 unless the document contained a specific prohibition against reproduction. Formal War Department approval of G-2's action came the following month.<sup>87</sup>

Still the major jurisdictional question, the rivalry for control over air intelligence between G-2 and A-2, persisted. Seeing no other course of action open to him on the matter, Arnold, with AAF intelligence needs continuing to mount, placed the issue before the Chief of Staff, General George C. Marshall, and asked for a command decision on his

<sup>87</sup> *Ibid.*, Chapter VII, pp. 23-25.

recommendation for the removal of all restrictions thought to limit the reliability and efficiency of air intelligence operations.<sup>88</sup>

On September 10, 1941, Arnold had his decision: the War Department supported G-2's position for continuing the unity of strategic intelligence responsibilities, saying:

The responsibility imposed on the Military Intelligence Division, W.D.G.S., by par. 9, AR 10-15, for the collection, evaluation and dissemination of military information includes that which pertains to the Army Air Forces as well as to other Arms. In carrying out this responsibility, the Military Intelligence Division is charged with the compilation of all information for the purposes of formulation of comprehensive military studies and estimates; it will prepare those studies and estimates. Intelligence agencies of the Chief of the Army Air Forces will be maintained for the purpose of the compilation and evaluation of technical and tactical information, received from the Military Intelligence Division and other sources, plus the collection of technical air information (from sources abroad through cooperation with the M.I.D.), all or any of which is required by the Air Forces for their development and for such operations as they may be directed to perform.<sup>89</sup>

In fact, however, the decision was not as devastating to Air Force intelligence objectives as might be presumed.

As General Arnold stated: "we are getting what we want and that we will simply try out the whole scheme." This cryptic remark meant that a quiet and amicable settlement between G-2 and A-2 had been reached. As recorded in the minutes of an Air Staff meeting on 11 September 1941:

. . . General Scanlon stated that G-2 had agreed to practically everything we had asked for. Much of it will not be written but is understood. Permits us to obtain information ourselves but first, we must check through G-2 to determine if they have the information desired. If not, then our personnel can be assigned to obtain it. Personnel, so assigned, will work through G-2's organizations. In regard to studies G-2 has been working on reports received from their sources, arrangements have been made that G-2 will furnish us the complete report and we will make our own study. We are authorized to contact direct, foreign military attaches on duty in this country and other government departments.<sup>90</sup>

During this particular period of conflict with G-2 over air intelligence jurisdiction, the Air Corps, of course, continued to undergo expansion, administrative adjustment, and reorganization. During the autumn of 1940 General Arnold began making some changes, including the re-designation of the Information Division as the Intelligence Division, effective December 1, 1940. New components added to the unit included a Domestic Intelligence (counter-intelligence) Sec-

<sup>88</sup> See *Ibid.*, Chapter VII, pp. 39-41.

<sup>89</sup> *Ibid.*, Chapter VII, p. 48.

<sup>90</sup> *Ibid.*, Chapter VII, p. 52.

tion and an Evaluation Section; continued were the Administrative, Foreign Intelligence, Press Relations, and Maps Sections. The Library and Photographic Sections were transferred to a Miscellaneous Division.<sup>91</sup>

Prior to the creation of a Counter Intelligence [or Domestic Intelligence] Section, the functions assigned to it, including the collection and dissemination of information concerning espionage, sabotage, subversion, disloyalty, and disaffection, had been performed by the Information Division's Intelligence Section. By January 1940, a separate Counter Intelligence Branch had been established, but for many months no officer was available to head it and the work was supervised by the Chief of Intelligence Section, Maj. J. G. Taylor. By the time of the Air Corps reorganization in December the volume of counter intelligence operations had mounted to [a] point warranting the establishment of a Domestic Intelligence Section, with a force of two officers and three enlisted men, as one of the principal components of the Intelligence Division.

The establishment of an Evaluation Section grew out of the suggestion made to General Arnold on 23 October 1940 by Col. George E. Stratemeyer, Acting Chief, Plans Division, OCAC. Noting the vast amount on [sic] intelligence material flowing into the OCAC and then being reproduced and distributed without being digested, Colonel Stratemeyer recommended the creation of an evaluation unit in the Information Division, not only to summarize and analyze the material for busy commanders and staff personnel but to dig out lessons indicating necessary policy changes and new projects requiring attention. The then current system for evaluating information and securing the necessary action was in the hands of the Air Corps Board at Maxwell Field, Alabama. Within personnel limitations, the Board had been evaluating and studying wartime lessons in order to prepare and revise air tactical doctrine, and to provide educational and training material for combat personnel. With the establishment of an Evaluation Section, the Board was to continue its past functions, but in its evaluation of war information it was to report any foreign development and trends which might become apparent. It was the Evaluation Section, however, which was given the primary responsibility for detecting foreign developments, and trends and for summarizing all pertinent foreign intelligence appearing in periodic air bulletins.<sup>92</sup>

Because of the hostilities in Europe, the Foreign Intelligence Section was the largest and fastest growing unit within the Intelligence Division. It consisted of a Current Intelligence Branch, a Foreign Liaison Branch, and an Operations Planning Branch. While the first of these components was responsible for processing information pertaining to current military developments, "very little actual collec-

<sup>91</sup> *Ibid.*, Chapter VIII, pp. 1-2.

<sup>92</sup> *Ibid.*, Chapter VIII, pp. 3-5.

tion, other than from such open sources as the *New York Times*, was involved because the Military Intelligence Division was suppose to do all the collecting and then to forward to the OCAC whatever concerned air intelligence.”<sup>93</sup>

The Operations Planning Branch of the Foreign Intelligence Section, created as the result of an Executive directive issued in December 1939, had developed into a significant element of the Air Corps, which was emphasizing strategic offensive operations against enemy airpower and enemy national structures. The Branch had been initially designated the Air Force Intelligence Branch of the Information Division's Intelligence Section and it brought to that Section some specific duties and planning functions never before assigned to the Air Corps. In general, operations planning intelligence fell into two categories: first, to provide the C/AC with air intelligence upon which he could base air estimates for various war plans; secondly, to compile air intelligence upon which to conduct initial air operations under each established war plan. Specifically, the duties included such functions as analyzing foreign national structures to determine their vulnerability to air attack; preparing objective folders of specific targets in connection with war plans; maintaining current data on the strength, organization, and equipment of foreign air forces, including detailed technical data on performance and construction of foreign airplanes; keeping a complete file of airports and flying facilities throughout the world; and preparing air route guides for the movement of air units to potential theaters of operation. At the time of the OCAC's reorganization in December of 1940, the Operations Planning Branch was manned by five officers and ten civilians under Capt. H. S. Hansell.<sup>94</sup>

In April, 1941, as a consequence of a formal study conducted by the Plans Division of the operations and functions of the Office of the Chief of the Air Corps, a Special Assignment Unit was established in the Public Relations Section of the Intelligence Division and the name of the Foreign Liaison Branch became the Air Corps Liaison Unit.<sup>95</sup>

Further changes were evident in the air arm in August, with three sections within the Intelligence Division being renamed: the Domestic Intelligence Section again became the Counter Intelligence unit, the Foreign Intelligence Section was retitled the Air Intelligence Section, and a Foreign Liaison Section was created from the renamed Air Corps' Liaison Unit previously located within the old Foreign Intelligence Section.<sup>96</sup> By the summer of 1941, the Intelligence Division consisted of 54 officers and 127 civilians (see Table I regarding distribution).<sup>97</sup>

<sup>93</sup> *Ibid.*, Chapter VIII, pp. 6-7.

<sup>94</sup> *Ibid.*, Chapter VIII, pp. 9-10.

<sup>95</sup> *Ibid.*, Chapter VIII, p. 16.

<sup>96</sup> *Ibid.*, Chapter VIII, p. 18.

<sup>97</sup> *Ibid.*, Chapter VIII, p. 26.

TABLE I.—ARMY AIR FORCES INTELLIGENCE DIVISION PERSONNEL, AUGUST 1941

Section	Officers			Civilians			Total		
	On duty	Vacant	Total	On duty	Vacant	Total	On duty	Vacant	Total
Division chief.....	1	0	1	14	11	25	1	0	1
Executive.....	4	0	4	11	11	22	18	11	29
Air intelligence.....	24	59	83	67	178	245	91	237	328
Foreign liaison.....	5	4	9	8	6	14	13	10	23
Counter intelligence.....	3	12	15	8	65	73	11	77	88
Public relations.....	11	9	20	16	10	26	27	19	46
Maps.....	6	3	9	14	35	49	20	38	58
Total.....	54	87	141	127	305	442	181	392	573

Note: Corrected version adopted from U.S. Air Force Department, Air University Research Studies Institute. "Development of Intelligence Function in the USAF, 1917-50" by Victor H. Cohen. Typescript, ch. VIII, p. 26.

If air intelligence personnel were able to hurdle the stumbling blocks imposed by mounting organizational charts and changes, and time consuming preparations of budget requests and justifications for money and personnel, they were confronted with jurisdictional obstacles. The delineation of intelligence responsibilities between the air arm and the MID was a continuing one, and when the Army Air Force (AAF) was created on June 20, 1941 the problem of clarifying responsibilities of the air arm became an internal one as well as an external one.

The AAF had been created to substitute unity for coordination of command thus making it superior to both the Air Corps, which was the service element headed by Maj. Gen. George H. Brett, and the Air Force Combat Command (AFCC)—formerly the GHQ Air Force—which was the combat element headed by Lt. Gen. Delos C. Emmons. General Arnold had the responsibility for establishing policies and plans for all Army aviation activities, and the Chief of Staff, WDGS, was the person to whom he was accountable. Arnold also retained his position as Deputy Chief of Staff for Air, and thus in his two positions he was able to pass on air matters brought up by the members of the WDGS, as well as the commanding generals of the AAF's main components.

To assist the Chief of the AAF in the formulation of policies, an Air Staff was established by using as its core the OCAC's Plans Division, which had been organized into sections corresponding to the divisions of the WDGS. The air sections were renamed A-1, A-2, A-3, A-4, and AWPDP (Air War Plans Division). Thus, by lifting the Plans Division out of the Air Corps, the Chief of the AAF had a ready-made air staff. All papers, studies, memoranda, etc., pertaining to purely air matters, which hitherto had been processed by the WDGS, were to be prepared for final War Department action by the Chief of the AAF. The exceptions were those papers pertaining to the Military Intelligence and War Plans Divisions of the WDGS.

The Air Staff was to assume the air planning functions formerly performed by the WDGS. Its operating functions were confined to the preparation of policies and instructions

essential to directing and coordinating the activities of the two major AAF elements. Thus, in theory, the Air Staff was the policy agency, with the Air Corps and the Combat Command performing operating functions.<sup>98</sup>

However, because the relationships between the AAF and the War Department were not clearly defined, old difficulties between the air arm and the general Staff continued in many instances. In addition, friction developed between the AAF Headquarters and the Office of the Chief of the Air Corps, which had been the principal administrative unit of the air arm. Between June of 1941 and March of 1942, various activities were withdrawn from OCAC and relocated with the Air Staff but with a view to maintaining separate operating and policymaking entities.<sup>99</sup>

The strained relationship between the air staffs of the AAF and the OCAC could not endure for long. The crisis created by the Pearl Harbor attack, together with the subsequent prohibition imposed by the OCAC against informal communication between its divisions and the Air Staff, undoubtedly accelerated the transfer of operating activities out of the OCAC. Not until the elimination of that office by the War Department reorganization of March 1942 was air intelligence planning and operating completely consolidated into one office, that of the Assistant Chief of Air Staff, A-2.<sup>100</sup>

Until the collapse of France in June, 1940, air intelligence liaison with Great Britain was cautious, formal, and conducted with the customary restrictions on the release of classified information. As German armies overran Denmark, Norway, Belgium, and the Netherlands, traditional military and naval attaché contacts were the conduits for the exchange of intelligence information between the United States and embattled England. Then came the fall of the Fifth French Republic.

All that seemed to stand between Hitler and American security was Great Britain. This alarming condition erased all pretenses at observing neutrality. The new American policy became assistance to the democracies by "All Methods Short of War." Obviously realizing that "Knowledge is Power," especially in warfare, President Roosevelt approved in July a British proposal for the interchange of scientific data. In a swift follow-up, the British dispatched to Washington a commission of technical experts headed by Sir Henry Tizard, Scientific Adviser to the Ministry of Aircraft Production. The mission was authorized to exchange secret data on such things as radar, fire control, turrets, rockets, explosives, communications, etc., which items obviously interested the American military services.

Initially, the British, as they expected, gave more scientific information than they received, but the general result of the conversations of the Tizard Mission with representa-

<sup>98</sup> *Ibid.*, Chapter VIII, pp. 27-29.

<sup>99</sup> *Ibid.*, Chapter VIII, p. 33.

<sup>100</sup> *Ibid.*, Chapter VIII, p. 35.

tives of the American armed services and the newly created American National Defense Research Committee (NDRC) was "a great stimulus to research on new weapons on both sides of the Atlantic."<sup>101</sup>

By January, 1941, after some British hesitation on the idea, an NDRC office was opened in London and, during that month, the United States gave the British the means for deciphering the Japanese code.<sup>102</sup>

The policy of close collaboration afforded a broad base for the exchange of general military information as well as scientific. Early in August 1940, about the time Hitler began his air blitzkrieg on the Island Kingdom, the British and American Governments had agreed secretly for a full exchange of military information. The MID, as coordinating agency for such an exchange desired all requests for military information from abroad to be specifically worded and routed through G-2 channels. But G-2's radio and mail requests to England did not always secure the information desired, especially on technical matters. It was found extremely difficult to phrase specific questions, even for technical personnel, when there was very little data upon which to base precise queries. Sending officers to England was considered by G-2 and the Chief of the Air Corps' Intelligence Division as the best means for gaining information which was not readily available through attache channels or not at the disposal of the Tizard Mission or other British delegations sent to the United States.<sup>103</sup>

Thus, a bevy of Air Corps officers were dispatched to Great Britain during 1940-41 as individual air observers in supplement to the regular military attaches. When, in March of 1941, joint Anglo-American war plans were perfected (called ABC-1), they provided for the creation of Special Observer Groups of American officers to ostensibly function as neutral observers but to also prepare for conversion into an advance staff element for a theater of operations should the United States enter the war.<sup>104</sup>

Under ABC-1, the SPOBS [Special Observation Groups] was to become the official care of the United States Army Forces in the British Isles, which later actually became the European Theater of Operations. SPOBS' air staff section eventually evolved into the Air Technical Section, ETO Headquarters, and then re-designated Directorate of Technical Services of the Air Service Command, United States Army Air Forces in Europe, with the functions of providing for the inspection and evaluation of captured enemy aircraft and directing the activities of air intelligence field teams.

The entire SPOBS groups wore civilian clothes and to the casual observer it would seem that the American Embassy was expanding its staff. Each officer in SPOBS had contacts with

<sup>101</sup> *Ibid.*, Chapter VIII, pp. 36-37.

<sup>102</sup> *Ibid.*, Chapter VIII, p. 38.

<sup>103</sup> *Ibid.*, Chapter VIII, pp. 39-40.

<sup>104</sup> *Ibid.*, Chapter VIII, pp. 43-44.

a section of the British Army or Royal Air Force which corresponded most nearly to his own. Lt. Col. Homer Case, SPOBS G-2, for example, conferred with the British Ministry on methods of training photo interpreters and then he recommended that American personnel be permitted to take advantage of the RAF's photo-interpretation school and units. Compared to British developments in that field, the United States was in the elementary stages. Also, while getting acquainted with British operations and making war plans, the SPOBS "provided the War Department with a listening post which relayed intelligence concerning the world's war fronts."<sup>105</sup>

Meanwhile, on the homefront, efforts continued at easing the way for the exchange of technical data with the British.

In the interests of economy, efficiency, and simplicity for all arms and services, the Secretary of War designated the AC/S, G-2, to coordinate the exchange of information with British representatives in America. In matters of aeronautical equipment and technical information, the Air Corps in the fall of 1940 was authorized by G-2 to divulge data to authorized representatives of the British Empire on unclassified, restricted, or confidential information, but secret documents which could not be reclassified to a less restricted category had to be cleared by G-2 prior to release. Requests for information from the British Air and Purchasing Commissions in America normally were made through the Foreign Liaison Branch of the Intelligence Division, OCAC. Directed negotiations by the Air Corps with the British representatives were permitted for the interchange of technical information with the understanding that G-2 would be advised in the form of receipt copies, of information secured and released.<sup>106</sup>

On another matter, when the Air Corps in May, 1941, indicated a desire to establish a branch intelligence office in New York, it was repulsed by the Assistant Chief of Staff, G-2, on the basis that such a request infringed upon his exclusive responsibility for collecting intelligence information and would duplicate an MID effort as that agency already maintained a field facility in New York. Since MID did not have an air operation expert in the branch office, an OCAC Intelligence Division analyst was loaned for this purpose.<sup>107</sup>

By 1 August 1941 the branch office's new project of producing target folder [sic] for the Air Corps was in progress. The original folder program involving single targets was extended to cover increasingly large areas until the Air Corps sectionalized and numbered the various theater areas; from then on area target folders were produced. Air target materials were collected from files of trade data, records of financial transactions, engineering reports, travel diaries, field notes of scientists, and other similar items existing in the New

<sup>105</sup> *Ibid.*, Chapter VIII, pp. 45-46.

<sup>106</sup> *Ibid.*, Chapter VIII, p. 49.

<sup>107</sup> *Ibid.*, Chapter VIII, pp. 59-61.

York area. This material could not be shipped to Washington for processing and had to be examined at the sources. Fortunately, the New York office was located contiguous to and worked closely with the Army Map Service thus enabling the office to produce a bonus in the form of topographical and geographical intelligence.

The MID proposed to expand its branch in New York so as to increase the production of objective folders. But in light of the current international situation and the great magnitude of the task involved in ferreting out available data existing within the United States, General Scanlon on the day before Pearl Harbor told G-2 that the proposal was modest in the extreme. The outbreak of war of course became the signal for accelerating all expansion plans into high gear and the branch office, for example, was gradually assigned sufficient personnel to enable it to provide essential intelligence for A-2's targeting operations for German and Japanese areas. But it was the San Francisco Branch which concentrated on collecting available intelligence information on Japanese industries.<sup>108</sup>

Then came the debacle of Pearl Harbor, December 7, 1941.

A-2 was a madhouse, recalled one of the first officers assigned to air intelligence in AAF Headquarters after Pearl Harbor Day. Sitting at a desk cluttered with ringing telephones connecting important air installations, the intelligence officer who valiantly attempted to handle the large number of incoming calls during the hectic first days of war reminded an observer of an old fashioned movie. In those days a newly assigned officer would see red upon entering an office of A-2: With ever-increasing demands for intelligence, desks in a crowded small room were frequently piled high with documents, and as almost everything was classified, the prevailing red security cover sheets seemed to lend a reddish hue to the room. A new officer could see red both literally and figuratively. In one instance, for example, an officer was rushed from his pistol patrol of Bolling Field, Washington, D.C., to A-2 only to wait days before someone could find time to assign him specific duties. Even then the young and inexperienced intelligence officer had to use his own judgment and imagination as to how his tasks should be accomplished.<sup>109</sup>

Efforts were soon made to restore order to military operations in the aftermath of the Japanese attack. The only truly functional air intelligence entity was the Air Corps Intelligence Division and it was quickly sought by A-2 in a centralized intelligence plan.

After a period of negotiations, the views of the higher headquarters finally prevailed and the Chief of the Air Staff on 23 January 1942 directed the Chief of the Air Corps to transfer to A-2 all the functions, personnel, and equipment of the Foreign Liaison Section and the Air Intelligence Sec-

<sup>108</sup> *Ibid.*, Chapter VIII, pp. 62-63.

<sup>109</sup> *Ibid.*, Chapter XII, p. 4.

tion. The latter was the heart and soul of the Air Intelligence Division because it was composed of: the Current Unit containing the file of technical intelligence collected over a period of years, the Evaluation Unit charged with correlating and evaluating intelligence, and the Operation's Unit, which translated intelligence into air estimate and target objectives.

A small number of officers and civilians of the Air Intelligence Section were permitted to remain in the Intelligence Division so as to allow the CAC to continue his command functions and responsibilities. The sections remaining in the Intelligence Division were Maps, Counter Intelligence, and Air Intelligence School. Furthermore, copies of all intelligence matters received by A-2 were to be sent to the OCAC. A sufficient amount of air intelligence functions remained in the OCAC to prevent the attainment of the goal of centralization of intelligence authority. Further complication and duplications resulted from the operations of an air intelligence office in the Military Intelligence Division of the WDGS.<sup>110</sup>

The importance of the air arm in the prosecution of the war soon became evident and, accordingly,

the War Department through Circular 59, issued on 2 March 1942 and effective on 9 March, decided that the most effective organization which would give the desired freedom of action for all services and at the same time ensure the necessary unity of command, was one having three autonomous and co-ordinate commands under the Chief of Staff: Army Ground Forces, Army Air Forces, and the Services of Supply (later, renamed Army Service Forces).

The overall planning, coordinating, and supervisory role of the WDGS was reaffirmed, but enough air officers were to be assigned to the War Department to help make strategic decisions. The goal of 50 percent air officers on duty with the WDGS was never reached principally because qualified Air Corps officers were so scarce. Thus G-2 was not only able to enlarge his air unit, but he was reassured of this responsibility for collecting all intelligence, both air and ground. Nevertheless, the reorganized office of A-2 was to make the most of the grant of autonomy to the AAF.

As the result of the reorganization of March 1942, the intelligence functions of the OCAC and Combat Command were transferred to A-2, headed by Col. R. L. Walsh who had replaced General Scanlon on 21 February 1942. A-2, however, lost the activities and personnel of its Foreign Liaison Section to G-2's newly established Military Intelligence Service (MIS). About the same time, the Intelligence Service (IS), the air intelligence operating agency comparable to the MIS, was established under the supervision and control of A-2. The first Director of the IS, Lt. Col.

<sup>110</sup> *Ibid.*, Chapter XII, pp. 5-6.

C. E. Henry, was assigned the functions of collecting, evaluating, and disseminating technical and other types of intelligence, training air intelligence officers, and operating the security services. To accomplish these duties the Administrative, Operational, Informational Intelligence (less the Current Unit), and the Counter Intelligence Sections were transferred from the A-2 Division to the IS.

The Administrative Section served both the IS and A-2. With the IS as the major operating agency, the other sections under A-2 were Executive and Staff, Combat Intelligence, and Current Intelligence. A Plans Section was also established in A-2 for the purposes of formulating plans for collecting and disseminating air intelligence, training intelligence officers, establishing air intelligence requirements, coordinating projects with the Air Staff and the WDGS divisions, and establishing liaison with other American and foreign intelligence agencies. The section was short lived as a separate entity as a result of A-2's order for its absorption into the Executive and Staff Section.<sup>111</sup>

Three months after the March reorganization took place, a formal survey was conducted to deal with weaknesses in the new arrangements. A-2 had little criticism of the scheme except for a clearer relationship between the counterintelligence groups of the MID/WDGS and those of the Air Intelligence Service.<sup>112</sup>

Slight changes were made and in a few instances some offices were re-shifted. In A-2, an Office of Technical Information, with a nucleus of four officers transferred from the public relations branch, was created as a part of the Current Intelligence Section. Col. E. P. Sorensen, who had assumed the position of AC/AS, A-2, on 22 June 1942, used the newly acquired Office to prepare the weekly brief for General Arnold's use in the meetings of the War Council. By the beginning of the following year the Office of Technical Information had become an independent section in A-2's office. In addition to preparing weekly summary reports for General Arnold, the Office also handled the AAF's public relations activities and helped prepare for publication the office service journal, *Air Force*, which on 6 September superseded the *Air Force News Letter*.

Other newly established units included an Intelligence Training Unit within the Air Intelligence Service. By early 1943 training functions had been incorporated into a Training Coordination Section and transferred from the AIS to the A-2 level. The Special Projects Section in the AIS was also moved to A-2 where it was eventually incorporated into the Staff Advisors Section. In general the main divisions in the Office of the AC/AS, A-2, remained fairly well stabilized from the time of the War Department reorganization of

<sup>111</sup> *Ibid.*, Chapter XII, pp. 9-11.

<sup>112</sup> *Ibid.*, Chapter XII, p. 20.

March 1942 until the AAF streamlined its own structure in the following March by abolishing the Directorates.<sup>113</sup>

This was the last major reorganization of the air arm's intelligence structure during the period of the war.

After an adjustment and reconciliation of the various plans and ideas that had been presented during the previous months, a streamlined organization went into effect on 29 March 1943. Many offices devoted to the planning or execution of specific functions were telescoped into the offices of assistant chiefs of staff and special staff. In the Office of the Assistant Chief of Air Staff, Intelligence, all the functions assigned to air intelligence were divided among five principal divisions: Operational Intelligence, Counter Intelligence, Intelligence Information, Historical, and Combat Liaison and Training.

The last named Divisions combined the Combat Liaison Section of the Air Intelligence Service and the Training Coordination Section, which had been on the A-2 staff level. The Current Intelligence Section was also removed from its A-2 staff status and made part of the Informational Intelligence Division. The only units left out of the five main divisions because of their service to the entire intelligence office were the Office Services, Office of Technical Information (to handle public relations), and Special Projects (formerly Staff Advisors). Two sections of Counter Intelligence, Safeguarding of Military Information and Training Clearance, were transferred to the Facilities Security and Personnel Security Branches in the Air Provost Marshal's Division in AC/AS, Material, Maintenance, and Distribution.

By June 1943, the Combat Liaison and Training Division became the Training Plans Division and given the functions of making studies in and formulating policies and practices for intelligence training in AAF schools and units. At about the same time, the Operational Intelligence and Intelligence Information Divisions were renamed Operational and Informational Divisions, respectively. By October 1943 a few minor changes had been made within the divisions and two new agencies were added: The Air Intelligence School section was created to operate the Air Intelligence School at Harrisburg, Pennsylvania, for the training of AAF officers in combat and base intelligence, photo interpretation, and prisoner of war interrogation.<sup>114</sup>

While certain post-war changes would be effected in the air intelligence institution immediately after the cessation of hostilities in 1945, the next significant restructuring of this intelligence organization would occur with the establishment of the independent United States Air Force in 1947.

<sup>113</sup> *Ibid.*, Chapter XII, pp. 22-23.

<sup>114</sup> *Ibid.*, Chapter XII, pp. 24-25.

### V. *Military Intelligence*

The military intelligence organization of World War II consisted of a variety of field units, ranging from groups serving with combat commands to the special staffs designed to assist allied combined operations councils at the highest levels of armed services leadership. The core or hub of this complex of overseas intelligence entities was the Military Intelligence Division of the War Department General Staff, an agency which, in the twilight peace of 1938, consisted of 20 officers and 48 civilians.<sup>115</sup>

When the United States entered the war, the Military Intelligence Division was ill prepared to perform the tasks which were to be thrust upon it. The war in Europe and the increasingly critical world situation had increased the number of persons employed in the Division and had added a few new activities. Despite the expansion, there were real deficiencies, which indicate the condition of the Division at the end of 1941. There was no intelligence on enemy air or ground order of battle; there was no detailed reference material on enemy army forces such as weapons, insignia, fortifications, and documents; there was no detailed topographic intelligence for planning landing operations; there were insufficient facts—but plenty of opinion—on which to base strategic estimates; and there were no trained personnel for either strategic or combat intelligence. The production and planning of intelligence was proceeding, but on a limited scale and to an insignificant degree. Fortunately most of this material could be obtained from our allies, but it no more than satisfied current intelligence requirements and was completely inadequate for long range requirements. Before V-J Day, the Division had developed into a large and efficient intelligence organization, but this development, like the building of Rome, did not take place overnight. Present estimates indicate that an efficient intelligence machine was not developed until late 1944.<sup>116</sup>

Appointed chief of the Operations Division (successor to the War Plans Division) of the War Department General Staff in March, 1942, Major General Dwight D. Eisenhower, the man destined to command Operation Torch and serve as Supreme Commander of the European Theater, made the following observation with regard to intelligence operations and capabilities during the period of America's entry into world war.

Within the War Department a shocking deficiency that impeded all constructive planning existed in the field of Intelligence. The fault was partly within and partly without

<sup>115</sup> U.S. Army. Military Intelligence Division. "A History of the Military Intelligence Division, 7 December 1941-2 September 1945." Typescript, 1946, p. 3. Copies of this study bear the marking "Secret;" the copy utilized in this study was declassified and supplied by the Office of the Secretary of Defense. [Hereafter referred to as MID History.]

<sup>116</sup> *Ibid.*, p. 2; with regard to the staff growth in MID, see Tables II and III in this chapter.

the Army. The American public has always viewed with repugnance everything that smacks of the spy: during the years between the two World Wars no funds were provided with which to establish the basic requirement of an Intelligence system—a far-flung organization of fact finders.

Our one feeble gesture in this direction was the maintenance of military attaches in most foreign capitals, and since public funds were not available to meet the unusual expenses of this type of duty, only officers with independent means could normally be detailed to these posts. Usually they were estimable, socially acceptable gentlemen; few knew the essentials of Intelligence work. Results were almost completely negative and the situation was not helped by the custom of making long service as a military attache, rather than ability, the essential qualification for appointment as head of the Intelligence Division in the War Department.

The stepchild position of G-2 in our General Staff system was emphasized in many ways. For example the number of general officers within the War Department was so limited by peacetime law that one of the principal divisions had to be headed by a colonel. Almost without exception the G-2 Division got the colonel. This in itself would not necessarily have been serious, since it would have been far preferable to assign to the post a highly qualified colonel than a mediocre general, but the practice clearly indicated the Army's failure to emphasize the Intelligence function. This was reflected also in our schools, where, despite some technical training in battlefield reconnaissance and Intelligence, the broader phases of the work were almost completely ignored. We had few men capable of analyzing intelligently such information as did come to the notice of the War Department, and this applied particularly to what has become the very core of Intelligence research and analysis—namely, industry.

In the first winter of the war these accumulated and glaring deficiencies were serious handicaps. Initially the Intelligence Division could not even develop a clear plan for its own organization nor could it classify the type of information it deemed essential in determining the purposes and capabilities of our enemies. The chief of the division could do little more than come to the planning and operating sections of the staff and in a rather pitiful way ask if there was anything he could do for us.<sup>117</sup>

The chronology of organizational developments in the military intelligence structure necessarily focuses upon the Military Intelligence Division, beginning with the final months before the Pearl Harbor attack.

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<sup>117</sup> Dwight D. Eisenhower. *Crusade in Europe*. New York, Doubleday and Company, 1948, p. 32.

TABLE II.—MILITARY INTELLIGENCE DIVISION PERSONNEL, 1938-45

Year	Officers in Washington	Civilians in Washington	Officers in field	Civilians in field	Total
1938 .....	20	48	50	73	191
1939 .....	22	68	65	75	220
1940 .....	28	167	95	88	362
1941 .....	200	656	119	120	1,095
1942 .....	509	1,106	197	231	2,043
1943 .....	649	1,079	247	273	2,048
1944 .....	581	1,009	260	618	2,468
1945 .....	575	931	247	776	2,529

Note: Adopted from U.S. Army, Military Intelligence Division. "A History of the Military Intelligence Division, Dec. 7, 1941-Sept. 2, 1945." Typescript, p. 380n.

TABLE III.—MILITARY PERSONNEL STRENGTHS, 1942-44

Organization	Jan. 31, 1942		Apr. 30, 1942		June 30, 1943		June 30, 1944		Nov. 30, 1944	
	Officers	Civilians and enlisted clerks								
G-1, personnel.....	67	81	13	22	15	26	35	33	56	44
G-2, intelligence.....	390	599	16	10	388	1,149	583	1,156	621	1,169
Primary intelligence service.....	88	107	16	29	17	38	34	41	44	39
G-3, organization and training.....	149	138	11	26	16	38	35	42	37	45
G-4, supply.....	75	57	121	204	154	379	203	333	217	34
OPB, operations.....	58				105	377	135	346	142	
Bureau of Public Relations.....				14		20	18	25	31	34
Legislative liaison.....			9		11	114	112	85	140	75
Inspector general.....	48		55		25	43	28	33	26	34
Civil affairs division.....							7	11	10	12
New developments division.....							13	25	13	29
Budget division.....							22	21	28	25
Special planning division.....					13	12	11	11	14	16
War Department Manpower Board.....				3,309	1,936	3,843	2,395	5,521	2,561	5,403
Army Air Forces.....	664		885		1,936	3,843	2,395	5,521	2,561	5,403
Army ground forces.....			212		267	973	335	978	350	935
Army service forces <sup>1</sup> .....			4,177	33,067	5,381	32,294	5,683	30,133	5,636	29,743

<sup>1</sup> Includes Washington staff and departmental sections but no field agencies.

Source: Adopted from Otto L. Nelson, Jr., "National Security and the General Staff", Washington, Infantry Journal Press, 1946, p. 468.

In September 1941 the Military Intelligence Division was organized vertically [and] prepared not only to produce intelligence, but also to expand in case war came. The Assistant Chief of Staff, G-2, Brigadier General Sherman Miles, was chief of the Division and was assisted by an Executive. Reporting directly to him was the Special Study Group (later the Propaganda Branch). Reporting to him through the Executive were the chiefs of the Administrative, Intelligence, Counterintelligence, Plans and Training, and Censorship Branches.

The Administrative Branch included two types of functions. Such sections as Finance, Personnel, Records, and Coordination comprised the first type. By this consolidation of administrative functions the remaining branches of the Division were free to devote their full energies to their primary functions. This branch also was charged with the administrative supervision of the Military Attache system, the Foreign Liaison and Translation Sections.

The heart of [the] Military Intelligence Division was in the Intelligence Branch, the largest of the branches. Organized along geographic lines, it controlled, in a large measure, all of the processes of intelligence. Information was gathered and evaluated [and] intelligence produced by the following seven sections: the Balkans and Near East, the British Empire, Central Europe, Eastern Europe, Far East, Latin America, and Western Europe. It will be noted that the lines of demarcation were entirely geographical and that there was no attempt to separate information and intelligence topically according to political, economic, scientific, and so on. The Air section and later the Order of Battle Branch were exceptions to this rule. Intelligence was disseminated by the Dissemination Section and by the G-2 Situation section which maintained the G-2 Situation Room. The information gathering activities of military attaches, observers and others working "in the field" were directed by the Field Personnel section. This included directives concerning the types of information desired but did not embrace administrative matters which were left to the Military Attache Section of the Administrative Branch. In other words, the attaches looked to the Administrative Branch for their administration, to the Intelligence Branch for their directives, and reported their findings to the geographic sections. To assist the Chief of [the Intelligence] Branch in administrative matters there was a small administrative group within the Branch. It will be noted that the Branch controlled all of the processes of intelligence, and that it was devoted entirely to positive intelligence, as opposed to negative or counter-intelligence.<sup>118</sup>

Organized functionally, the Counter Intelligence Branch, composed of Domestic Intelligence, Investigation, and Plant Intelligence sections, probed subversion and disloyalty matters, supervised defense

<sup>118</sup> MID History, *op. cit.*, pp. 6-7.

plant security, produced intelligence relative to the domestic situation, was responsible for safeguarding military information, and took on such special assignments as were given to it.

The Plan and Training Branch "prepared plans for intelligence requirements and developed policies for military and combat intelligence" while also being "responsible for the development and supervision of training doctrine in the fields of military and combat intelligence."<sup>119</sup>

Until the United States actually entered the war, the Censorship Branch (renamed the Information Control Branch on December 5, 1941) remained small and confined itself to preparing plans for future censorship. Because national censorship in wartime was not assigned to the War Department, G-2 was responsible only for military censorship policy though liaison with the Office of Censorship which provided MID with valuable information uncovered by that agency.<sup>120</sup>

In early 1942, a reorganization occurred within the War Department, a restructuring which would prove functionally troublesome for MID.

The new organization was announced to the Army in Circular #59. As it affected the army its changes were far reaching and fundamental. The most striking feature of the proposed reorganization was the distinction made between operating and staff functions. The latter were to be retained by the general staff division, but the former were to be placed in operating agencies. This entailed the separation of the larger part of the organization of each staff division from the small policy making group who performed truly staff functions. The policy groups would remain in the General Staff as a small policy making and advisory staff divorced from the operating functions of their organizations. By ruthlessly regrouping many old offices and functions and integrating them into the new organization, smoother functioning was expected.

The language of the Circular did not make a clear distinction between the [old policy making] Military Intelligence Division and the [newly created operating] Military Intelligence Service. From the present point of vantage the intentions of the circular seem clear. This distinction was not made completely clear until Circular 5-2, September 1944, was issued, although some progress had been made in the

<sup>119</sup> *Ibid.*, p 8.

<sup>120</sup> The censorship of communications between the United States and foreign nations was authorized by the First War Powers Act (55 Stat. 840) approved December 18, 1941. Pursuant to this statute, President Roosevelt, on December 19, established (E.O. 8985) the Office of Censorship, a civilian agency located within the National Defense Program tangentially attached to the Executive Office of the President. The director of the Office of Censorship and its program was Byron Price, who headed the unit until its demise by a presidential directive (E.O. 9631) issued September 28, 1945 and effective on November 15 of that year. See Elmer Davis and Byron Price, *War Information and Censorship*, Washington, American Council on Public Affairs, 1943; also see Byron Price, Governmental Censorship in Wartime, *American Political Science Review*, v. 36, October, 1942: 837-850.

July 1942 revision of AR 10-15. Circular #59 charged the Military Intelligence Division, G-2, "with those duties of the War Department General Staff relating to the collection, evaluation and dissemination of military information." The Military Intelligence Service was established "under the direction of the Assistant Chief of Staff, Military Intelligence Division, War Department General Staff . . . [to] operate and administer the service of the collection, compilation and dissemination of military intelligence." Here was a verbal paradox. In the vocabulary of G-2 intelligence is based upon the evaluation of information. Information is the raw product from which intelligence is produced. [The] Military Intelligence Division was charged, then, with duties relating to the evaluation and dissemination of information; while [the] Military Intelligence Service was not charged with the evaluation but with the dissemination of intelligence.<sup>121</sup>

Subsequent discussions and attention to this verbal dilemma contributed to a clarification of the functions of MID and MIS, but the initial confusion and lack of an authoritative decision on the matter did little to ameliorate ill feelings over the dichotomous organization and subsequent rivalry between the two units.

A series of office memoranda implemented the reorganization directed by Circular #59. The Military Intelligence Service was created and all personnel, except certain commissioned officers, were transferred to it from [the] Military Intelligence Division. An examination of the personnel assignments in the memoranda and of assignments listed on a Chart of 15 January 1942 reveals few essential changes. Colonel Hayes A. Kroner, the new chief, Military Intelligence Service, had been Chief of the Intelligence Branch. Col. Ralph C. Smith, the new Executive Officer, Military Intelligence Service, had been Executive Officer and Chief, Administrative Branch. The latter function was assigned to Col. T. E. Roderick, formerly Assistant Executive. He likewise retained his assignment as assistant executive officer. The new Chief, Intelligence Group, Col. R. S. Bratton, had formerly been assigned to the Far Eastern section of the Intelligence Branch. Chief of the Training Branch, Lt. Col. P. H. Timothy, had been chief of the Plans and Training Branch. Col. Oscar Solbert, now chief of the Psychological Warfare Branch, was a past member of that Branch. Col. Black, its former chief, had been transferred to the Military Intelligence Division staff section. Other members of the Staff were either newly assigned members of [the] Military Intelligence Division, detailed from the AAF, or former members of [the] Military Intelligence Division.

The Military Intelligence Service was divided into four groups, each reporting to the Chief, Military Intelligence Service, through his executive. The Foreign Liaison Branch

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<sup>121</sup> MID History, *op. cit.*, pp. 12-13.

and the Military Attache Section reported independently to the Chief, Military Intelligence Service, and not through a Deputy. The Administrative group was divided into five housekeeping sections. The Intelligence group was divided into parallel Air and Ground sections, organized according to theaters. In addition, an administrative Branch and a Situation and Planning Branch assisted in the supervision and planning for the group.

The Counter Intelligence Group was divided into parallel air and ground sections, devoted to Domestic, Plant Intelligence, Military Censorship, and Security of Military Information. They, too, were coordinated by an Administrative and a Counter Intelligence Situation and Evaluation Branch. Psychological warfare, training and dissemination were assigned to the Operations Group.<sup>122</sup>

Three months after Circular #59 was implemented, the new Assistant Chief of Staff, G-2, Major General George V. Strong, whom Eisenhower described as "a senior officer possessed of a keen mind, a driving energy, and a ruthless determination,"<sup>123</sup> indicated his dissatisfaction with the reorganization as it affected MID and offered an alternate plan of structure to the Chief of Staff.<sup>124</sup>

It was essentially the same organization as before, except that the office of Chief, Military Intelligence Service, had been established between most of the branches and the G-2. The Military Intelligence Division Staff, aside from [the] Military Intelligence Service, was new. The most apparent difference between the old and new plan was the separation of ground and air intelligence into parallel sections within Intelligence and Counterintelligence. As before, a group was established which met in the Situation Room to make the final evaluation and to conduct broad planning and policy making. Preliminary work of this sort was also done in the Situation and Planning sections and the Evaluation section of the Intelligence and Counterintelligence groups. Because the final evaluation process was entrusted to the G-2, General Staff, there was no clear break between [the] Military Intelligence Division and [the] Military Intelligence Service.

General Strong believed in organizing the Division functionally and sought therefore to place evaluation in the Intelligence Group. In July, according to present evidence, the Dissemination Branch was combined with certain other func-

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<sup>122</sup> *Ibid.*, pp. 15-16; another account comments that "after March 1942 there was a small Military Intelligence Division of the War Department General Staff totalling 16 officers with 10 clerical assistants, and a Military Intelligence Service consisting of 342 officers and 1005 civilian and enlisted assistants. The Service was to carry out the operational and administrative activities for the General Staff section, and while there were to be two distinct agencies, some of the key officers were members of both organizations. This differentiation tended to be an artificial distinction and in practice there was but one organization." From Otto L. Nelson, Jr. *National Security And The General Staff*. Washington, Infantry Journal Press, 1946, p. 525.

<sup>123</sup> Eisenhower, *op. cit.*, p. 34.

<sup>124</sup> MID History, *op. cit.*, p. 19.

tions and designated the Evaluation and Dissemination Branch, probably in the Intelligence Group. The date is uncertain, but the G-2 telephone directories for June and July indicate that this must have been the date. It was an agency which evaluated the overall information collected within the group and disseminated it as intelligence. In October its name was changed to the Dissemination Group and it was placed in the Intelligence Group. At the same time the Intelligence Group was divided into the newly created North American and Foreign Intelligence Command and the American Intelligence Command. The two commands gave [the] Military Intelligence Service the means to handle on the one hand all intelligence affecting Latin America (American Intelligence Command) and all other types of foreign intelligence (North American and Foreign Intelligence Command) on the other.<sup>125</sup>

Other changes in the intelligence structure were effected, such as the decentralizing of the American Intelligence Command and re-locating it in Miami.

By 29 November 1942 arrangements were sufficiently stable to issue a chart showing the various changes. The G-2 Staff was retained, and the Chief, Military Intelligence Service, was also designated as Deputy, G-2. The Executive office now appeared to supervise the Message Center. The Chief, Military Intelligence Service, was given four Assistant Chiefs for Intelligence, Training, Administration, and Security. The Intelligence Group was divided into the two commands mentioned above. North American and Foreign Intelligence Command was organized geographically with a separate air section further subdivided into general geographic sections. American Intelligence Command was organized more functionally with Branches devoted to Special Activities, "American," Air Control, Communications Control, and Hemisphere Studies. The dissemination Group was so placed that its Cable, Collection, Theater, Intelligence, and Publications Branches received reports from both commands. At the top of this pyramid with [sic] the Evaluation Board which reported to the Assistant Chief, Military Intelligence Service, Intelligence, and could receive reports from the aforementioned commands and groups.

The Training agency was divided into two groups: one for intelligence schools and the other for liaison with other schools and agencies concerned with intelligence training. The Assistant Chief, Military Intelligence Service, Administration was given certain operational Branches in addition to his housekeeping branches. These included Foreign Liaison, Military Attache, Psychological Warfare, Prisoner of War, and Geographic Branches. The latter was announced 25 November 1942 as the coordinating and policy making

<sup>125</sup> *Ibid.*, pp. 18-19.

agency for War Department procurement, preparation, and reproduction of maps. The Assistant Chief, Military Intelligence Service, Security, the old Counterintelligence Group, retained the same essential organization, being divided into domestic intelligence (counterintelligence) and Safeguarding Military Information (or Special).

Not shown on the chart was the Special Branch, which handled all matters relating to cryptographic security and communications, interception and analysis of cryptographic and coded messages, and measures relating to the use and security of radar and signal intelligence. This branch reported directly to the Assistant Chief of Staff, G-2, because the nature of its activities prevented a wholesale circulation of its efforts.<sup>126</sup>

The Evaluation Board, established on November 3, 1942, in accordance with General Strong's particular wishes, was directly responsible to the Assistant Chief of Staff, G-2, and the Chief of the Military Intelligence Service. It maintained close liaison with both the North American and Foreign Intelligence Command and the American Intelligence Command; in addition, foreign country experts were added to its membership, indicating increasing importance for country specialists.<sup>127</sup>

General Strong next proceeded to announce a new organization which more closely met his demands for an intelligence division. Although he disapproved of a separate Military Intelligence Service, he retained it and attempted to fashion his organization to produce the desired effect. The new organization was announced 25 January 1943. The General Staff section was divided into a Policy Section charged with the study and review of policies and their coordination in the General Staff and War Department. The remainder of the Staff was transferred to the Evaluation and Dissemination Staff of the Intelligence Group. This staff was charged with evaluation, interpretation, dissemination, and planning of intelligence. Specifically, it was charged with the determination of the intelligence requirements of the Chief of Staff and Operations Division. Current intelligence production and planning were, therefore, taken out of the hands of the staff where General Strong apparently felt it never should have been placed. A policy group was left behind to study and coordinate policy matters. No mention is made of strategy and task force operations, but presumably these problems were discussed by the Evaluation and Dissemination Staff. The mission of the Staff had been stated even more fully on 8 January 1943, when an interim organization was announced. It was to "control policy on evaluation, supervise its execution in the several levels of the Intelligence Group, and give final and superior evaluation, from the Operations viewpoint to military information for the application of

<sup>126</sup> *Ibid.*, pp. 20-21.

<sup>127</sup> *Ibid.*, pp. 21-22.

intelligence locally and for its dissemination wherever necessary." Thus, it not only set the policy for evaluation, but reviewed, in its supervisory capacity, the products of the various branches of the Intelligence Group.<sup>128</sup>

The four major units of the Military Intelligence Service—Administration, Intelligence, Counterintelligence, and Training—remained as they were but new subdivision entities were created at the discretion of the heads of these offices. The North American and Foreign Intelligence Command was abolished at this time and the American Intelligence Command became the American Intelligence Service, later the Latin American Unit.

Further alterations in the structure of the organization were effected three months later. The Foreign Liaison and Prisoner of War Branches were ordered to report directly to the Chief, Military Intelligence Service. The Administrative Group was abolished and its sections transferred to the Executive. A "Chart of Functions and Personnel" dated 17 April 1943, reveals that the Chief, Military Intelligence Service, was also Deputy G-2. Four sections appear as part of the "War Department General Staff, G-2": the Policy Section, the Evaluation and Dissemination Section, the Administrative Section and the Joint Intelligence Committee Section. At the same time, an Evaluation and Dissemination Staff is included in the structure of the Intelligence Group. A study of its functions and personnel reveals an interesting situation.

As a part of the G-2 General Staff, the Evaluation and Dissemination Section's functions are listed first as those assigned to the Evaluation and Dissemination Staff, and then as a section to study: "physical, economic, political, and ethnological geography in order to advise on measures of national security and assist in assuring continued peace in the post-war world; and . . . conducted studies of a broad nature to assist in the prosecution of the war." Its other functions were to advise the Chief, Intelligence Group, on the Intelligence requirements of [the] Military Intelligence Division's customers and to assign priority to their requests. They would also evaluate and synthesize information and intelligence produced, and make sure that there was always careful and complete consideration of all information in [the] Military Intelligence Service. Finally, they were to review and give final evaluation of intelligence before it was disseminated, and exercise general supervision over Military Intelligence Service publications and reports. Now the first function quoted above is exactly the same, except for slight changes in verbiage, as the mission of the Geopolitical Branch as stated in June 1942. Nowhere else in the chart is there a reference to the Branch, nor had there ever been any mention of it on any chart, because of a desire to keep its activities

<sup>128</sup> *Ibid.*, pp. 22-23.

secret. In February or March, the Branch's title had been changed to the less alarming "Analysis Branch."<sup>129</sup>

Next came renewed efforts to abolish the Military Intelligence Service and centralize intelligence operations under a new organization.

On 30 August 1943, it was announced that General Hayes Kroner, then Chief, Military Intelligence Service, would become Deputy for Administration, G-2. Col. Thomas J. Betts was announced as Deputy for Intelligence, G-2. No new chief was announced for the Military Intelligence Service. All of the old agencies of [the] Military Intelligence Division and [the] Military Intelligence Service were grouped under these two deputies. This was done in recognition of the fact "that all G-2—Military Intelligence Service activities, regardless of allocation, are concerned fundamentally with military intelligence and security." It was further provided that an intelligence producing agency should be established. All other functions were to be handled by another agency. Thus two deputies were established, the one responsible for administrative and "other" functions, while the other was responsible for intelligence.<sup>130</sup>

A second stage of the MIS abolition plan came on September 22, 1943 in a memorandum announcing a further reorganization around three deputies, one for Administration, one for Air, and one for Intelligence. The first of these remained with General Kroner, who was also given responsibility for the operation of the Services Group, the Training Group, and the Historical Branch.

The mission of the Deputy for Intelligence was defined in the same terms as in the previous memorandum. He was to direct not only the Policy and Strategy Group and Theater Group, but also the Collection Group, the Prisoner of War Branch, and the Order of Battle Branch. Thus, the function of collection was returned to the Deputy for Intelligence. The Deputy for Air was made responsible for the reestablished Air Unit which was charged with the same liaison function formerly assigned to the Air Liaison Section. The Deputy for Air was also charged with the supervision of Air Corps personnel assigned to G-2 and who were to be integrated into the various sections of the Theater Group. Their functions were not elaborated, but they presumably remained the same as before. The "new" organization was not, in point of fact, so new as it appeared to be. The memorandum had merely recalled the earlier one [by General Strong protesting the creation of MIS], and then accomplished the same purpose. The primary difference was the return of the collection function to the Intelligence group. It represents General Strong's ideal organization of an intelligence agency. He believed the separation of [the] Military Intelligence Service from [the] Military Intelligence Division had been

<sup>129</sup> *Ibid.*, pp. 25-26.

<sup>130</sup> *Ibid.*, pp. 28-29.

“unfortunate,” therefore, it was abolished. He believed the organization should rest on functional bases, therefore, intelligence planning and policy, screening and evaluation, and dissemination were brought together under one roof. The many miscellaneous functions of G-2 (services, training, mapping, history, etc.) were left outside the key organization. In a sense, [the] Military Intelligence Service had become the organization of the Deputy for Intelligence, except that policy and planning was not left in the intelligence producing agency.

Paradoxically, the organization charts of the War Department and the Army continued to show a separate Military Intelligence Service, although it had been abolished. The bulk of the personnel allotted to the Military Intelligence Division were allotted to a Military Intelligence Service. Many papers prepared in G-2 continued to carry signatures indicating that [the] Military Intelligence Service existed and functioned. This situation was deliberate. The reorganization memorandum stressed the fact that its details were to be retained in [the] Military Intelligence Division. Outside the Division, an effort was made to maintain the appearance of a separate Military Intelligence Service.<sup>131</sup>

When General Strong's tenure at G-2 came to an end and, on February 7, 1944, he was replaced by Major General Clayton Bissell, the reinstatement of MIS, in accordance with the Chief of Staff's original wishes, was assured.

The preliminary study for another reorganization was already in progress. Three days after General Strong was relieved as Assistant Chief of Staff, G-2, the Adjutant General issued a letter order establishing two boards of officers to study, recommend, and supervise the reorganization of the Military Intelligence Division. The first board consisted of Brigadier General Elliot D. Cooke, the “steering member,” Col. John H. Stutesman, Lt. Col. Francis H. Brigham, Jr., Capt. Jerome Hubbard, and Mr. George Schwarzwaldner (Bureau of the Budget). This Board was directed to make a detailed study and to submit recommendations for the reorganization of [the] Military Intelligence Division. They were further ordered to supervise the implementation of these recommendations under the supervision of a second board. It consisted of John J. McCloy (Assistant Secretary of War), Major General John P. Smith, Major General Clayton L. Bissell, and Brigadier General Otto L. Nelson, Jr. They were directed to “consider, approve, and supervise” the implementation of the recommendations submitted by the Cooke Committee.<sup>132</sup>

The work of these two panels came to a conclusion within two months from their creation.

<sup>131</sup> *Ibid.*, pp. 31-32.

<sup>132</sup> *Ibid.*, pp. 33-34.

On 23 March 1944, Mr. McCloy reported to the Chief of Staff the proposals of his committee, based upon the study of the Cooke Committee. A revision of AR 10-15 was suggested, which would give to [the] Military Intelligence Service the responsibility of securing pertinent information and converting it into intelligence for the use of the Chief of Staff, the General Staff, and the Military Intelligence Service. The Policy Staff would state and carry out all policies governing intelligence and counter-intelligence within the Army. The G-2 was responsible for the interior security of the Army and the production of intelligence necessary to the operation of the War Department. The purpose of the proposed change was clear. It not only separated [the] Military Intelligence Service from the Policy Staff and delineated the responsibilities of each, but it also clarified the relationship between the Division and the Service. This recommended revision was not adopted.

McCloy next outlined the proposed reorganization of G-2. It emphasized the fact that the Policy Staff must not be merged or integrated with [the] Military Intelligence Service. The work of the Policy Staff was divided into four groups of related subjects. A later regrouping and rephrasing of these subjects integrated and reduced the number of functions. The aim of both allocations was to enable a small body of experts to prepare policies, each in his particular speciality.

The broad outlines of [the] Military Intelligence Service were likewise sketched, but it was emphasized that within the organization, rigid compartmentalization would be avoided. The Chief, Military Intelligence Service, was charged with two responsibilities: the collection of information from all sources, and the production of intelligence. The Director of Information was to discharge the first function assisted by a supervisor of information, gathering personnel, liaison groups, etc., and a supervisor for receiving, classifying and distributing information. The Director of Intelligence would be assisted by an editorial group, intelligence specialists, and a chief of research. Finally, an executive for administration was to be created to relieve the Chief, Military Intelligence Service, and his two Directors of administrative problems. He was not to be a channel of communication between the Directors and the Chief of [the] Military Intelligence Service.<sup>133</sup>

Ultimately, there came the implementation of the proposals of the Cooke-McCloy panels.

The Reorganization Committee had recommended that AR 10-15 be revised so that the distinctions between the Military Intelligence Division and the Military Intelligence Service would be properly stated and made clear for all. This recommendation was not accepted. In September, however, a General Staff Circular, 5-2, 27 September 1944, was issued which superseded the Regulation and achieved the desired end. It

<sup>133</sup> *Ibid.*, pp. 35-36.

carefully listed the responsibilities and functions of the Military Intelligence Division and its subdivisions. The responsibility of the Assistant Chief of Staff, G-2, was defined and the preparation of plans and policies concerning military intelligence and counterintelligence. The functions of the Division were listed and it was made plain that it was to formulate plans and policies and to supervise the execution of the eleven functions listed. The Circular was prepared by the Policy Staff and there was, therefore, no confusion of language between information and intelligence. One factor, however, was added which had not been made explicit before. This was the supervisory responsibility of the Division.

The list of functions is clear and speaks for itself. It is therefore quoted in full:

“The Military Intelligence Division formulates plans and policies, and supervises:

1. Collection of information and intelligence at home and abroad, to include interrogation of prisoners of war.
2. Evaluation and interpretation of information and intelligence.
3. Dissemination of intelligence.
4. Terrain intelligence, including coordination of producing agencies.
5. Intelligence and counterintelligence training.
6. Military liaison with representatives of foreign governments.
7. Safeguarding military information, to include censorship and communications security.
8. Counterintelligence measures, to include evasion and escape.
9. Army participation in propaganda and psychological warfare.
10. Army historical activities.
11. The Military Intelligence Service, which is charged with appropriate operational functions concerning matters within the purview of the Military Intelligence Division.”

For the first time, then, the distinction between the Military Intelligence Division and the Military Intelligence Service was clearly stated. It made a fact of the efforts of the last few years to make the Military Intelligence Service the operational agency and the Military Intelligence Division the policy and planning agency. The normal staff duty of supervision was assigned to the Military Intelligence Division. No less important was the fact that the Circular provided the Division with an up-to-date statement of its mission, responsibilities, and functions. In effect, it was the statement of functions described in the report of the reorganization committee.<sup>134</sup>

<sup>134</sup> *Ibid.*, pp. 57-59.

Before leaving the evolution of the Military Intelligence Division, brief attention should be given to its operational units and their general activities. The first consideration in this regard is the intelligence collection function.

As of 7 December 1941, the collection of intelligence information was the responsibility of the Intelligence Branch of the Military Intelligence Division. This Branch also evaluated and distributed intelligence information; maintained digests of information of foreign countries; prepared combat, political, and economic estimates; and prepared special studies on foreign countries. Its geographical subsections directed and coordinated the collection of information by military attaches, by means of *Index Guide* and direct communication.

The *Index Guide* was a broad, general outline, covering the various aspects of information to be reported on a foreign country. It was too general to be considered an Intelligence Directive from which timely intelligence information could be expected. Specific direction to the military attaches in regard to collecting intelligence information was spasmodic and, therefore, incomplete. The geographic sections tended to depend on the ingenuity and clairvoyance of the military attaché to forward desired information.

The first step toward centralization came in March, 1942, when a Collection Section was established in the Situation and Planning Branch of the Intelligence Group. Although the primary function of collecting information remained with the geographic and subsections of the Intelligence Group, the Collection Section maintained liaison with other government agencies to secure information. It was essentially a liaison section until in November when the Collection Branch was placed in the Dissemination Group. Its new directive made it the agency to receive and requisition all information, except routine emanating from the Field Services. It obtained special information for the geographic branches and other divisions of the Military Intelligence Service, and from time to time it issued such intelligence directives as the Chief of the Intelligence Group might direct. The emphasis here was on non routine reports; routine reports were still the responsibility of the geographic branches. In securing its information, the branch used personal interviews, maintained contact with governmental and civilian agencies, and contacted field representatives.<sup>135</sup>

Field intelligence was gathered for battle commanders and strategists with a view to its immediate use by them and then subsequent forwarding to the Military Intelligence Division.<sup>136</sup> The intelligence

<sup>135</sup> *Ibid.*, pp. 63-65.

<sup>136</sup> On the collection of field intelligence for immediate combat purposes, see: Robert R. Glass and Phillip B. Davidson. *Intelligence Is For Commanders*. Harrisburg, Military Service Publishing Company, 1948; also see Oscar W. Koch with Robert G. Hays. *G-2: Intelligence for Patton*. Philadelphia, Whitmore Publishing Company, 1971.

needs of the General Staff in Washington were dictated by global strategy; commanders closer to specific operations required detailed intelligence of a more particularistic type. In many ways, MID sought to collect and maintain information which would serve both levels of intelligence need.

The functions of the Collection Branch were redefined 29 January 1943 by the Chief Intelligence Group after the reorganization outlined in Memorandum #18. The Branch was designated as the agency to requisition, receive and allocate all material coming into the Intelligence Group. Nevertheless, the individual units of the Group could still correspond with the Military Intelligence Service field representatives in the area of the special interest, but henceforth, were required to keep the Chief of the Collection Branch informed of this correspondence. A system of weekly reports to the Collection Branch were inaugurated, which itemized the types of information desired, assigned a priority rating, and distinguished new from old or repeated requests. These reports helped the branch coordinate collection activities with the requirements of other agencies. It did not yet have complete control over the collection of information, but a procedure by which a large portion of the requests were cleared through the Branch was established. The responsibility for liaison and the development of new sources increased the degree of its control over the collection of information.

On 18 March 1943 the Foreign Branch (actually the Field Services Branch at this period) was transferred to the Collection Branch. By this transfer, the Collection Unit gained administrative control of the Military Attache system. On 2 April 1943 the organization of the unit was described and its functions redefined. No new functions were added, except those acquired through the incorporation of the Foreign Liaison Branch, but the overall statement of responsibility designated the unit as the agency to requisition, receive and allocate all material coming into the Intelligence Group. The regional branches were still authorized to communicate directly with our representatives abroad.<sup>137</sup>

Next came the reorganization of 1944 and its effects upon the collection of intelligence information.

The reorganization plan of the "McCloy Committee" recognized the importance of the collection of information to the production of intelligence. An agency, separate from the Research branches, was created to exploit all possible sources and to collect timely, useful information. The production of information (the raw material of intelligence) was placed under the Director of Information and more specifically in the Source Control Unit.

The Supervisor of Source Control processed, trained, and assigned information gathering personnel; it advised them of

<sup>137</sup> MID History, *op. cit.*, pp. 65-66.

the types of information required; it assured the timely receipt of useful information; it weeded out useless information; and developed new sources. As established, it was largely an administrative and supervisory office, but it soon acquired other functions.

In October 1944 a War Department Intelligence Collection Committee was established under the Supervisor of Source Control. It was formed to coordinate and integrate all War Department intelligence target objectives for the exploitation in Germany and other rehabilitated areas, formerly occupied by the Axis. The Committee coordinated and compiled the requirements of the research branches of the Military Intelligence Service, the Technical Services, and the Air Forces into Target Objective Folders. The Folders were sent overseas to the Combined Intelligence Objectives sub-committee which coordinated all allied intelligence requirements so as to prevent duplication of investigation and to promote the most efficient use of specialist personnel. The committee also sent out investigative teams from the United States to exploit intelligence targets. In November 1944, the Committee began to turn its attention to objectives in Japan and Japanese occupied territory. The first of these folders was dispatched in May 1945.

The formal charter of the committee was not issued until June 9, 1945, but it had already been in operation for some time before this. Its secretariat was created September 23, 1944 to do the actual writing and coordinating of intelligence requests. The secretariat worked under the supervision of the Supervisor of Source Control who had been performing this work. Reports from the theaters were received in the Reading Panel which determined the reproduction and distribution to be given all incoming material. The secretariat filed new information in the Target Objective Folders as received. Documents of basic army interest were sent to the Pacific Military Intelligence Research Section . . . , Camp Ritchie, Maryland, and those of basic navy interest were sent to the Navy Document Center. Both agencies maintained accession lists of documents received.<sup>138</sup>

This committee marked an important pinnacle in centralized coordination of intelligence information collection. To further facilitate this organizational system, a monitoring control procedure for processing information requests was created. This practice allowed the Supervisor of Source Control to assign requests to the appropriate unit responsible for developing the type of information desired, to supervise response time and quality, and to otherwise remain apprised of the status of such inquiries. The Source Control Unit continued to issue general directives, as well, regarding the collection of information, thereby setting priorities and establishing a degree of quality control as well.<sup>139</sup>

<sup>138</sup> *Ibid.*, pp. 68-69.

<sup>139</sup> *Ibid.*, pp. 70-71.

Another important entity within MID was the military attache structure.

The group which administered this system during the war changed its name from time to time. It was known as the Military Attache Section (and Branch) until April 17, 1943, and thereafter as the Foreign Branch. The function and mission of the organization remained about the same throughout the period. The relation of the Branch to the military attache system was purely administrative. It processed personnel assigned to these offices. It brought them to the Military Intelligence Division where passports were arranged, inoculations procured, and intelligence indoctrination was completed. Thereafter the branch handled all administrative correspondence between them and the War Department, and supervised the administration of their offices. Finally, it was responsible for assisting the collection of intelligence by transmitting specific requests and general directives, such as the *Index Guide*.

In December of 1941 the section was composed of six officers and nine civilians under the direction of Captain (later Colonel) W. M. Adams. In the field, there were fifty-two offices, staffed by 129 officers. Coincident with the reorganization of the War Department, March 9, 1942, an Air Section, made up of an increment of officers from the Foreign Liaison Section A-2, was added to administer the air attache system. In early 1942, there were twelve Assistant Military Attaches for Air, each with an airplane and a crew chief. By Dec. 1, 1945 this number had grown to include 48 Military Air Attaches and Assistants in 38 Military Attache offices abroad.<sup>140</sup>

Another mechanism developed for coordinated intelligence collection was the Joint Intelligence Collection agencies.

After the North African invasion, it was found that in areas where a theater commander was actually present, the flow of intelligence stopped. The Theater intelligence organizations were interested in combat intelligence, rather than intelligence and information necessary for training and strategic planning. The solution was the formation of the Joint Intelligence Collection Agency in North Africa (Algiers) by an agreement with General Eisenhower, dated Jan. 26, 1943. This agency was expanded on May 30, 1943 to include, not just Algiers, but all of North Africa and became known as the Joint Intelligence Collection Agency North Africa. A second Joint Intelligence Collection Agency was established as Joint Intelligence Collection Agency Middle East for the Middle East Theater, April 23, 1943. On August 5, 1943, the system was placed on a world wide basis by direction of the Joint Deputy Chiefs of Staff. The third was established in the China Burma India Theater, August 19, 1943, and from this a separate one was established for China, April 27, 1945, when

<sup>140</sup> *Ibid.*, pp. 74-75.

that theater was established. The Pacific Ocean Area was served by the Joint Intelligence Collection, Pacific Ocean Area, which was operated under the direction of the Joint Chiefs of Staff.<sup>141</sup>

In addition to supplying administrative support and guidance for the Joint Intelligence Collection agencies, the Foreign Branch of the MID Collection Unit also supervised two special missions. Organized in the summer of 1943, the first of these entities gathered all information available regarding the latest developments and capabilities of the enemy in the field of bacteriological warfare. The second, called the ALSOS Mission, was operational by the autumn. It sought scientists and scientific information which might reveal the progress of the enemy in atomic research and allied subjects.<sup>142</sup>

As of June 1944, liaison between MID and other Federal agencies was centralized in a Washington Liaison Branch but, even after that time, informal liaison persisted beyond the new unit's control.

The roots of the branch are to be found in the Contact Section, existing in the Intelligence Branch on December 5, 1941. It was charged with contacting State, Office of Naval Intelligence, etc. for Military information. Subsequent charts and reorganization memoranda do not mention it, but a chart of May 15, 1942, lists one of the functions in the Dissemination Branch as interviewing returning observers, a task later assigned to the Washington Liaison Branch. Mention of a Contact and Liaison Section is made October 23, 1942 in a discussion of Intelligence possibilities in the interviews of returning observers, officers, and civilians by Major Edward F. Smith in Oct. and Nov. 1942. As we have seen in the discussion of the Collection Branch, this function was included in the directive of Dec. 9, 1942. Nevertheless, there seems to have been at least three agencies doing this type of work independently and without coordination (War Department Liaison, State Department Liaison, and Domestic Branch)—all in [the] collection unit. In Feb 1944 there were 150 Liaison functions performed in Military Intelligence Division, but they were not coordinated or controlled. Many offices whose functions were normally liaison acted independently of their superiors and on their own initiative. As Col. H. H. Mole, Chief of the North American Branch, said, "There were too many people running too many contacts for successful work."<sup>143</sup>

While the coordination of liaison was a persistent and continuous problem in Washington for MID, it was less so in field contacts with private business enterprises due largely to the good efforts of regional offices.

At one time there were four such offices in New York, San Francisco, Miami and New Orleans. They were established to

<sup>141</sup> *Ibid.*, p. 76; for a view of coordinated intelligence operations within General Eisenhower's Supreme Headquarters in London, see Kenneth Strong, *Intelligence At the Top*. New York Doubleday and Company, 1969, pp. 72-299.

<sup>142</sup> MID History, *op. cit.*, p. 79.

<sup>143</sup> *Ibid.*, pp. 84-85.

collect information of intelligence value to the War Department from sources peculiar to their location. In addition, they performed such functions as liaison with foreign personnel, dictated by the characteristics of the industries and traffic of their locations. Only the Miami Office survived the war, all of the rest having been closed before the end of hostilities.

The Branch offices originated in 1940. At that time, most of the information coming into the division came in the form of Military Attache reports. It was recognized that there was a considerable amount of information to be had in the principal ports of entry and in the metropolitan centers of the nation. Files of trade data, insurance maps, and related data, records of financial transactions, engineering reports, travel diaries and field notes of scientists, and other similar items existed in these centers. This material could not be shipped to Washington for processing, so that it was necessary to go to the sources.<sup>144</sup>

The first such field office to be established by MID was in New York. Opened on July 8, 1940, it initially concentrated on Latin American intelligence but by August, 1941, the product had shifted to target folders on Europe and, subsequently, on Japan. Before being closed on December 31, 1944, a satellite of the New York office was opened in Chicago sometime between January and March of 1943. A New Orleans unit operated between April 17, 1941, and February 2, 1943. The San Francisco office was inaugurated on July 31, 1941, and initially devoted its attention to interviewing evacuees from the Asiatic and Pacific areas of conflict. Later, the intelligence interest of the unit shifted to business and educational sources familiar with the Orient. While in operation, the office cooperated closely with representatives of the Office of Naval Intelligence; it ceased functioning on June 30, 1944. The Miami office, the longest lived and last to open, commencing operations on April 7, 1942. Its principal focus was upon Latin and South American developments and the trafficking of foreign visitors to the United States via the "Miami Gateway."<sup>145</sup>

The Foreign Liaison Office was created 31 August 1941 to facilitate the work of foreign military attaches and other foreign officers in this country on official business. It made arrangements to see that proper courtesies were extended to them and systematized and controlled the military information furnished them. At the beginning of the War it was a part of the Administrative Branch. In March of 1942 it was directly under the Executive, Military Intelligence Service, but later was placed under the G-2. In March it consisted of twelve officers and twenty-four civilians, but the same month received an increment of personnel from the Foreign Liaison Section of the Air Staff. After the reorganization of June 1944 it was placed in the Washington Liaison Branch where it remained for the rest of the war.

Throughout the war, then, it was concerned with the problem of satisfying the needs of the diplomatic military repre-

<sup>144</sup> *Ibid.*, pp. 87-88.

<sup>145</sup> *Ibid.*, pp. 88-89.

sentatives of foreign governments. The basic directives and decisions which related to the release and exchange of both technical and military information were made outside of the section. The results of these decisions flowed through

it. . . .<sup>145a</sup>

The policies adopted in regard to the exchange of information and intelligence with the British and our other allies were developed on a higher level than the Military Intelligence Division, but it took part in the discussions. Once the general policy was adopted there then remained the task of implementing it and working out the details on the "working levels." In general this was done not in broad general agreements but in a series of specific arrangements, sometimes verbal and informal.

The background of these agreements lies in the pre-war period when the military staffs of the two nations met to discuss plans for strategy and to prepare for eventualities. Beginning in January 1941 Staff conversations were held to this end. Throughout the American representatives were careful not to commit the nation to a line of action which might later prove embarrassing. Agreements were made and conversations held not on the basis of when the United States entered the war, but if it should be forced to enter it. After 7 December 1941 further conversations and meetings were held and more definite agreements were made.<sup>146</sup>

One of the devices developed to facilitate cooperative intelligence arrangements between the United States and Great Britain was a special panel called the Combined Intelligence Committee. It was part of a progression of intelligence coordinating units created during the war. First, a Joint Army and Navy Intelligence Committee was created under the Joint Army and Navy Board on December 3, 1941.<sup>147</sup> Organized in 1903, the Joint Board made recommendations to the Secretaries of War and Navy on matters involving cooperation of the two armed services. Its subordinate agencies included the Joint Planning Committee (established in 1919), the Joint Economy Board (established in 1933), and the intelligence unit. The Joint Board was abolished in 1947 with the institution of the Department of Defense.

Next came the Joint Intelligence Committee organized under the Joint Chiefs of Staff.

This Committee, known also as JIC, was a continuation and enlargement of the Joint Board committee of the same name, which had been authorized in 1941. It received no charter from the Joint Chiefs of Staff until May 1943, but it was given a directive and was reorganized early in March 1942. Even before this, on February 11, 1942, a Combined Chiefs of Staff paper had defined the duties and membership of the Joint Intelligence Committee. Its primary functions throughout the war period were to furnish intelligence in

<sup>145a</sup> *Ibid.*, pp. 88-89.

<sup>146</sup> *Ibid.*, pp. 92-93.

<sup>147</sup> *Ibid.*, p. 94.

various forms to other agencies of the Joint Chiefs of Staff and to represent it on the Combined Intelligence Committee.

As originally constituted, the Joint Intelligence Committee was composed of the directors of the intelligence services of the Army and Navy and representatives of the State Department, the Board of Economic Warfare (later the Foreign Economic Administration) and the Coordinator of Information (later the Director of Strategic Services). The charter of May 1943 added the director of the Intelligence Staff of the Army Air Forces. This membership remained unchanged throughout the remainder of the war.

The Joint Intelligence Committee was assisted by a full-time subcommittee and some ten or more special subcommittees. The permanent working staff was organized by the Committee early in 1942 as the Joint Intelligence Subcommittee (JISC). Its status was formalized in the charter of the Committee on May 1943. Two months later, the Joint Intelligence Subcommittee was renamed the Joint Intelligence Staff (JIS). The latter agency was given a charter by the Joint Chiefs of Staff in May 1944 and operated under it throughout the remainder of the war.<sup>148</sup>

Then came the Combined Intelligence Committee.

Provision for this Committee, known also as CIC, was made in the agreement to create the Combined Chiefs of Staff, but it does not appear to have met before May 1942. Its working subcommittee, however, known first as the Combined Intelligence Subcommittee (CISC) and from August 1943 as the Combined Intelligence Staff (CIS), met as early as February 19, 1942. This subcommittee was composed of the Joint Intelligence Subcommittee, later the Joint Intelligence Staff, and the British Joint Intelligence Committee in Washington. The Combined Intelligence Committee consisted of the Joint Intelligence Committee and representatives of the British Joint Intelligence Subcommittee in London. Both the Combined Intelligence Committee and the Combined Intelligence Staff continued throughout the war. The former was responsible for collecting and disseminating military intelligence for the use of the Combined Chiefs of Staff and the Combined Staff Planners.<sup>149</sup>

Other units of the Military Intelligence Division with specialized intelligence collection functions included a prisoner interrogation group.

The Captured Personnel and Material Branch was originally known as the Prisoner of War Branch. It was not established until 22 October 1942, although one of its functions, the Interrogation Center, had been established a few months

<sup>148</sup> General Services Administration. National Archives and Record Service. The National Archives. *Federal Records of World War II: Military Agencies* (Vol. 2). Washington, U.S. Govt. Print. Off., 1951, p. 9.

<sup>149</sup> *Ibid.*, p. 4.

earlier. Thus, the origins of the branch go back almost to the beginning of the war.

The original impetus for the establishment of the interrogation centers came from the Navy. The Office of Naval Intelligence had studied an interrogation center near London during the period from 25 June to 17 December 1941. It found that such a center, where selected prisoners were interrogated, offered many advantages over a system of interrogation which stopped with the initial questionings at the time of the capture. The Navy and War Departments had agreed that the Army would be responsible for all captured personnel, and that the Navy would turn them over to the Army as soon as possible after capture. Upon completion of the study, the Secretary of the Navy recommended the idea to the Secretary of War. After study by the Military Intelligence Division, the plan was agreed to. It was agreed that two interrogation centers would be established: one in the East near Washington and the other in California. On 15 May 1942, Fort Hunt, Virginia, was selected as the east coast center, and construction was completed by the end of July.<sup>150</sup>

Activated in April, 1942, the Fort Hunt Interrogation Center was allotted 68 officers and 61 enlisted men; in September of the following year, these personnel were reduced to 41 officers and 61 enlisted men. The West Coast Center, opened at the end of December, 1942, was located at Byron Hot Spring, but had a mailing address of Tracy, California, thereby causing it to be geographically referred to by two different names.

The interrogation centers, Fort Hunt and Tracy, were subject to a dual command. They were under the control of the Provost Marshal General, who designated the Commanding Officers for the two camps. These officers were responsible for procurement of equipment and overhead personnel upon requisition from the Corps areas. Interrogation personnel were supplied by the Military Intelligence Division and the Office of Naval Intelligence and their activities, coordinated by the senior interrogating officer. The camps were classified as Temporary Detention Centers. Within the compound of the camps, the areas known as the interrogation center was operated by, and was the responsibility of, the Chief of the Military Intelligence Service. This arrangement was not satisfactory. G-2 requested a unified control be established as more efficient and conducive to improved morale. The request was disapproved as contrary to existing regulations. The Adjutant General was then asked to establish a new regulation similar to that governing the harbor defenses. This was accomplished and on 14 April 1943 when the Post Commanders of Fort Hunt and Byron Hot Springs were ordered reassigned [sic]. This marked the end of the dual control system and the transfer of these operations to the Chief, Military Intelligence Service.

<sup>150</sup> MID History, *op. cit.*, pp. 99-100.

The senior interrogating officer was, thereafter, post commander.<sup>151</sup>

The last of the intelligence collection units of MID was the Map and Photograph Branch which began as the Geographic Section of the Plans and Training Branch in 1941 before reorganization into a separate branch in the spring of the next year. Subunits included a Photo Section, Still Picture Section (enemy motion picture film, military technical photography), Photographic Division (processing), Terrain Photo Section, Military Technical Photo unit (indexing and filing), and Motion Picture Unit. There was, of course, close liaison with the Army Map Service and Army Pictorial Service. Materials were also drawn from the Aeronautical Chart Service, Navy Hydrographic Office, Coast and Geodetic Survey, U.S. Geological Survey, Office of Strategic Services, and several commercial firms including the National Geographic Society.<sup>152</sup>

Generally speaking, the Division followed a traditionally geographic approach to the problem of intelligence production. There were those who found that the functional divisions of the McCloy Committee were sound. In certain specialized subjects, as Order of Battle, Air, and Topographical intelligence, a functional grouping was more desirable. Shortly after the war, the Division again embraced the geographic arrangement which would seem to settle the matter, at least for the moment, but a post war opinion of wartime operations states that the Division was not operating efficiently until the end of 1944—by which time the geographical arrangement had been abandoned.<sup>153</sup>

Whichever approach was operative in intelligence production, the core element of the research sections was their filing systems. According to the Basic Intelligence Directive, numbers and subjects served to indicate the most probable subdivisions into which information might be placed.

Intelligence was produced by other means than merely filing incoming reports. Careful studies were made from minutiae collected from the files of business concerns. Thus, a laborious study of the organization and production techniques used in the manufacture of an essential item might point out those places where the disruption of a simple process would halt production with only a modest expenditure of bombs. Thus, manufacturing, processing, and transportation bottlenecks were sought as targets. Captured orders were examined to discover the formation of new types of outfits, for clues to future plans. The who's who files were especially useful in turning up new and special type organizations. All available information on the enemy was studied because eventually it was grist for the mill.<sup>154</sup>

<sup>151</sup> *Ibid.*, pp. 100–101.

<sup>152</sup> See *Ibid.*, pp. 108–113.

<sup>153</sup> *Ibid.*, pp. 123–124.

<sup>154</sup> *Ibid.*, pp. 125–126.

Under the geographic arrangement, the principal research units were British Empire, Western Europe, Central Europe, Eastern Europe, the Far East, and Latin America. This 1941 structure gave way the following year to the Eur-African, Far Eastern, and American Intelligence Service Groups, the Air Unit, and Special Branch, the last named being the largest intelligence producing agency in MID at the time.<sup>155</sup> The 1944 reorganization saw the establishment of the Military, Topographic, Political, Economic, Sociological, Scientific, and Who's Who Branches. But this scenario, too, was due for alteration.

Under the terms of the reorganization of June, 1944, Political and Economic intelligence was to be produced by two branches devoted to these subjects and working on a world wide basis. To this end they were separated and personnel and equipment were brought in from the geographic branches and the Special Branch. In November the Far Eastern Section of the Political Branch was separated and transferred to the Economic Branch, and the European functions of the Economic Branch were transferred to the Political Branch. Each became, in fact, a Political-Economic Branch, responsible for the production of intelligence on these matters, according to a geographic area. The old Political Branch being responsible for Europe, Latin America, and North America; and the Economic Branch being responsible for the Far East.<sup>156</sup>

The personalities of leaders and organized groups opposed to the Allies' cause were of interest to the War Department and this prompted the collection of intelligence material pertaining to such individuals.

Originally, this information had been filed in the Record Section by relatively unskilled clerks who composed and filed the cross reference sheets. Later, this function was removed from the Record Section, and in January, 1943, Counter-intelligence was removed from the Military Intelligence Division and decentralized to the Service Commands under the direction of the Army Service Forces. It was necessary, then, to find a substitute whereby central files could be established for the recording of biographical information needed in the Military Intelligence Division. It should also be borne in mind that the information which was secured by the Counter-intelligence Group had been concerned largely with subversive personnel and, thus, left out a large segment of the world's population who did not fall, automatically, into this category. The Geographical Branches had maintained files of persons of interest to them in their particular area, but these files were, of course, decentralized and suffered from the limitations of decentralization. Persons shifting from area to area could not easily be followed then unless proper inquiries were made between the geographic branches. In January, 1943, the Special Branch began a name file of persons or persons of interest to it, and since it was not bound by geo-

<sup>155</sup> *Ibid.*, p. 126.

<sup>156</sup> *Ibid.*, p. 146.

graphical limitations, a nucleus of a central file was established with trained personnel to operate it.<sup>157</sup>

In June, 1944, the Who's Who Branch became the recipient of Name File of the Special Branch and received, as well, the relevant personality files of the geographical branches.

An offshoot of the Geographic Section of the Plans and Training Branch (later Map and Photo Branch) was the Topographic Branch, which was formed in June, 1944, by separating the Map Service, Photo Intelligence, and Interpretation Reports Sections from the remainder to form the Map and Photo Branch. That which remained became the Terrain (previously the Geographic Research) Section, the Cartographic Section, and the Transportation Section. As a result, it became more of a research section. The intelligence which it produced was provided not only to the War Department General Staff, but also to such agencies as the Joint Intelligence Committee, the Joint War Plans Committee and the Joint Logistics Plan Committee. It produced intelligence concerning terrain, vegetation, routes of movements and drainage, but also supplied intelligence concerning landing beaches, climate, and soil trafficability, which was generally produced by other agencies. The Chief of the Branch represented the Military Intelligence Division on the Joint Intelligence Committee to obtain topographic intelligence. He also represented the War Department General Staff on the United States Board on Geographical Names. The terrain section procured, selected, evaluated, and integrated information concerning terrain and climate. It also prepared written reports and manuscript maps which interpreted terrain and climate intelligence.

The Transportation Section was a new function, or a specialization, which appeared after the reorganization. It was designed to handle the demand for information and intelligence concerning the classifications and locations of rail networks and terminals, roads, trains, bridges, and tunnels, and the depths, widths, and currents of navigable rivers. It also prepared manuscript maps, as directed, of transportation networks. By V-J Day, this objective was only partially satisfied. The following sections of the Far East were completed: Burma, China proper, Netherlands Indies, Indo China, Malaya, and Thailand; with Formosa, Japan, Korea, Manchuria, and the Philippines partially completed. The Cartographic section produced maps and graphic material required by the other sections to present topographic intelligence in its final form.<sup>158</sup>

The Scientific Branch maintained liaison with Federal agencies in an effort to keep abreast of the latest developments in American and Allied war research and also sought to produce intelligence regarding

<sup>157</sup> *Ibid.*, pp. 150-151; on counterintelligence activities in the field see John Schwarzwalder. *We Caught Spies*. New York, Duell, Sloan and Pearce, 1946.

<sup>158</sup> *Ibid.*, pp. 156-157.

enemy progress in such diverse subjects as radar and related electronic matters, rocketry, jet propulsion, atomic energy production, and conventional weapons improvements. Its subunits consisted of a Chemical and Biological Warfare Section, Electronics Section, New Weapons Section, and subsequently a Physics Section.

The Sociological Branch was a new agency in the Military Intelligence Service, but its work had been foreshadowed in the activities of other Branches. Under the new functional organization, most of these dispersed activities were combined and enlarged, and coordinated effort provided. The Geographic branches had done some of the work which the new branch would perform; as well as the Propaganda Branch, which had attempted some surveys of morale and propaganda, which duplicated the later work of the branch. The Geopolitical Branch had undertaken some population studies during its brief existence and these were now taken over by the Sociological Branch.

The main effort of the Branch was directed toward the discovery of sociological trends of military importance. Population and manpower data was studied for clues to vital statistics as well as the migrations and occupational characteristics of groups and types. Manpower and labor problems were studied to discover the availability of manpower for military and industrial service and the effect of legislation and organizations on the availability of manpower. Both civilian and military morale was studied in enemy countries. Social Groups and classes were studied to discover how their cleavages and tensions might be used to serve military ends.<sup>159</sup>

Organized in June, 1944, the Military Branch produced intelligence on all aspects of foreign ground and air forces, with an emphasis upon order of battle data but including, as well, weapons, fortifications, air industry, and some translation activities assigned to the unit. The functions of the branch were not new, but had appeared during the war and had suffered ineffective execution due to dispersed administration and treatment.

At the top of the pyramid of intelligence [production] personnel were the Specialists. While the rest of the Division was organized functionally [in 1944], the Specialists were organized geographically. In theory, they drew upon the resources of the other branches for the types of information which they required. To the material received from the research sections, they gave the final evaluation and approval before it was disseminated, thus inheriting some of the functions of the Evaluation Staff. By means of the G-2's Morning Conference, they presented the latest information from all corners of the world with their evaluation of its meaning and importance. Thereafter, during the day they sent him such other reports as were required. They worked with the Director of Intelligence and assisted him in giving directives to the Supervisor of Source Control to gather information

<sup>159</sup> *Ibid.*, p. 161.

which they required, and gave direction and supervision to the research sections for the same purpose.<sup>160</sup>

This, then, generally describes the MID intelligence production organization. But once intelligence information had been collected, analyzed, and a product was produced, one general function remained to be served—dissemination.

Throughout the war there were efforts to centralize the dissemination of intelligence. Prior to 1944, the Dissemination Unit had achieved the greatest degree of centralization so far attained. At no time, however, did it or the Reports Unit establish complete control of all phases of this activity. Indeed, this would have been impossible. Dissemination included, not only the preparation of printed periodical publications of intelligence, but also the means by which intelligence was presented to the G-2, the Chief of Staff, and the various Staff Division[s]. Intelligence was disseminated by periodic publications, special reports, conferences, and so on; besides the usual types of reports and memoranda, maps, photographs, charts, and tables were used to present the material at hand.

The normal dissemination functions were the responsibility of the Dissemination Unit in early 1944. Its antecedents include the Dissemination Section of the Intelligence Branch, which became the Dissemination Branch in April, 1942. Meanwhile, the Situation Branch, created early in 1942, was performing dissemination functions. In August, 1942, the Evaluation and Dissemination Branch was created to include the work of the Dissemination and Situation Branches in the Dissemination Section, along with other sections devoted to Communications, Theater Intelligence, and Order of Battle. A Project and Review Board reviewed all completed projects before they were sent out. In November, 1942, the designation of these sections was changed to Dissemination Group under Col. G. S. Smith. It included Cable Branch, Collection Branch, Theater Intelligence Branch, and Publications Branch. In April, 1943, after a number of minor changes, the Dissemination Unit was created to be responsible for the format and appearance of any publication produced in the Military Intelligence Service. It also disseminated intelligence approved by the Evaluation and Dissemination Staff. This last group had been established as the final evaluation and review authority for intelligence before it was disseminated to the Army. It passed on periodical items, monographs, studies, and similar reports.<sup>161</sup>

This was the pattern of reorganization and growth in the military intelligence establishment during World War II.

In 1941, G-2 was a small organization. Under the impact of wartime expansion and development, it grew. In 1942 a new factor entered the picture in the form of a separate operat-

<sup>160</sup> *Ibid.*, p. 197.

<sup>161</sup> *Ibid.*, pp. 204-205.

ing agency, and during the next two years, an effort was made to mold the organization into a single intelligence producing and policy making agency. In the course of these efforts, the Military Intelligence Service tended to lose its identity. In 1944, it re-emerged as an intelligence operating and producing agency with definite functions and responsibilities. At the same time there was a struggle over the best method of organizing to produce intelligence. Thus, evaluation was, for a time, turned over to a Board which had as an additional function policy making. In 1944, a new method was devised by which intelligence was produced by supervised specialists who were aided by the research groups. All of the policy making activities were allocated to the Military Intelligence Division. But one fact must be borne in mind. This method was more easily devised in 1944 than at any previous time because by then the Military Intelligence Division had lost its counterintelligence functions. Prior to that time, the structure of the organization must include [sic] a provision for counterintelligence. With the loss of this function, it was possible to greatly simplify the organization and emphasize the importance of teamwork in the new Military Intelligence Division.<sup>162</sup>

While there was a War Department reorganization effective June 11, 1946, "the Intelligence Division (G-2) did much the same work as always."<sup>163</sup> As with the other armed services, the next great revision of military intelligence functions and organization would occur in 1947 with the establishment of the Department of Defense, the National Security Council, and the Central Intelligence Agency.

Two other outstanding units within the military intelligence network should be examined at this juncture: the Signal Corps' cryptology group and the Allied Intelligence Bureau. The great importance of the former of these entities derived, of course, from the successful decipherment of the Japanese code.

A trickle of MAGIC in 1936 had become a stream in 1940. Credit for this belongs largely to Major General Joseph O. Mauborgne, who became Chief Signal Officer in October 1937.

Mauborgne had long been interested in cryptology. In 1914, as a young first lieutenant, he achieved the first recorded solution of a cipher known as the Playfair, then used by the British as their field cipher. He described his technique in a 19-page pamphlet that was the first publication on cryptology issued by the United States Government. In World War I, he put together several cryptographic elements to create the only theoretically unbreakable cipher, and promoted the first automatic cipher machine, with which the unbreakable cipher was associated.

<sup>162</sup> *Ibid.*, pp. 59-60.

<sup>163</sup> Ray S. Cline. *U.S. Army in World War II. The War Department: Washington Command Post: The Operations Division*. Washington, U.S. Govt. Print. Off., 1951, p. 359.

When he became head of the Signal Corps, he immediately set about augmenting the important cryptanalytic activities. He established the S.I.S. [Signal Intelligence Service] as an independent division reporting directly to him, enlarged its functions, set up branches, started correspondence courses, added intercept facilities, increased its budget, and put on more men. In 1939, when war broke out in Europe, S.I.S. was the first agency in the War Department to receive more funds, personnel, and space. Perhaps most important of all, Mauborgne's intense interest inspired his men to outstanding accomplishments. More and more codes were broken, and as the international situation stimulated an increasing flow of intercepts, the MAGIC intelligence approached flood stage.<sup>164</sup>

When Mauborgne retired in September, 1941, being succeeded by Major General Dawson Olmstead, the cryptanalytic capability he had nurtured was commendable but, of course, in need of expansion and further refinement when war engulfed the nation two months later.

It multiplied its communications-intelligence manpower thirtyfold from its strength December 7, 1941, of 331—44 officers and 137 enlisted men and civilians in Washington and 150 officers and men in the field. Ever-growing requirements quickly dwarfed early estimates, such as the early one in 1942 that a staff of 460 would suffice, and kept up a relentless pressure for more and still more workers. Yet the agency faced stiff competition for them in manpower-short Washington. Moreover, the necessity for employees to be of unquestionable loyalty and trustworthiness, because of the sensitive nature of cryptanalytic results, and the importance of their being temperamentally suited to the highly specialized nature of the work, greatly reduced the number of prospects. To fill its needs, the agency launched a series of vigorous but discreet recruiting drives. It snatched people out of its school even though they were only partially trained: during the school's entire time at Fort Monmouth, New Jersey, not one student completed the full 48-week course. It brought in members of the Women's Army Corps—almost 1,500 of them. These measures enabled the agency to grow to a strength of 10,609 at its peak on June 1, 1945—5,565 civilians, 4,428 enlisted men and W.A.C.'s and 796 officers. (This figure excludes cryptologic personnel serving under theater commanders overseas.) Nevertheless, the personnel supply never caught up to the demand. In April, 1944, for example, the agency had more than 1,000 civilian positions empty.<sup>165</sup>

Personnel growth, new functions, and the pressures of war also dictated new structure of the cryptological unit.

In June of 1942, owing to a reorganization in the Office of the Chief Signal Officer, the outfit shed its old name of Signal

<sup>164</sup> David Kahn. *The Codebreakers*. New York, New American Library, 1973; originally published 1967, p. 7.

<sup>165</sup> *Ibid.*, p. 316.

Intelligence Service and gained and lost three new ones within two months. Then from July, 1942, to July, 1943, it was called the Signal Security Service, and from July, 1943, to the end of the war, the Signal Security Agency. Lieutenant Colonel Rex Minckler, chief since before Pearl Harbor, was replaced in April, 1942, by Lieutenant Colonel Frank W. Bullock. In February, 1943, Lieutenant Colonel W. Preston (Red) Corderman, tall, husky, quiet, pleasant, who had studied and then taught in the S.I.S. school in the 1930s, became chief. He remained in the post to the end of the war, rising to a brigadier general in June, 1945.

Its population explosion and its voluminous output strained its administrative structure, and this was realigned several times. As of Pearl Harbor it was divided into four sections: the A, or administrative; the B, or cryptanalytic; the C, or cryptographic, and the D, or laboratory.<sup>166</sup>

While the B section broke ciphers and decoded messages, the C section devised new codes, ciphers, and related materials for the American military forces. In August of 1942 an E or Communications section was created by upgrading the "traffic" subsection of the cryptanalytic unit. In March, 1943, the six sections were elevated to branch status and by the following year a Machine Branch (mechanized coding/decoding operations) and an Information and Liaison Branch were added.<sup>167</sup>

In June of 1942, the Navy ceded all supervision and responsibility for Japanese diplomatic code solutions to the Army, surrendering both files and machinery at this time.<sup>168</sup> In addition to its central coding/decoding operations in Washington, the Signal Intelligence Service established cryptanalytic units in various theaters of the war, received tactical, combat-level communications intelligence via the Signal Corps radio intelligence companies in the field, and maintained an active radio intercept program through the 2nd Signal Service Battalion (later the 9420th Technical Service Unit).

Though this set-up held until the war ended, operational control of the agency passed on December 15, 1944, to G-2, the military intelligence section of the War Department General Staff, which was the agency's major customer and which, as such, for many months had indirectly guided its activities. The Signal Corps merely retained administrative control. This confusing arrangement—complicated further by the agency's having both staff and command functions—ended in August, 1945, when the War Department transferred all signal intelligence units to agency control. On September 6, four days after the war ended, the War Department ordered the creation within G-2 of a new cryptologic organization by merging the Signal Security Agency, the field cryptanalytic units, and Signal Corps cryptology. This was the Army

<sup>166</sup> *Ibid.*, p. 317.

<sup>167</sup> *Ibid.*, p. 318.

<sup>168</sup> *Ibid.*, p. 315.

Security Agency, which came into existence September 15, 1945.<sup>169</sup>

The Allied Intelligence Bureau, composed of combined Allied forces in the Pacific command zone of General Douglas MacArthur, was established at Brisbane, Australia, on July 6, 1942, under the auspices of his intelligence staff, headed by Major General Charles A. Willoughby. According to MacArthur's records which Willoughby has cited:

. . . the history of the AIB is a secret, little-publicized but highly important chapter in the story of the Southwest Pacific. From the Solomons to Borneo, from Java to the Philippines, a small adventurous group of carefully trained specialists spread a network of observers and operatives behind the enemy lines well in advance of our main body. . . . Operating in almost total isolation and normally without hope of outside support, every expedition was carried out in the face of great personal risk. If discovered by the enemy, the small parties were doomed to almost certain capture and probable death. In that event those who died quickly were fortunate. . . . Jungle-wise "coastwatchers," with tiny radio transmitter-receiver outfits, remained behind as the Japanese invasion wave swept forward. . . . From these few fearless men a powerful network of sea, air and ground spotters was developed until finally it became impossible for the enemy to make a single major move on the surface or in the sky without intelligence reports being flashed in advance to Allied forces. . . . At the conclusion of the desperate Guadalcanal campaign, Admiral Halsey publicly stated that it was probable that the allies could not have retained their hard-won initiative on Guadalcanal Island had it not been for the consistent advance radio warnings by AIB agents of impending enemy air attacks.<sup>170</sup>

The Bureau was headed by Colonel C. G. Roberts, an Australian, with Lieutenant Allison Ind, an American, as his deputy. The principal structural units included a British Special Operations ("sabotage and silent killing") group, a British radio monitoring outfit, the Netherlands Indies Forces Intelligence Service, an Australian propaganda group, and the Australian "Coast Watchers."<sup>171</sup> MacArthur's records comment:

. . . It was found necessary to adjust the organizational structure on a "geographic" rather than a purely "functional" basis primarily to protect and reconcile political sovereignties. A very interesting figure emerged in the often delicate negotiations, one Mr. Van der Plaas, a former Governor of Eastern Java, related to native princes, and a top-flight dip-

<sup>169</sup> *Ibid.*, p. 318-319.

<sup>170</sup> Charles A. Willoughby and John Chamberlain. *MacArthur 1941-1951*. New York, McGraw-Hill Book Company, 1954, pp. 145-146.

<sup>171</sup> Allison Ind. *Allied Intelligence Bureau*. New York, David McKay Company, pp. 10-11.

lomat. His persuasive formula was the division of the vast Southwest Pacific along colonial lines, preserving the prewar status quo. Colonel Van S. Merle-Smith, G-2 Deputy who had handled million dollar New York corporations before the war, was just the tough hombre to cut his way through tropical ambitions.

The chiefs of the various AIB sections were placed under an Australian Comptroller who, in turn, was responsible to G-2 headquarters; an American Deputy Comptroller was inserted as the Finance Officer. Thus we retained a double check upon the Bureau and its elusive international components; a coordinating staff, consisting of liaison officers from each headquarters, was named to assist the organization.

Running true to form, though ostensibly under a single directorship, each of the sub-sections attempted to remain more or less autonomous, and continuous readjustments were necessary during the lifetime of the Bureau in order to achieve centralized control.<sup>172</sup>

The total manpower in the service of the AIB has been estimated at "several thousand individuals."<sup>173</sup> More concrete statistics indicate 164 Bureau operatives lost their lives during the war while the fate of 178 other agents remains a mystery; 75 Bureau members were captured.<sup>174</sup> While a precise date for the termination of the AIB is not available, it certainly had ceased operations by V-J Day.

#### *VI. Naval Intelligence*

Published accounts on the organization and operations of the Office of Naval Intelligence and its Marine Corps counterpart during World War II reveal very little about the structure and activities of these units. Generally, the Marine Corps collected and generated its own combat intelligence while ONI, which included Marines on its staff, had combat intelligence responsibilities for the Navy and strategic intelligence duties for both services. The Office of Naval Intelligence was initially organized on a geographic basis, then a functional scheme, and maintained units in each of the Naval Districts and principal fleet commands. It supervised naval attaches, naval observers, and liaison officers abroad. The Office apparently suffered from a fast turnover of Directors during the war years and was handicapped, as well, by a limited view on the part of the Chief of Naval Operations as to its role. According to one official history assessing the agency:

Arguments as to the scope of Naval Intelligence responsibility were frequent. The position taken by CNO during World War II was that Op-16 [a Navy acronym identifying ONI] was in effect a post office charged with forwarding Intelligence reports and other data to the activity in the Navy Department most likely to need and make use of the information; that Op-16 had neither the time nor the qualified personnel to search for obscure leads in the reports pointing to

<sup>172</sup> Willoughby, *op. cit.*, p. 148.

<sup>173</sup> *Ind, Allied Intelligence Bureau*, p. vii.

<sup>174</sup> *Ibid.*; Willoughby, *op. cit.*, p. 157.

enemy intentions with respect, for example, to new weapon developments or future operations. . . .

The process of evaluating and disseminating the information contained in Intelligence reports came in for investigation and some criticism by the Joint Congressional Committee that inquired into the attack on Pearl Harbor. It was brought out during the hearings that the Director of Naval Intelligence had authority to disseminate technical, statistical, and similar information received by his Office, but that he had no authority to evaluate certain aspects of military intelligence such as developing the enemy's intentions, nor to disseminate such information and its evaluation. These were responsibilities of the War Plans Division.

The questions asked, the conclusions reached, and the recommendations made by the Joint Congressional Committee, indicated the belief that the Director of Naval Intelligence should have had more authority to evaluate and disseminate information of that kind. The Naval authorities held, however, that the responsibility for developing enemy intentions from information gathered and analyzed by the intelligence service, and its dissemination must be left to the individual in the organization of the CNO responsible for war planning. It was in general held by the Navy Department that even the War Plans Officer could not be the final arbiter in some cases. The Chief of Naval Operations, the Secretary of the Navy, and even the President might have to make the final decision.

A measure of the pressing need for military intelligence in modern warfare was the increase in personnel employed on such work in CNO and in the field during World War II. In June 1938, about 60 officers and some 100 enlisted personnel and civilians were employed in the Naval Intelligence Division—Op-16. On 1 July 1945, the numbers stood at 543 officers, 675 enlisted personnel, and 330 civilians. The increase in the field was even greater. At Pearl Harbor, the Naval Intelligence unit at the time of the attack consisted of a few officers and enlisted personnel. At the peak during the war some 4,500 people were engaged on such work at Pearl Harbor.<sup>175</sup>

Special activities developed by the Office of Naval Intelligence during the war seem to be security investigation, intelligence training, and psychological warfare.

Three months before war broke out again in Europe in 1939, President Roosevelt issued an executive memorandum recognizing the Security Division as a functioning entity of ONI responsible for investigating espionage, counterespionage and sabotage.

Just as ONI's undercover agents were the first American investigators into Latin America in search of German spies

<sup>175</sup> Julius Augustus Furer. *Administration of the Navy Department in World War II*. Washington, U.S. Govt. Print. Off., 1959, pp. 119-120.

before this country entered World War I, the ONI was the first to deal with Japanese espionage before the FBI took over in World War II. At that time, the Navy was the only American agency with any degree of knowledge about Japan.

From the beginning of World War II, the rapidly expanding corps of investigators literally covered the waterfront. They checked on the backgrounds of naval civilian personnel in jobs involving the national security, investigated suspected cases of espionage and subversive activities, guarded against sabotage, uncovered fraud in the buying or selling of naval materials, traced security leaks and did the Navy's detective work on crime.

Security was their mission and protecting the naval establishment their goal. Not all threats to security, they found, need be related directly to enemy efforts.<sup>176</sup>

Development of the intelligence training organization and function must be credited to then (1942) Deputy Director of Naval Intelligence Ellis M. Zacharias, who later wrote:

Training of personnel was our primary problem, since we had only an inadequate intelligence school chiefly concerned with the preparation of officers for investigation duties, known as "gumshoe activities" among those in a belittling mood. Complaints heard in the field offices decided me to make training my number one project. Radical changes had to be made, and I took it upon myself to make them immediately.

The old school was abolished and two new schools were created: one in Frederick, Md., called the Basic Intelligence School, to introduce newcomers to the elementary principles and techniques of intelligence; and another, the Advance Intelligence School in New York, to train intelligence officers on an operational level. This second school grew out of the realization that Naval Intelligence in war has somewhat different tasks from those of Army Intelligence. The elements of ground combat and the problems which it raises are largely nonexistent in naval warfare, so that what the Army calls its combat intelligence has but limited application in the Navy. What we needed was operational intelligence, an activity between strategy and tactics providing in intelligence everything a commander might need to take his ships into combat or to conduct amphibious warfare. The immense mobility of fleets and the wide expanse of our watery battlefield necessitated a broadening of intelligence work, too; and we felt that our operational intelligence would take all these factors into consideration. We planned to train hundreds of operational intelligence officers by driving them through a hard curriculum compressed into a comparatively short time. We actually trained a thousand—and as I now look back upon this project, and the demands which soon poured in upon us, I feel that we were not disappointed in our expectations. My faith in Lieutenant (now Commander) John Mathis, USNR,

<sup>176</sup> Miriam Ottenberg. *The Federal Investigators*. Englewood Cliffs, Prentice-Hall, 1962, p. 64.

who headed this school, was well founded. His legal mind, pleasant personality, and keen investigative abilities gave me confidence. Ably assisted by an outstanding faculty of men high in the educational field, such as Lieutenant Richard W. Hatch, Lieutenant Garrett Mattingly, and others, the success of this undertaking was assured.<sup>177</sup>

It was also in 1942 that ONI embarked upon its psychological warfare effort, the first undertaking being a carefully programmed propaganda barrage designed to demoralize the German Navy. This was followed by similar campaigns against the Italian Navy and the Japanese. Always operating in extreme secrecy, the new unit made its initial broadcast on January 8, 1943.

The establishment of what we called the Special Warfare Branch (we feared that calling it Psychological Warfare Branch we should engender even greater hostility by opponents of everything psychological) was greeted with extreme enthusiasm by the Office of War Information, which then found cooperation with the armed forces a very difficult task. Elmer Davis, director of OWI, became our champion, and whenever attempts were made to abolish our branch, he pleaded with our highest echelons and borrowed time for us so that we could continue our activities.

We worked in the closest and most harmonious cooperation with OWI, which was the sole vehicle for the dissemination of our material. The broadcast recordings were prepared for OWI in a studio of the Interior Department then under the able direction of Shannon Allen, and manned with capable technicians. The broadcasts were put on the air by OWI seven times a day, three days a week from all outlets OWI then had in the United States, North Africa, and Great Britain. In addition we prepared for them a program called Prisoner-of-War Mail, an arrangement by which German and Italian prisoners kept in this country could send greetings to their relatives and friends in their homelands. This was the first such attempt made in the United States, and it yielded splendid propaganda results. We also worked with OWI in drawing up propaganda directives insofar as naval warfare was concerned, and this close cooperation proved that a military and a civilian agency could work together smoothly on what was undoubtedly an important military operation.<sup>178</sup>

Cryptanalysis operations were administered by the Office of Naval Communications and the information derived from these activities was shared with the Office of Naval Intelligence. Created in 1912 as the Naval Radio Service of the Bureau of Navigation, Naval Communications was attached to the newly created Office of the Chief of Naval Operations in 1915 as a coequal unit with ONI and was named the Communications Division some four years later. In the twilight before American entry into the war, an effort was made, in

<sup>177</sup> Ellis M. Zacharias. *Secret Missions: The Story of an Intelligence Officer*. New York, G. P. Putnam's Sons, 1946, pp. 296-297.

<sup>178</sup> *Ibid.*, pp. 305-306.

May of 1941, to create a special communications intelligence monitoring capacity for the Pacific region.

In the middle of that month, the U.S. Navy took an important step in the radio intelligence field. It detached a 43-year-old lieutenant commander from his intelligence berth aboard U.S.S. *Indianapolis* and assigned him to reorganize and strengthen the radio intelligence unit at Pearl Harbor. The officer was Joseph John Rochefort, the only man in the Navy with expertise in three closely related and urgently needed fields: cryptanalysis, radio, and the Japanese language. Rochefort, who had begun his career as an enlisted man, had headed the Navy's cryptographic section from 1925 to 1927. Two years later, a married man with a child, he was sent, because of his outstanding abilities, as a language student to Japan, a hard post to which ordinarily only bachelor officers were sent. This three-year tour was followed by half a year in naval intelligence; most of the next eight years were spent at sea.

Finally, in June of 1941; Rochefort took over the command of what was then known as the Radio Unit of the 14th Naval District in Hawaii. To disguise its functions he renamed it the Combat Intelligence Unit. His mission was to find out, through communications intelligence, as much as possible about the dispositions and operations of the Japanese Navy. To this end he was to cryptanalyze all minor and one of the two major Japanese naval cryptosystems.<sup>179</sup>

Subsequently, the Director of ONI was given an indirect role in the operations of this unit by simultaneously holding the position of Assistant Chief of Staff for Combat Intelligence in the Headquarters of Commander in Chief, United States Fleet, in charge of the Combat Intelligence Division. As with all other intelligence agencies, CID began to grow after the United States entered the war and struggled with the challenges of 1942.

By the next year, it had changed its name to Fleet Radio Unit, Pacific Fleet—FRUPAC, in the Navy's interminable list of acronyms. Rochefort had departed in October 1942, for two years of noncryptologic duties. He was replaced by Captain William B. Goggins, 44, a 1919 Annapolis graduate with long communications experience. Goggins, who had been wounded in the Battle of the Java Sea, remained as head of FRUPAC to January 1945. [Lieutenant Commander Thomas H.] Dyer continued to head cryptanalysis. Eventually FRUPAC comprised a personnel of more than 1,000. Much of the work was done in the new Joint Intelligence Center, housed in a long narrow building across Midway Drive from [Commander in Chief of the Pacific Fleet, Admiral Chester W.] Nimitz' headquarters perched atop a cliff overlooking Pearl Harbor. [Lieutenant Rudolph J.] Fabian, in Melbourne, directed a field unit similar to FRUPAC. He was on the staff of the Commander in Chief, 7th Fleet, which was

<sup>179</sup> Kahn, *op. cit.*, p. 8.

attached to MacArthur's South West Pacific Area command.

FRUPAC's growth mirrored that of all American cryptanalytic agencies. This expansion compelled OP-20-G [a Navy acronym identifying the agency] to reorganize as early as February 1942. The workload had become too heavy for one man ([Commander Laurence F.] Safford). The outfit was split up into sections for its three major cryptologic functions: (1) the development, production, and distribution of naval cryptosystems, headed by Safford; (2) policing of American naval communications to correct and prevent security violations; (3) cryptanalysis, headed by Commander John Redman. In September the development function was separated from the production. Safford retained control of the development work until the end of the war, devising such new devices as call-sign cipher machines, adapters for British and other cryptographic devices, and off-line equipment for automatic operation. About June, the Navy ceded Japanese diplomatic solutions to the Army, giving over its files as well as its PURPLE machine.<sup>180</sup>

While FRUPAC dealt with Japanese codes, only Washington—Naval communications headquarters—processed foreign diplomatic systems and naval ciphers used in the Atlantic theater, these being primarily German.<sup>181</sup>

The Navy's official designation of OP-20-G indicated that the agency was the G section of the 20th division of OPNAV, the Office of the Chief of Naval Operations, the Navy's headquarters establishment. The 20th division was the Office of Naval Communications, and the G section was the Communications Security Section. This carefully chosen name masked its cryptanalytic activities, though its duties did include U.S. Navy cryptography.

Its chief was Commander Laurence F. Safford, 48, a tall, blond Annapolis graduate who was the Navy's chief expert in cryptology. In January, 1934, he had become the officer in charge of the newly created research desk in the Navy's Code and Signal Section. Here he founded the Navy's communication-intelligence organization. After sea duty from 1926 to 1929, he returned to cryptologic activities for three more years, when sea duty was again made necessary by the "Manchu" laws, which required officers of the Army and Navy to serve in the field or at sea to win promotion. He took command of OP-20-G in 1936. One of his principal accomplishments before the outbreak of war was the establishment of the Mid-Pacific Strategic Direction-Finder Net and of a similar net for the Atlantic where it was to play a role of immense importance in the Battle of the Atlantic against the U-boats.

Safford's organization enjoyed broad cryptologic functions. It printed new editions of codes and ciphers and dis-

<sup>180</sup> *Ibid.*, pp. 314-315.

<sup>181</sup> *Ibid.*, p. 12.

tributed them, and contracted with manufacturers for cipher machines. It developed new systems for the Navy. It comprehended such subsections as GI, which wrote reports based on radio intelligence from the field units, and GL, a record-keeping and historical-research group. But its main interest centered on cryptanalysis.<sup>182</sup>

Both Naval Intelligence and Naval Communications persisted as major agencies within the Office of the Chief of Naval Operations in the aftermath of World War II. It would appear that in 1972 cryptologic duties were transferred from the Naval Communications Command to the Naval Security Group Command, an entity created in 1970 to manage certain internal physical and operational security matters. In 1973, the Naval Communications Command became known as the Naval Telecommunications Command. The old Office of Naval Intelligence is currently called the Naval Intelligence Command.

### *VII. Civilian Intelligence*

During World War II various Federal civilian departments and agencies were involved in intelligence activities. Chief among these was the Justice Department. Units principally involved in intelligence included the Criminal Division, the War Division, the Immigration and Naturalization Service, and the Federal Bureau of Investigation. Responsible for prosecuting violators of all Federal criminal statutes except those within the jurisdiction of the Antitrust and Tax Divisions, the Criminal Division exhibited intelligence capability in its General Crimes Section, where cases regarding the illegal sale, manufacture, and wearing of armed forces uniforms and insignia, the harboring of deserters, the making of threats against the President, and the interference with any plant, mine, or facility in the possession of the government were prepared; its Internal Security Section, organized as the National Defense Section in the summer of 1940, where cases regarding espionage, sabotage, sedition, foreign agents, treason, censorship, and other aspects of internal security were prepared; and its War Frauds Unit, established on February 4, 1942, under the joint jurisdiction of the Antitrust and Criminal Divisions, to locate and prosecute persons guilty of frauds in the handling of war contracts.

The War Division, established on May 19, 1942, superseded the Special Defense Unit organized in the Office of the Attorney General in April, 1940. Ultimately abolished on December 28, 1945, it brought together a number of special bodies scattered among the Justice Department's regular components. Its principal substructures included the Special War Policies Unit, responsible

for directing and coordinating activities of the Department of Justice relating to espionage, sabotage, sedition, subversive activities, and the registration of foreign agents. The Unit's Subversives Administration Section, working with the Federal Bureau of Investigation, directed investigations of, and organized the evidence relating to, subversive activities carried on by Nazi, Communist, and Fascist elements in the

<sup>182</sup> *Ibid.*, pp. 11-12.

United States, and recommended prosecutive and other actions. The Latin-American Section assembled information about and prepared reports on the control of subversive activities in the Latin-American countries. The Organizations and Propaganda Analysis Section collected, analyzed, and organized information on individuals, organizations, and publications in the United States that were considered to be seditious or potentially seditious. The Foreign Language Press Section made translations from and made reports on the foreign-language press of the United States.<sup>183</sup>

The Economic Welfare Section,

which originated as the Economic Section of the Antitrust Division in 1942, was transferred to the War Division on August 28, 1943. Its chief functions were to collect industrial information, prepare reports on enemy or enemy-controlled industrial organizations, and aid in making this information available for use in the economic warfare efforts of the Allies. In the fiscal year 1944 the Bureau of the Budget designated the Section as the central agency of the Government to carry out research in the field of international cartels. The Economic Warfare Section was dissolved at the end of 1945.

The objectives of the Section were: (1) To discover and analyze important intercompany connections among European and Far Eastern firms and the control of these firms by Germans and Japanese; (2) to analyze the means by which German and Japanese control could be eliminated; (3) to examine the legal problems that might arise because of the use of intercompany connections by the German and Japanese governments as a means of espionage and economic warfare; (4) to analyze intercompany agreements between foreign and American companies in order to determine their effects on American trade and commerce; and (5) to examine the effect of cartel agreements among foreign companies upon the trade, commerce, and business structure of Latin-American and other countries.

In carrying out these objectives, the Section made extensive investigations concerning bombing objectives and enemy potentials; engaged in studies of particular aspects of international cartels with emphasis on the techniques employed by the Germans to penetrate the economies of other countries, especially the United States and Latin-American countries; participated in the formulation of plans and prepared guides for the investigations of industrial combines in enemy or enemy-held countries during the period of occupation; and made studies of the efforts of enemy interests to obtain control of important assets in conquered areas and to screen their efforts in order to avoid the economic consequences of defeat.

<sup>183</sup> General Services Administration. National Archives and Records Service. The National Archives. *Federal Records of World War II; Civilian Agencies* (Vol. 1). Washington, U.S. Govt. Print. Off., 1950, p. 789.

The Section made analyses of the chemicals, iron and steel, nonferrous metals, electrical equipment and electronic devices, and the machinery and tools industries of Germany; the French, Swedish, Swiss, and other banking institutions that might have helped to establish and maintain German economic influence outside of Germany; the international control of certain commodities of international importance, such as tin, fats oil, and industrial diamonds; and the I. G. Farbenindustrie.<sup>184</sup>

In the process of reviewing registration statements and analyzing the exhibits submitted by agents of foreign governments as required by law, the Foreign Agents Registration Section, transferred from the State Department on June 1, 1942, prepared reports of intelligence value on both individuals and organizations that had failed to comply with the registration requirement.

During the war, the Immigration and Naturalization Service "continued its peacetime function of administering the laws relating to the admission, exclusion, and deportation of aliens and the naturalization of aliens lawfully resident in the United States, and it had a special wartime responsibility for the registration and fingerprinting of all aliens in the United States."<sup>185</sup> The Service had no investigators of its own until 1946 so it had to rely upon occasional assistance in this area from the Federal Bureau of Investigation.<sup>186</sup> Nevertheless, its information holdings served an intelligence need.

The Federal Bureau of Investigation served as the primary investigative agency of the Justice Department during the war period. Its principal components included the Office of the Director, the Identification Division (fingerprints), the Security Division (investigation), the Technical Laboratory (analysis development and application), and the Training Division. In addition to its regular field force of agents within the domestic United States, the Bureau also had a special intelligence group in Latin America, South America, the Caribbean, Alaska, and Hawaii. This extension of operational jurisdiction, of course, created personnel problems.

The grave security responsibilities placed on the FBI in war forced [Director J. Edgar] Hoover to relax temporarily the rule that new agents had to have a law degree or be accountants. The Bureau had 2,602 agents when the United States went to war, with a total personnel of 7,420. Hoover immediately sent out orders to the field offices to begin interviewing graduates of the FBI National Academy who could meet all qualifications except legal training. The FBI had to be built up to handle the tremendous volume of work, and its agent force was increased to 5,072. The total personnel increased to 13,317 on the active rolls two years after the outbreak of war.<sup>187</sup>

<sup>184</sup> *Ibid.*, p. 791.

<sup>185</sup> *Ibid.*, p. 795.

<sup>186</sup> Ottenberg, *op. cit.*, p. 213.

<sup>187</sup> Dor Whitehead. *The FBI Story*. New York, Pocket Books, 1958; originally published 1956, p. 223.

Ways were sought to supplement the Bureau's information gathering workforce. One innovation was attempted in defense plant production security.

Even before the United States entered the war, the FBI had, at the request of the Army and Navy, developed a system of cooperation with workmen in defense plants as a check against sabotage and slowdowns in plants with government war contracts. In World War I the Navy had initiated a plant protection program as a means of reducing the fires, explosions, accidents and labor frictions which affected war production, and the Navy plan had been adopted by the Army and the U.S. Shipping Board's Emergency Fleet Corporation. In 1931, the military agreed that in another emergency this work should be handled by the FBI.

It was through these specially designated workmen who furnished information to the FBI that it was possible to determine in hundred of cases that accidents—not enemy sabotage—were responsible for damaged material, machinery and plant equipment. The informants were volunteers.<sup>188</sup>

Another opportunity to garner supplementary personnel presented itself when the American Legion, in 1940, sought to organize an investigative force to ferret out subversives and seditionists. (These detection efforts were complicated by the fact that the United States was in a state of declared neutrality with regard to international hostilities at that time.) When the Legionnaires laid their plan before Attorney General Robert Jackson and were dismayed at this response that such investigative activities should be left to professional law enforcement agencies, Director Hoover came forth with a proposal of his own.

The FBI plan suggested a liaison arrangement between Post Commanders and Special Agents in Charge of field divisions for discussions of national defense problems. Whenever a Legionnaire was in a position to furnish confidential information about a particular problem, he would be designated to make reports to the FBI; but any investigation would be made by the FBI, not the Legionnaire.

The proposal was accepted by the American Legion at its conference in Indianapolis in November, 1940, and this acceptance laid the basis for the wartime cooperation between the FBI and the Legion. The Legion's cooperation was typical of the aid given the FBI by many civic, fraternal and professional groups.

The security program also included local law enforcement officers, who were drawn together for courses of instruction on such problems as convoy traffic, protection of public utilities, civil defense organization and the investigation of espionage, sabotage and subversion. The lessons taught were based largely on the British wartime experiences. These schools were attended by 73,164 law enforcement officers from 1940 to 1942.

<sup>188</sup> *Ibid.*, pp. 250-251.

From this security network the FBI received information not only from the military intelligence services, but also from workers in industry, the Legion, police officers and others who were mobilized for the war effort. Against this alignment, saboteurs made little headway.<sup>189</sup>

The Bureau jealously guarded its intelligence functions and prerogatives, fought a number of agencies, including the Office of Strategic Services, for jurisdiction in these matters, vigorously opposed the concept of a new centralized intelligence entity during the closing months of the war, and otherwise emerged as a major intelligence institution in the aftermath of the international hostilities.

At the Department of the Treasury, three agencies or units had significant intelligence duties. With the entry of the United States into the war, the Secret Service took on additional responsibilities regarding the forgery and counterfeiting of the increased number of government securities and cheques as well as ration stamps and coupons. Presidential protection required extensive security plans and intelligence for the Chief Executive's trips abroad that involved journeys through areas subject to enemy air attack and for conferences in places where enemy agents and sympathizers were known to be present. In addition, the Secret Service also had certain responsibilities for the protection of distinguished wartime visitors to the United States, necessitating an improved intelligence capability regarding individuals or organizations of potential danger to the safety of such visiting dignitaries.

After the entry of the United States into the war, the Customs Service performed services with an intelligence potential for both the Treasury Department and other Federal agencies. These duties, which had a bearing upon intelligence matters, included assistance to "the State Department and the Foreign Economic Administration by investigating firms that applied for export licenses and by preventing the unlicensed export of any materials subject to export control," preventing "the entrance and departure of persons whose movements into or out of the country would be prejudicial to the interests of the United States," intercepting and examining "tangible communications carried by vessels, vehicles, and persons arriving from and departing to foreign countries to determine whether such documents contain matter inimical to the interests of the United States or helpful to its enemies," participation in certain measures for the protection of domestic ports and vessels therein against sabotage and espionage, and furnishing "the War Department with statistical information on the import and export of strategic war materials."<sup>190</sup>

The Division of Monetary Research, established on March 25, 1938, supplied information and intelligence to assist the Secretary of the Treasury and other departmental officials in formulating and executing international financial policy. In addition to its analytical units—the Foreign Commercial Policy Section, the International Statistics Section, and the Foreign Exchange and Controls Section being of primary intelligence interest—the Division maintained representatives in

<sup>189</sup> *Ibid.*, pp. 252–253.

<sup>190</sup> General Services Administration, *op. cit.* (Vol. 1), pp. 754–755.

London, Paris, Rome, Berne, Lisbon, Stockholm, Cairo, Chungking, Nanking, Shanghai, and Manila.

These offices conducted financial studies and participated in financial planning in the areas for which they had responsibilities, provided representation on combined Allied boards and committees and financial advisers to diplomatic missions, and represented the Foreign Funds Control abroad. In such places as Lisbon and Stockholm the Treasury offices served also as confidential listening posts for gathering information important for the operation of several agencies of the United States Government. All of the offices were responsible for collecting financial intelligence. The offices of Treasury attaches, which were closely associated with the offices of Treasury representatives, were concerned only with the collection and analysis of information on customs matters. Both classes of offices were administratively considered as field offices of the Division of Monetary Research.

Besides staffing these offices, the Division detailed personnel to the War and Navy Departments to furnish financial advice and aid to military authorities outside the United States. The officers thus detailed were usually organized into "teams" or "missions" that were attached to the military headquarters in each theater of action or occupation.<sup>191</sup>

Normally a Treasury Department agency, the United States Coast Guard, in accordance with the provisions of its organic act (38 Stat. 800), was transferred (E.O. 8929) to the Navy Department for wartime service in 1941 and returned (E.O. 9666) to Treasury Department jurisdiction on January 1, 1946. An Intelligence Division had been established at Coast Guard Headquarters in 1936. Administration of intelligence responsibilities was conducted through fifteen district offices and special field units.

Coast Guard Intelligence, now formally provided for in the Coast Guard regulations and organization manual, drew additional duties and manpower with the coming of war. It was responsible for anti-sabotage and counterespionage on the waterfront as well as security screening of merchant marine personnel and longshoremen. It became involved in the search for the Nazi saboteurs after a Coast Guardsman spotted them wading ashore with their boxes of dynamite on an isolated Long Island beach. It was charged with investigating Coast Guard military and civilian personnel for internal security and breaches of discipline. The Intelligence Division's wartime force grew to 370, of which 160 were investigators.

Its wartime achievements on the home front were in the field of prevention. In World War I, Black Tom Island in New York harbor, major transfer point for supplies shipped to Europe, had been virtually destroyed by dynamite and German saboteurs were busy on a dozen fronts. But during

<sup>191</sup> *Ibid.*, pp. 770-771.

World War II, there was not a single known instance of foreign-inspired sabotage on vessels or waterfront facilities which the Coast Guard was responsible for safeguarding.

Since World War II, the Intelligence Division, reduced to a peacetime force of 70 investigators, has been mainly concerned with port security, keeping subversive elements out of the Merchant Marine and off the waterfronts, enforcing Coast Guard laws and insuring the internal security of the Coast Guard.<sup>192</sup>

While the Department of State received a variety of information with an intelligence potential from special overseas missions, roaming diplomats, and foreign service officers during the war, its intelligence production capability was limited by the lack of personnel specifically responsible for intelligence collection, a decentralized organization which dispersed the intelligence function, and personal presidential intervention in foreign policy matters which prompted the creation of special units serving intelligence functions and reporting directly to the Chief Executive on foreign intelligence concerns. Organizational problems resulting from dispersed war programs administration began in the spring of 1941 with the implementation of the Lend-Lease Act (55 Stat. 31).

This act and other acts relating to the importation of strategic commodities, the control of financial transactions, the establishment of priorities and allocations, and other "foreign economic warfare" programs not only had a profound effect on the general direction of United States foreign policy and the position of the United States in world affairs but also brought about a vast expansion in the Department's foreign activities and personnel. This expansion occurred chiefly in connection with the following activities: (1) The operation of the lend-lease program, involving the negotiation of lend-lease agreements, the supplying of materials under these agreements to the Allies and other eligible countries, and the procurement of additional foodstuffs and raw materials for the manufacture of lend-lease goods; (2) the procurement abroad of additional foodstuffs and strategic materials needed by the United States for its own war program; (3) the control of exports of goods and funds in order to prevent their shipment directly or indirectly to the Axis countries and to conserve materials needed for the war program of the United States; (4) the distribution abroad of information concerning the United States, its policies, and its military activities in order to combat enemy propaganda; (5) the promotion of the cultural-relations program of the United States on a larger scale, especially in the other American Republic; and (6) the conduct of the political and diplomatic phases of the war, especially those phases related to maintaining the Allied coalition and developing the United Nations Organization.

Except for the last-named activity, the Department was responsible for supervising and coordinating the programs but did not undertake to carry out their operational phases.

<sup>192</sup> Ottenberg, *op. cit.*, pp. 137-138.

Instead, the following war agencies were established to plan and effectuate the programs relating to lend-lease, preclusive buying, foreign propaganda, cultural relations, and intelligence procurement: The Office of Lend-Lease Administration and the Board of Economic Warfare (later the Foreign Economic Administration), the Office of War Information, the Office of the Coordinator of Inter-American Affairs, and the Office of Strategic Services. These new agencies were required by the President to conform to the foreign policy of the United States as defined by the Secretary of State, and their field representatives, except those of the Office of Strategic Services, were responsible to the chiefs of the Foreign Service establishments in their areas. As the war progressed all foreign-relations work tended to be centered in the Department. It absorbed the long-range cultural programs of the Office of the Coordinator of Inter-American Affairs in 1943, prepared the way for the absorption of the continuing functions of the above-named war agencies at the close of the war by creating offices to perform related activities, assisted in the planning that led to the establishment of the United Nations Relief and Rehabilitation Administration, and provided overseas military commanders with political advisers to help them govern liberated areas in accordance with the foreign policy of the United States.<sup>193</sup>

Against this background, the State Department does not appear to have been a major intelligence producer during the war. It would seem that, in many regards, the Office of Strategic Services, the Office of War Information, the Office of Censorship, the Board of Economic Warfare, and the armed services intelligence organizations supplanted the Department in many areas of intelligence activity. Nevertheless, State did have an intelligence capability and those entities involved in such operations are profiled.

On November 22, 1940, a semi-secret Division of Foreign Activity Correlation was established, appearing two years later as a unit within the Office of the Assistant Secretary of State for Finance, Aviation, Canada, and Greenland. A departmental order of October 31, 1941, indicated the Division "was directed to interview all foreign political leaders promoting movements in the interests of their peoples and committees of foreign-born groups visiting the Department, and to give information on their activities and obtain all possible relevant information regarding their purpose, organization, and membership."<sup>194</sup> Such information, when obtained, would seemingly have intelligence value.

Within the Office of the Assistant Secretary of State for Economic Affairs (previously the Office of the Assistant Secretary of State for Commerce and Trade) two divisions reflected an intelligence potential in their activities. The Division of World Trade Intelligence

was established in the Department on July 21, 1941, to handle State Department responsibilities pertaining to the Pro-

<sup>193</sup> General Services Administration, *op. cit.* (Vol. 1), pp. 691-692.

<sup>194</sup> Graham H. Stuart. *The Department of State: A History of Its Organization, Procedure and Personnel*. New York, The Macmillan Company, 1949, p. 348.

claimed List of Certain Blocked Nationals. The Division was at first under the direct supervision of Assistant Secretary Dean Acheson but later became a part of the Board of Economic Operations and successor economic offices. On March 1, 1945, it was renamed the Division of Economic Security Controls and as such became a part of the Office of Economic Security Policy on October 20 of that year. Its functions remained substantially the same throughout the war and included the application of the recommendations of the Inter-American Conference on Systems of Economic and Financial Control (except with respect to the replacement or reorganization of Axis firms), and the collection, evaluation, and organization of biographic data.<sup>195</sup>

The Division of Commercial Policy (previously the Division of Commercial Treaties and Agreements, when established on July 1, 1940, and then renamed the Division on Commercial Policy and Agreements on October 7, 1941) "included correspondence and contacts with American export-import interests and making arrangements with the foreign representative negotiating for supplies."<sup>196</sup> Information derived from these activities would seemingly have intelligence value regarding the structure of the export-import business community, its ties to the Axis powers and to the Soviet Union, and the determination of strategic materials being commercially imported by those regimes.

One other intelligence unit maintained, in part, by the State Department was the Economic Warfare Division of the United States London Embassy and Consulate General.

The Economic Warfare Division was established in the Embassy in London in March 1942 and remained in existence through June 1945. Its professional staff consisted of representatives of various United States military and civilian agencies, its top personnel being drawn to a large extent from the Foreign Economic Administration and the Office of Strategic Services.

Although the Division was created to serve as a liaison channel between agencies of the United States Government concerned with economic warfare and the British Ministry of Economic Warfare, it soon became an important operational organization. Its principal functions during most of the war were to restrict trade benefiting the enemy by means of blockade control (working with the several sections of the Anglo-American Blockade Committee) and neutral country trade control; to gather enemy economic intelligence; and to assist in strategic bombing activities. By March 1945 it was concerned with postwar occupation problems. It began to gather data on "Safehaven" operations (the prevention of enemy property from finding a safe haven in neutral territory); to develop plans to recover and restore enemy loot; to prepare studies on the German economy; and to collect and exploit

<sup>195</sup> General Services Administration, *op. cit.* (Vol. 1), p. 718.

<sup>196</sup> Stuart, *loc. cit.*

captured enemy records through the Combined Intelligence Objectives Subcommittee and the United States Technical Industrial Intelligence Subcommittee. When the Division was abolished in the summer of 1945, its functions relating to neutral trade and "Safehaven" objectives were transferred to the United States Mission for Economic Affairs in London. Certain residual functions were assigned to the Office of the Economic Minister Counselor of the Embassy.<sup>197</sup>

The Department had its own cryptographic unit, known since January of 1931 as the Division of Communications and Records. Located within the Office of the Assistant Secretary of State for Administration (previously the Office of the Assistant Secretary of State/Fiscal and Budget Officer: Administration of Department and Foreign Service), the component's cryptographic responsibilities included code construction, the development of procedures and methods for using same, the selection of code equipment, and the maintenance of the security of information transmitted by means of cryptographic systems. Although the Division had no cryptanalytic function, it was, nevertheless, an immense organization at the time of America's entry into the war.

The Division of Communications and Records was now by far the largest agency in the Department: its telegraph section had a chief, an assistant chief, two supervisors, and 107 clerks; its telephone section, a chief operator, assistant chief operator, and thirteen operators; the records section, divided into seven sections—general, immigration, passport, personnel, political, mail, and wartrade board—numbered, together with its supervisor, assistants, chiefs, assistant chiefs, clerks, and messengers, 269, making a total personnel of 393. The cost of the telegraph messages alone amounted annually to almost \$500,000. In the fiscal year 1940–1941, about 1,125,000 pieces of correspondence passed through the division, and in 1941–1942 this was almost doubled. This division, which worked twenty-four hours a day and 365 days a year, put in annually over 21,000 hours of unpaid overtime.<sup>198</sup>

By the end of 1943, however, the Division experienced a severe breakdown in its operations.

The war had almost demoralized the work of this division. Owing to the low salaries paid to its personnel and the pressure of work which constantly necessitated overtime, the Division of Communications and Records had long been very unpopular with its employees. A survey of salaries indicated that from 1936 to 1940 the Department of State personnel had received an average salary increase of 5.91 percent, while the increase in the Division of Communications and Records was only 0.51 percent; in other words, the Department's average increase was eleven times greater than that of the Division of Communications and Records. As a result of the

<sup>197</sup> General Services Administration, *op. cit.* (Vol. 1), p. 743.

<sup>198</sup> Stuart, *op. cit.*, p. 363.

low morale, the work of the division was unsatisfactory and under constant criticism. Incoming communications were delayed in distribution, papers were misplaced or lost, and inadequate records made it difficult to locate them. Serious errors were made in the code room. Backlogs existed in every section. It was customary to have approximately 15,000 documents in the records branch which were neither indexed nor listed on the purport sheets. The vitally important telegraph section was on several occasions as much as two days behind in the coding and decoding of messages. The first requirement insisted upon by Mr. [Raymond H.] Geist [Division Chief] was a complete reclassification of positions so that salaries commensurate with the work might be available. This was begun immediately and resulted in a considerable improvement in speed and accuracy. The other requirement was an improvement of the procedure within the division.

The huge backlog in the telegraph section required emergency action. The War Department was asked to help out, and twenty enlisted men trained in cryptography were loaned temporarily, and within forty-eight hours the backlog of 200,000 words, or groups of words, was completely eliminated. Thereafter, from six to eight code clerks from the War Department remained to keep the work current. As soon as possible, high-speed equipment was added to eliminate the slow, cumbersome manual labor of decoding. For example, a machine will decode about 20 words, or word groups, per minute as against 2.7 to 3 words manually, and the results are more accurate. Working conditions were improved. Air conditioning made it possible to endure the heat generated by the mechanical cipher devices. Fluorescent lights reduced the percentage of error. The average time required for a message in the code room was reduced from forty-eight to six hours. The introduction of airgrams also helped materially in reducing the strain in the code room.<sup>199</sup>

On September 22, 1944, a new Division of Cryptography was established, concentrating entirely upon cryptographic and related communications functions.

At the Commerce Department, the Bureau of Foreign and Domestic Commerce "provided commercial information to various Government agencies, making special studies and reports for them; it acted as a major fact-finding organization in the field of foreign commerce for the Foreign Economic Administration. . . ." <sup>200</sup> The Coast and Geodetic Survey provided charts, maps, tidal data, and geodetic and coastal survey services to the intelligence community. The National Bureau of Standards "abandoned many of its normal activities in order to handle research and testing projects for other Government agencies," some of which are thought to have been of intelligence interest. The War Division of the Patent Office "directed the search of applications for inventions in categories deemed of importance by Government war

<sup>199</sup> *Ibid.*, pp. 385-386.

<sup>200</sup> General Services Administration, *op. cit.* (Vol. 1), p. 864.

[including intelligence] agencies.”<sup>201</sup> The Weather Bureau, of course, made its own unique contribution to intelligence activities when its assistance was requested. And at the end of the war, within the Office of Technical Services established by a departmental order on September 18, 1945, the Technical Industrial Intelligence Division

continued the functions of the Technical Industrial Intelligence Committee, which was originally set up [under the Joint Intelligence Committee] by the Joint Chiefs of Staff and was transferred to the Department of Commerce on December 18, 1945. It conducted intensive searches in enemy and other foreign countries to locate personnel, documents, and material from which technical and scientific industrial information that was developed especially during World War II might be obtained; it studied processes, methods, and techniques useful for obtaining such information; and it analyzed and appraised the information obtained to determine its possible usefulness to business and industry in the United States.<sup>202</sup>

At the Department of Agriculture, the Agricultural Research Administration developed information regarding food production and war-created scarcities within both the United States and enemy held territory overseas. The Bureau of Agricultural Economics produced similar information pertaining to demand and supply, consumption, prices, costs and income, marketing, transportation, labor, agricultural finance, farm management, credit, taxation, land and water utilization, and other aspects of agricultural production and distribution.

In order to unify and consolidate the administration of governmental activities relating to foreign economic affairs, the Foreign Economic Administration, known also as FEA, was established by an Executive order [E.O. 9380] of September 25, 1943. The functions, personnel, and records of the Office of Lend-Lease Administration, the Office of Foreign Relief and Rehabilitation Operations of the Department of State, and the foreign economic operations of the Office of Foreign Economic Coordination of the Department of State were transferred to the Administration. By an Executive order [E.O. 9385] of October 6, 1943, “the functions of the War Food Administration and the Commodity Credit Corporation with respect to the procurement and development of food, food machinery, and other food facilities, in foreign countries” were also transferred to the Foreign Economic Administration. And as military operations permitted, the Administration assumed “responsibility for and control of all activities of the United States Government in liberated areas with respect to supplying the requirements of and procuring materials in such areas.”

<sup>201</sup> *Ibid.*, p. 881.

<sup>202</sup> *Ibid.*, p. 202.

The Foreign Economic Administration was thus responsible for the wartime functions of export control, foreign procurement, lend-lease, reverse lend-lease, participation in foreign relief and rehabilitation, and economic warfare, including foreign economic intelligence. Its activities were required to be in conformity with the established foreign policy of the Government of the United States as determined by the Department of State.<sup>203</sup>

There were three predecessors to the Foreign Economic Administration which had responsibility for apprising the Chief Executive of developments weakening or endangering the international economic status of the United States during the period of world war. In July, 1941, the President had created (E.O. 8839) the Economic Defense Board "for the purpose of developing and coordinating policies, plans, and programs designed to protect and strengthen the international economic relations of the United States in the interest of national defense." Within the Board's four geographic divisions—American Hemisphere, British Empire, Europe and Africa, Far East—information available to existing government agencies and private commercial enterprises concerning the economic organization capabilities, and requirements of the foreign countries within each unit's area of responsibility was obtained and analyzed.

On December 17, 1941, the name of the agency was changed (E.O. 8982) to the Board of Economic Warfare and it was subsequently given (E.O. 9128), among other added responsibilities, the duty to "advise the State Department with respect to the terms and conditions to be included in the master agreement with each nation receiving lend-lease aid;" to "provide and arrange for the receipt by the United States of reciprocal aid and benefits" from the government's receiving lend-lease; and to "represent the United States Government in dealing with the economic warfare agencies of the United Nations for the purpose of relating the Government's economic warfare program and facilities to those of such nations." All of this meant that the Board had to develop appropriate information about those nations requesting lend-lease aid to determine if the grant was justified by conditions in that country. The agency also had some responsibility for deciding what strategic materials would be imported into the United States. Such information, of course, had a great intelligence potential. To assist in these matters, the Board arranged through the State Department to send technical, engineering, and economic representatives abroad.

By a directive (E.O. 9361) of July 15, 1943, an Office of Economic Warfare was established within the Office for Emergency Management, a wartime superstructure agency in close proximity to the President, and its director assumed the functions, powers, and duties of the Board of Economic Warfare which was terminated by the same order. Lasting about six weeks, the Office of Economic Warfare operated and was organized in approximately the same manner as the old Board. A directive (E.O. 9380) of September 25 consolidated the Office and certain other agencies, together with their personnel and

<sup>203</sup> *Ibid.*, p. 636.

records, into the Foreign Economic Administration which was created by the same order.

Foreign economic intelligence was prepared within the Foreign Economic Administration by the Bureau of Areas, consisting of an Office of the Executive Director and six branches—Pan American, British Empire and Middle East, European, U.S.S.R., Far East and Other Territories, and Enemy. All but the last were involved in assessing the economic warfare of Allied nations. The Enemy Branch

was responsible for planning the economic program to be put into effect when the enemy countries should be occupied. It prepared studies and reports on the industrial disarmament of the enemy, including analyses of the entire economic structure of the Axis countries. Its staff units and divisions were functional in nature and gave their attention to problems relating to the industrial disarmament, external economic security, reparations and restitutions, requirements and allocations, food and agriculture, foreign trade, consumers' economy, property control, transportation and communications, and industry of the countries to be occupied. The Branch cooperated closely with the Technical Industrial Intelligence Committee, a subcommittee of the Joint Intelligence Committee of the Joint Chiefs of Staff.<sup>204</sup>

With the end of hostilities in Europe and Asia, the necessity for such an agency ceased to exist.

By an Executive order [E.O. 9630] of September 27, 1945, the Foreign Economic Administration was abolished and its remaining functions were divided among five other agencies. To the State Department were transferred the functions pertaining to lend-lease activities and to liberated areas and occupied territories, as well as responsibilities for economic and commercial research and analysis and for the participation by the United States in the United Nations Relief and Rehabilitation Administration. To the Reconstruction Finance Corporation were returned three corporations that had been taken over from it by the Office of Economic Warfare on July 15, 1943, and the functions relating to the procurement abroad of all commodities except food. The Export-Import Bank of Washington became again an independent agency as provided by an act of July 31, 1945 (59 Stat. 527). The Department of Agriculture received the functions pertaining to food and to food machinery and other food facilities, including those of the Office of Food Programs. The functions pertaining to the control of exports, technical industrial intelligence, and the facilitation of trade, and all other functions not assigned to the other agencies named above, were transferred to the Department of Commerce.<sup>205</sup>

Two special intelligence units were established at the Federal Communications Commission. The first of these, the Radio Intelligence Division,

<sup>204</sup> *Ibid.*, p. 651.

<sup>205</sup> *Ibid.*, p. 637.

established on July 1, 1940, as the National Defense Operations Section of the Field Division of the Engineering Department, developed in the early years of the war into the largest single part of the Commission's staff. Under its direction monitoring stations, strategically located throughout the United States and its Territories and possessions, kept all radio communication channels under continuous surveillance. This surveillance was primarily aimed at preventing radio communication with the enemy abroad and the illegal use of radio at home.

In addition to its monitoring stations the Division had radio intelligence centers at Honolulu, San Francisco, and Washington, D.C., which coordinated the reports in their respective areas concerning radio surveillance and direction-finding activities and enemy and illegal radio operations. It also had mobile coast units that supplied a comprehensive mobile radio surveillance extending throughout the coastal areas of the Western, Eastern, and Southern Defense Commands. At Washington headquarters, units of the Division prepared and distributed abstracts of the intercepted messages for the Chief Naval Censor, the Chief Signal Officer, the Weather Bureau, and the Coast Guard; plotted on maps the locations of unidentified, clandestine, and illegal stations; translated foreign language "intercepts" into English; and provided full investigatory services.

The Division picked up SOS calls and reports of submarine attacks and relayed them to naval stations; furnished "fixes" to locate lost airplanes, ships in distress, or stations causing interference to vital military circuits; intercepted enemy radiotelegraph intelligence covering economic conditions, war production, materials, supplies, morale, and other pertinent data; trained personnel of other Government agencies in direction-finding, detection and monitoring, and the evaluation of "fixes." Its function differed from that of the Foreign Broadcast Intelligence Service in that it intercepted messages that were sent in radiotelegraph code to specific points as distinguished from broadcasts of enemy for purposes of propaganda.<sup>206</sup>

In addition, the Foreign Broadcast Intelligence Service,

established as the Foreign Broadcast Monitoring Service in February 1941, recorded, translated, analyzed, and reported to other agencies of the Government on broadcasts of foreign origin. It set up listening posts at Silver Hill, Md., London, San Francisco, Portland, Oreg., Kingsville, Tex., San Juan, P.R., and other places to intercept broadcasts of foreign news, intelligence, or propaganda emanating from authorized stations and clandestine transmitters in belligerent, occupied, and neutral countries. At the listening posts, translations of the intercepted broadcasts were made and immediately teletyped or cabled to Washington headquarters. Some broadcasts

<sup>206</sup> *Ibid.*, pp. 937-938.

were also recorded on disks. At Washington, incoming wires and transcriptions were edited and the more significant parts, or the full texts, were teletyped to the Government agencies that were waging war on the military, diplomatic, and propaganda fronts. Special interpretations and daily and weekly summaries were prepared at headquarters and distributed to appropriate Government agencies and officials. Through cooperative arrangements with the Office of War Information, the British Ministry of Information, and the British Broadcasting Corporation, editors of the Service were assigned to overseas posts maintained by those agencies to select material valuable for transmission to Washington. Editors and monitors of the Service acted as part of the Army Psychological Warfare Branch in North Africa when Allied troops were landed there in 1943. On December 30, 1945, the Service was transferred to the War Department.<sup>207</sup>

The Office of War Information, established within the Office for Emergency Management by a director (E.O. 9182) of June 13, 1942, consolidated (the Office of Facts and Figures, the Office of Government Reports, the Division of Information of the Office for Emergency Management, and the Foreign Information Service's Outpost, Publications, and Pictorial Branches of the Office of the Coordinator of Information) into one agency war information functions of the Federal government, both foreign and domestic. The unit's intelligence functions included psychological warfare, both its development and effects, and the collection of overseas media—print, film, and radio.

In general, the Office consisted of two principal branches: Domestic Operations and Overseas Operations. A Policy Development Branch was established in the initial organization but lasted only until September when it was absorbed by the Domestic Operations Branch. Within the Domestic Operations Branch, in addition to the media clearance and production bureaus (Book and Magazine, Graphics, Motion Picture, News, and Radio) there were two intelligence entities: the Foreign News Bureau and the Special Services Bureau. The former

was established in March 1944, taking over the functions and records of the Foreign Sources Division of the News Bureau. Its main function was to provide the American press, radio commentators, and other news outlets with war information obtained from foreign sources available only in a limited way, if at all, to nongovernmental agencies. To this end it used monitoring services, excerpts from the press of occupied and enemy countries, and special reports from overseas. A special unit handled releases to the religious and educational press. The Bureau served as a receiving and distributing agent for all pooled press copy from overseas war theaters. Other functions included the analysis of enemy propaganda techniques<sup>208</sup>

<sup>207</sup> *Ibid.*, pp. 938–939.

<sup>208</sup> *Ibid.*, p. 554.

### On the other hand, the Special Services Bureau

continued functions begun in the Office of Facts and Figures and the Office of Government Reports. The Bureau was responsible for providing specialized informational services to all agencies and for providing the general public with a centralized source of information concerning Government activities, organization, and personnel. Its Division of Educational Services, which provided informational material for discussion groups and helped to coordinate the educational activities of war agencies, and its Division of Surveys, which conducted public opinion and other surveys, were terminated early in 1944. The Divisions of Press Intelligence, Public Inquiries, and Research continued until August 31, 1945, when the Bureau's remaining functions and records were transferred to the Bureau of the Budget. The following year they were again transferred to the temporarily reconstituted Office of Government Reports.<sup>209</sup>

Within the Overseas Operations Branch, in addition to its propaganda and news production, distribution, and analysis bureaus (Communications Facilities, News and Features, Overseas Motion Picture, Overseas Publications, and Radio Program), there was an administrative support unit—the Output Service Bureau—and the Bureau of Overseas Intelligence.

The Bureau of Overseas Intelligence, originally known as the Bureau of Research and Analysis, maintained a central intelligence file, kept a running audit of the reliability of intelligence sources, and provided all sections of the Overseas Operations Branch with information necessary to their activities. Until late in the war it functioned through the Current Liaison Division, which maintained liaison with the Department of State, the Military Intelligence Service, the Office of Naval Intelligence, the Branch's Overseas Planning Board in Washington and operational intelligence offices elsewhere, and other agencies; the Analysis Division, which classified and analyzed intelligence from the foreign press, radio broadcasts, intercepted communications, and other sources and cooperated closely with the Foreign Broadcast Intelligence Service; and the Field Intelligence Division, which directed the collection and distribution of intelligence from outposts. In 1944 the Bureau was recognized and thereafter functioned through the Central Intelligence Division, the Regional Analysis Division, and a special research unit known as the Foreign Morale Analysis Division. . . .<sup>210</sup>

The Foreign Morale Analysis Division referred to above

was established in the spring of 1944 under a cooperative arrangement with the Military Intelligence Service of the War Department General Staff to provide information about the morale of the Japanese and social conditions within Japan. Its

<sup>209</sup> *Ibid.*, p. 560.

<sup>210</sup> *Ibid.*, p. 566.

work was performed by two groups, one in the Office of War Information and the other in the War Department. The first group translated and analyzed materials available through nonmilitary sources, such as Japanese publications and transcripts of Japanese broadcasts, while the War Department group analyzed materials received from military sources, especially prisoner-of-war interrogation reports and captured enemy documents. By the spring of 1945 the cooperative unit was also known as the Joint Morale Survey and was divided into the Morale Research Unit (OWI) and the Propaganda Section (mainly Army), which was concerned primarily with the analysis of Japanese radio propaganda. The results of the research were presented to interested officials by means of formal reports and special memoranda and in formal and informal conferences. The reports ranged from over-all studies of military morale and the effects of Allied propaganda to special studies of subjects investigated upon request.<sup>211</sup>

In addition to its central Washington headquarters, the Office of War Information maintained offices in New York and San Francisco for the performance of certain of its functions. In addition to various shifting outposts overseas, a major control facility was established in London. On V-E Day the Office counted 38 outposts in 23 countries; the agency had no jurisdiction in Latin America. And with the termination of world hostilities, OWI came to an end.

The Office of War Information was terminated by an Executive order [E.O. 9608] of August 31, 1945, to become effective September 15, 1945. The Overseas Operations Branch, including its executive and security Offices in New York and San Francisco, the Office of the Assistant Director for Management, and the Office of General Counsel, were transferred with their records to the Interim International Information Service of the Department of State, which was established by the same order. On January 1, 1946, these units became a part of the Office of International Information and Cultural Affairs of the Department of State. The functions and records of the Special Services Bureau were transferred from the Domestic Operations Branch to the Bureau of the Budget, where they remained until they were transferred by an Executive order of December 12, 1946, to the reconstituted Office of Government Reports.<sup>212</sup>

The Office of Censorship, created by a directive (E.O. 8985) of December 19, 1941, had responsibility for censoring communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country. Deriving its basic operating authority from the First War Powers Act of 1941 (55 Stat. 840), the Office conducted its work

in some 20 postal stations and 17 cable stations throughout the country in accordance with standards of censorship estab-

<sup>211</sup> *Ibid.*, pp. 566-567.

<sup>212</sup> *Ibid.* 548.

lished by the Washington office. Commissioned officers of the Navy performed cable censorship operations throughout the war, but postal censorship, which was at first carried on by commissioned officers of the Army, was transferred to civilian officials early in 1943.<sup>213</sup>

Internally, the Office was organized into seven divisions: Press, Broadcasting, Postal, Cable, Administrative, Reports, and Technical Operations. With regard to intelligence matters, the Reports Division "classified and delivered to interested Government agencies the various types of submission slips made in the process of censorship."<sup>214</sup>

#### The Technical Operation unit

was created in August 1943 to perform the work of the Office of Censorship in the field of counterespionage. It maintained close liaison with the intelligence agencies of the Government and supervised the work of censorship laboratories in combating the use of secret inks and developing techniques for detecting codes and ciphers. Through its efforts the Office of Censorship was able to hinder the effectiveness of the enemies' secret communications. On the basis of evidence uncovered by the Division the Federal Bureau of Investigation built up espionage cases leading to the conviction and punishment of a number of Axis agents.<sup>215</sup>

As with the other temporary wartime agencies, the Office of Censorship ceased operations with the end of world war.

A Presidential directive of August 15, 1945, instructed the Director of Censorship to declare voluntary press and radio censorship at an end and to discontinue the censorship activities of the Office of Censorship. An Executive order [E.O. 9631] of September 28, 1945, provided that the Office should continue to function, for purposes of liquidation only, until November 15, 1945, at which time it should be terminated. The Treasury Department took over responsibility for completing the liquidation of the affairs of the Office.<sup>216</sup>

These were the principal Federal departments and agencies recognized to have exhibited a capacity for intelligence operations during World War II. This is not a definitive collection of such intelligence entities depicted here. Undoubtedly arguments could be made for the inclusion of other units whose intelligence capacity was not immediately apparent in this research or which otherwise had secret intelligence functions. However, such exceptions, in all likelihood, will be most unusual omissions.

#### *VIII. Post-war Adjustment*

In the aftermath of the war, two not indistinct realizations were experienced within the Federal intelligence community: the loss of the Office of Strategic Services and the need for some type of coordinating

<sup>213</sup> *Ibid.*, p. 319.

<sup>214</sup> *Ibid.*, p. 324.

<sup>215</sup> *Ibid.*

<sup>216</sup> *Ibid.*, p. 319.

and/or leadership mechanism within the postwar intelligence structure. Viewing OSS as a wartime necessity, President Truman, anticipating criticism for the continuation of the agency when world peace had been restored, hastily abolished this entity in a directive (E.O. 9621) of September 20, 1945, effective ten days later. The result was that the new Chief Executive and his aides were suddenly denied the valuable intelligence produced by this unique and effective organization and experienced this loss at a time when summit conferences among the major world powers gave increased impetus for its availability.

The General Staff, Joint Intelligence Committee, and Combined Intelligence Committee experiences during the war prompted interest at the highest defense policy and organization levels in an improved intelligence coordination mechanism. A centralized intelligence agency had been proposed during World War I by Treasury Secretary William McAdoo.<sup>217</sup> OSS Director William Donovan had also proposed such an entity in 1944.<sup>218</sup> To serve this intelligence coordination function, the President issued a directive (11 F.R. 1337, 1339), dated January 22, 1946, establishing a National Intelligence Authority with a support staff called the Central Intelligence Group. Addressed to the Secretaries of State, War, and Navy, this instrument said:

1. It is my desire, and I hereby direct, that all Federal foreign intelligence activities be planned, developed and coordinated so as to assure the most effective accomplishment of the intelligence mission related to the national security. I hereby designate you, together with another person to be named by me as my personal representative, as the National Intelligence Authority to accomplish this purpose.

2. Within the limits of available appropriations, you shall each from time to time assign persons and facilities from your respective Departments, which persons shall collectively form a Central Intelligence Group and shall, under the direction of a Director of Central Intelligence assist the National Intelligence Authority. The Director of Central Intelligence shall be designated by me, shall be responsible to the National Intelligence Authority, and shall sit as a non-voting member thereof.

3. Subject to the existing law, and to the direction and control of the National Intelligence Authority, the Director of Central Intelligence shall:

a. Accomplish the correlation and evaluation of intelligence relating to the national security, and the appropriate dissemination within the Government of the resulting strategic and national policy intelligence. In so doing, full use shall be made of the staff and facilities of the intelligence agencies of your Departments.

b. Plan for the coordination of such of the activities of the intelligence agencies of your Departments as relate to the national security and recommend to the National Intelligence Authority the establishment of such over-all policies

<sup>217</sup> See Chapter 2, [165].

<sup>218</sup> See Chapter 3, pp. [224-227].

and objectives as will assure the most effective accomplishment of the national intelligence mission.

c. Perform, for the benefit of said intelligence agencies, such services of common concern as the National Intelligence Authority determines can be more efficiently accomplished centrally.

d. Perform such other functions and duties related to intelligence affecting the national security as the President and the National Intelligence Authority may from time to time direct.

4. No police, law enforcement or internal security functions shall be exercised under this directive.

5. Such intelligence received by the intelligence agencies of your Departments as may be designated by the National Intelligence Authority shall be freely available to the Director of Central Intelligence for correlation, evaluation or dissemination. To the extent approved by the National Intelligence Authority, the operations of said intelligence agencies shall be open to inspection by the Director of Central Intelligence in connection with planning functions.

6. The existing intelligence agencies of your Departments shall continue to collect, evaluate, correlate and disseminate departmental intelligence.

7. The Director of Central Intelligence shall be advised by an Intelligence Advisory Board consisting of the heads (or their representatives) of the principal military and civilian intelligence agencies of the Government having functions related to national security, as determined by the National Intelligence Authority.

8. Within the scope of existing law and Presidential directives, other departments and agencies of the executive branch of the Federal Government shall furnish such intelligence information relating to the national security as is in their possession, and as the Director of Central Intelligence may from time to time request pursuant to regulations of the National Intelligence Authority.

9. Nothing herein shall be construed to authorize the making of investigations inside the continental limits of the United States and its possessions, except as provided by law and Presidential directives.

10. In the conduct of their activities the National Intelligence Authority and the Director of Central Intelligence shall be responsible for fully protecting intelligence sources and methods.

While this arrangement may have facilitated the coordination of intelligence matters, the Central Intelligence Group was incapable of ever approaching the scope of operations achieved by the OSS. Not only was the staff inadequately small in number and temporary in status, but its leadership was not stable: Rear Admiral Sidney W. Souers first headed the unit but within six months he was succeeded by General Hoyt S. Vandenberg; in May, 1947, Rear Admiral Roscoe H. Hillenkoetter became director of the Group and, after the Central

Intelligence Agency displaced the CIG, made the transition to lead the CIA.

From 1947 (when the armed services were unified and reorganized under the Department of Defense superstructure, the National Security Council, the now defunct National Security Resources Board and the Central Intelligence Agency was established) to the present, there has been a steady growth in intelligence institutions and organization. The remaining portion of this study is devoted to the evolution and growth of these entities.

### *IX. Atomic Energy Commission*

Created in 1946 (60 Stat. 755) and further empowered in 1954 (68 Stat. 919) as the sole agency responsible for atomic energy management, production, and control, the Atomic Energy Commission administered nuclear power matters for almost two decades before a general reorganization of the Federal government's energy policy structure brought about its demise in 1975. The Commission was the recipient of the legacy of the Manhattan Project, operated by the Army Corps of Engineers for the development of the atomic bomb during the war. Since 1947 the agency has maintained an intelligence unit under various identifications: Director, Office of Security and Intelligence (1954–1955), Director, Division of Intelligence (1955–1971), and Assistant General Manager for National Security (1972–1975).<sup>219</sup>

In the period between 1949, when the first Soviet nuclear test was reported, and the end of February 1958, the AEC announced some thirty-one nuclear explosions as having been detonated by the Soviet Union. Not all Soviet atomic explosions are publicly announced by the commission, nor are full details given. But information about all such tests is quickly communicated within the intelligence community.

Such information is a basic requirement for officials responsible for national security plans and programs. For example, if the Soviets were known to be conducting certain types of nuclear tests, these might reveal the state of progress of hydrogen warheads for ballistic missiles or progress in developing defensive nuclear missiles.<sup>220</sup>

This type of intelligence is gathered through machinery, such as seismic devices, and atmospheric sampling procedures.

The United States has maintained continuous monitoring of the earth's atmosphere to detect radioactive particles from atomic tests. Samples of atmosphere are collected in special containers by U-2 and other aircraft flying at high altitudes. AEC is able to determine from these samples and other data not only whether an atomic explosion has occurred, but also the power and type of weapon detonated. It also con-

<sup>219</sup> The periods indicated for these titles are approximate and are based upon the appearance of the referent in official government organization manuals for the years specified.

<sup>220</sup> Harry Howe Ransom. *The Intelligence Establishment*. Cambridge, Harvard University Press, 1970, p. 145.

ducts extensive research and experimentation to prevent detection of atomic explosions and methods of penetrating any such protective shielding as might be devised by another nation.<sup>221</sup>

The agency also utilizes its own "state of the art" techniques in nuclear energy production to assess the status of atomic power developments in foreign countries.

The Atomic Energy Commission is therefore a consumer and producer of intelligence in the critical national security field of nuclear energy, and is accordingly represented on the U.S. Intelligence Board by its director, Division of Intelligence. The AEC is vitally interested in receiving data on foreign atomic energy or nuclear weapons developments and provides technical guidance to CIA and the intelligence agencies of the armed services in collecting these raw data. The AEC, in turn, becomes a producer of intelligence when it produces information on nuclear energy and develops estimates as to the atomic weapons capabilities of foreign powers. This processed intelligence is disseminated to the National Security Council, the armed forces, and others in the intelligence establishment.

The specific functions of the AEC Intelligence Division are to keep the AEC leadership informed on matters relating to atomic energy policy; in formal terms the division "formulates intelligence policy and coordinates intelligence operations." It sets the intelligence "requirements" of the AEC, which may be supplied by the various operating arms of the intelligence community. It represents the AEC in the interagency boards and committees concerned with foreign intelligence and it provides other intelligence agencies with technical information in the hope of assuring competency in the collection and evaluation of atomic energy intelligence.<sup>222</sup>

In accordance with the provisions of the Energy Reorganization Act of 1974 (88 Stat. 1233), the Atomic Energy Commission was superceded by the Energy Research and Development Administration and the Nuclear Regulatory Commission in January 1975. The first of these new agencies assumed the old Commission's intelligence functions, the AEC Assistant General Manager for National Security becoming the Assistant Administrator for National Security at ERDA. The new Administration is also represented on the United States Intelligence Board.

#### *X. National Security Council*

The National Security Council evolved from efforts begun in 1944 for the unification of the armed services and culminating in the National Security Act of 1947 (61 Stat. 496). Both the Council and its centralized intelligence coordinating sub-agency generally devel-

<sup>221</sup> Monro MacCloskey. *The American Intelligence Community*. New York, Richards Rosen Press, 1967, p. 141.

<sup>222</sup> Ransom, *op. cit.*, p. 146.

oped from the National Intelligence Authority-Central Intelligence Group experience and a principal study of post-war defense organization matters prepared at the suggestion of Senator David I. Walsh (D.-Mass.), Chairman of the Senate Committee on Naval Affairs, for Secretary of the Navy James V. Forrestal by New York investment broker Ferdinand Eberstadt.<sup>223</sup> While numerous other reorganization ideas would follow, the Eberstadt report

recommended the maintenance of three departments, War, Air and Navy, with each having a civilian secretary, a civilian under secretary, and a commanding officer. A National Security Council, composed of the Secretaries of War, Navy and Air, the Chairman of the National Security Resources Board, Chairman of the Joint Chiefs of Staff, and a permanent secretariat would be established to facilitate interagency clearances. In the absence of the President, the Vice President or the Secretary of State would preside as Chairman. The duties of the Council would be to exercise critical policy-forming and advisory functions in the setting up of foreign and military policy. A Central Intelligence Agency was to be made a constituent part of the Council's organization with the Joint Chiefs of Staff serving as the principal coordinating unit. The latter would be given statutory authority permitting it to advise the Council on strategy, budgetary problems, and logistics.<sup>224</sup>

As initially established in 1947, the Council was an independent agency with a membership including the President, the Secretaries of State, Defense, Army, Air, Navy, and the Chairman of the (now defunct) National Security Resources Board with the option that the Chief Executive might also include the heads of two other special defense units (now expired). Two years later the membership of the Council was overhauled (63 Stat. 579) to include the President, the Vice President, the Secretaries of State and Defense, the Chairman of the National Security Resources Board, and certain other defense officials which the Chief Executive might specify as members, subject to Senate confirmation. Also, in accordance with Reorganization Plan No. 4 of 1949 (63 Stat. 1067), the Council was formally located within the Executive Office of the President. Two aspects of NSC organization and operation are of interest to this study: staff growth and activities and coordination mechanisms developed under the auspices of the Council.

The general staffing pattern of the NSC would appear to be a movement from a small secretariat to a large professionalized body competing with the bureaucracies of the defense and foreign policy agencies

<sup>223</sup> See U.S. Congress. Senate. Committee on Naval Affairs. *Unification of the War and Navy Departments and Postwar Organization for National Security*. Committee Print, 79th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1945.

<sup>224</sup> Edward H. Hobbs. *Behind the President: A Study of Executive Office Agencies*. Washington, Public Affairs Press, 1954. p. 129.

and departments for access to the President.<sup>225</sup> The availability of the Chief Executive to the NSC staff has been enhanced by the decline of the Council's Executive Secretary and virtual replacement by a presidential assistant for national security matters; the creation of various coordination mechanisms reporting to the Council, where the Chief Executive presides, or directly to the President has also increased the influence of this staff with the man in the White House.

Under President Truman, who did not make extensive use of the panel, the NSC staff,

a small body of permanent Council employees and officers detailed temporarily from the participating agencies, was headed by a nonpolitical civilian executive secretary appointed by the President. An "anonymous servant of the Council," in the words of the first executive secretary [Sidney W. Souers], "a broker of ideas in criss-crossing proposals among a team of responsible officials," he carried NSC recommendations to the President, briefed the chief executive daily on NSC and intelligence matters and maintained his NSC files, and served, in effect, as his administrative assistant for national security affairs.

The organization of the NSC staff was flexible and, as the Council developed, changed to meet new needs. In general, during the pre-Korean period, it consisted of three groups. First was the Office of the Executive Secretary and the Secretariat, composed of permanent NSC employees, which performed the necessary basic functions of preparing agenda, circulating papers, and recording actions. Next was the Staff, consisting almost entirely of officials detailed on a full-time basis by departments and agencies represented on the Council, and headed by coordinator detailed from the State Department who was supported, in turn, by a permanent assistant. This body developed studies and policy recommendations for NSC consideration. The third group consisted of consultants to the executive secretary, the chief policy and operational planners for each Council agency. Thus, the head of the Policy Planning Staff represented the State Department, the Director, Joint Staff, represented the Department of Defense, and so forth.<sup>226</sup>

Late in July, 1950, President Truman ordered a reorganization and strengthening of the Council. Attendance at NSC sessions was lim-

<sup>225</sup> See: Paul W. Blackstock. *The Intelligence Community Under the Nixon Administration. Armed Forces and Society*, v. 1, February, 1975: 231-250; I. M. Destler. *Can One Man Do? Foreign Policy*, no. 5, Winter, 1971-72: 28-40; Stanley L. Falk. *The National Security Council Under Truman, Eisenhower, and Kennedy. Political Science Quarterly*, v. 79, September, 1964: 403-435; Paul Y. Hammond. *The National Security Council as a Device for Interdepartmental Coordination: An Interpretation and Appraisal. American Political Science Review*, v. 54, December, 1960: 899-911; Edward A. Kolodziej. *The National Security Council: Innovations and Implications. Public Administration Review*, v. 29, November/December, 1969: 573-585; John P. Leacacos. *Kissinger's Apparatus. Foreign Policy*, no. 5, Winter, 1971-72: 3-28; Alfred D. Sander. *Truman and the National Security Council: 1945-1947. The Journal of American History*, v. 59, September, 1972: 369-389; Frederick C. Thayer. *Presidential Policy Processes and "New Administration": A Search for Revised Paradigms. Public Administration Review*, v. 31, September/October, 1971: 552-561.

<sup>226</sup> Falk, *op. cit.*, pp. 408-409.

ited to statutory members and five other specifically designated officials (the Secretary of the Treasury, the Chairman of the Joint Chiefs of Staff, the Director of Central Intelligence, a Special Assistant to the President [W. Averell Harriman], and a Special Consultant to the President [Sidney W. Souers]) together with the Executive Secretary (James S. Lay, Jr.).<sup>227</sup>

The President also directed a reshuffling of the NSC staff. The permanent Secretariat remained, but the Staff and consultants were replaced by a Senior Staff and Staff Assistants. The Senior Staff was composed of representatives of State, Defense, NSRB, Treasury, JCS, and CIA, and shortly thereafter of Harriman's office, and headed by the Executive Secretary, an official without departmental ties. Members were generally of Assistant Secretary level or higher and in turn designated their Staff Assistants.

The Senior Staff participated closely and actively in the work of the Council. Not only did it continue the functions of the Staff, but it also took over responsibility for projects formerly assigned to *ad hoc* NSC committees. It thus provided the Council with continuous support by a high-level interdepartmental staff group. The Staff Assistants, who did most of the basic work for the Senior Staff, spent a large part of their time in their respective agencies, where they could better absorb agency views and bring them to the fore during the developmental phase of NSC papers. The position of the executive secretary, moreover, as chairman of the Senior Staff and also head of the permanent NSC staff in the White House, gave that official an intimate view of the President's opinions and desires that he could bring to bear quite early in the planning process. And finally, JCS and Treasury representation on the NSC staff filled needs that had been long felt.<sup>228</sup>

With the arrival of the Eisenhower Administration, the Council was transformed into a highly organized and enlarged forum for the formulation of both national defense and foreign policy. Auxiliary coordination units were added to the NSC structure and the panel's factual research and policy paper production was supervised by the first officially designated presidential assistant for national security matters, Robert Cutler (James S. Lay, Jr., continued as the Council's Executive Secretary).<sup>229</sup> Most of this machinery disappeared in 1961,

<sup>227</sup> By this time the Council's statutory membership had been altered by a statutory amendment (63 Stat. 579) to the National Security Act of 1947 (61 Stat. 496) and the panel had been officially located (63 Stat. 1067) within the Executive Office of the President.

<sup>228</sup> Falk, *op. cit.*, p. 415.

<sup>229</sup> Cutler's official title, first appearing in the government organization manual for 1954, was 'Special Assistant to the President for National Security Affairs and was listed in both the White House Office staff and National Security Council staff. Stress must be placed upon this being an official title for certainly other presidential aides had been regarded as assistants for national security matters. Thus one finds, for example, President Truman writing that when Admiral William D. Leahy retired as White House Chief of Staff in March, 1941, ". . . I brought Admiral Souers to the White House in the new capacity of Special Assistant to the President for Intelligence." Officially, Souers was Executive Secretary of the NSC. Truman, *op. cit.*, p. 58.

however, with the arrival of the Kennedy Administration and the NSC became but one of several means by which foreign policy and defense problems might be scrutinized.

Normally the President assigned the preparation of a study or recommendation to a Cabinet official or one of his top subordinates. This official, in turn, was responsible for obtaining other departmental views and checking and coordinating with other responsible individuals. Sometimes he did this within small, interdepartmental groups, specially created to study the problem, sometimes by arranging for subordinates in each interested agency to develop the matter. Where appropriate, this included close consultation with the Budget Bureau. Fiscal matters were considered during the development of a study and in drawing up recommendations and proposals; papers no longer had separate financial appendices. The completed report included not only the responsible officials own analysis and recommendations for action, but also a full statement of any differing views held by other agencies or individuals. This was true whether the report was prepared by one person or by a special task force.

The final version, presented to President Kennedy at a formal meeting of the NSC or within smaller or larger panel or subcommittee meetings, was then discussed and, if necessary, debated further before the President made his decision. Once the chief executive approved a specific recommendation, the responsible agency or department made a written record of the decision and the head of that agency, or a high-level action officer, was charged with overseeing its implementation.<sup>230</sup>

President Kennedy did not, however, discard the special assistant's role in Council operations and national security matters.

The Special Assistant to the President for National Security Affairs, McGeorge Bundy, also played an important role in the national security process. Not only was he a top presidential adviser, but as overall director of the NSC staff he participated in all Council-related activities. He and his assistants had a variety of responsibilities in addition to their normal secretariat functions. They suggested areas for consideration and the mechanisms for handling these and other problems; followed studies through the planning stage and saw that they were properly coordinated, staffed, and responsive to the needs and desires of the President; ensured that a written record was made of all decisions, whether they were reached at formal NSC meetings or at other top conferences; and kept tabs on the implementation of whatever policy had been adopted. In this work, Bundy and the NSC staff coordinated closely with other parts of the presidential staff and the Budget Bureau, performed whatever liaison was necessary, and met frequently with the President at regular White House staff meetings.

<sup>230</sup> Falk, *op. cit.*, p. 430.

Formal NSC meetings were held often but irregularly, sometimes as frequently as three times a week and usually at least once every two weeks. In the first half year of the Kennedy administration, for example, the Council met sixteen times. Many matters that had been considered at regular NSC meetings under Eisenhower were now handled in separate meetings of the President with Secretaries Rusk and McNamara or with a single Cabinet officer, or in committees of the NSC that included only some of the statutory members but also several of their top deputies or other government officials, or at meetings below the presidential level.<sup>231</sup>

While President Johnson largely continued to operate in much the same manner as his predecessor with regard to national security matters, President Nixon significantly altered these arrangements by vesting a great deal of autonomy in his assistant for national security affairs, granting that agent a large staff responsible to his personal supervision (the NSC Executive Secretary position remained vacant during the Nixon tenure).

When Kissinger came to Washington he told a number of people of his determination to concentrate on matters of general strategy and leave "operations" to the departments. Some dismissed this as the typical disclaimer of a new White House staff man. Yet much in Kissinger's writings suggests that his intention to devote himself to broad "policy" was real. He had repeatedly criticized our government's tendency to treat problems as "isolated cases," and "to identify foreign policy with the solution of immediate issues" rather than developing an interconnected strategy for coping with the world over a period of years. And his emphasis was primarily on problems of decision-making. He defined the problem basically in terms of how to get the government to settle on its major policy priorities and strategy, and had been slow to recognize the difficulty of getting the bureaucracy to implement such a strategy once set.

Kissinger found a kindred spirit in a President whose campaigning had denounced the Kennedy-Johnson de-emphasis on formal national security planning in favor of "catch-as-catch-can talkfests." And the system he put together for Nixon is designed above all to facilitate and illuminate major Presidential foreign policy choices. Well over 100 "NSSM's" (National Security Study Memoranda) have been issued by the White House to the various foreign affairs government agencies, calling for analysis of major issues and development of realistic alternative policy "options" on them. These studies are cleared through a network of general interdepartmental committees responsible to Kissinger, and the most important issues they raise are argued out before the President in the National Security Council. Nixon then makes a

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<sup>231</sup> *Ibid.*, p. 432-433.

decision from among the options, usually "after further private deliberation."<sup>232</sup>

While the NSC itself may not have met any more frequently under President Nixon than it did during the Kennedy-Johnson regimes, the Council served as an important coordinating mechanism for Dr. Kissinger in centralizing and affirming his control over national security and intelligence matters. As in the Eisenhower period, a variety of auxiliary panels were created for special aspects of security policy; these were chaired by Kissinger and provided staff support by his NSC personnel. The principal auxiliary units (not all, for some, undoubtedly, were never publicly acknowledged and a definitive list is not otherwise known to exist) associated with the Council since its creation are discussed below.

On May 10, 1949, President Truman announced the creation of two panels which would flank the NSC structure. The first of these, the Interdepartmental Committee on Internal Security, was chaired initially by the Special Assistant to the Attorney General with representatives from the Department of State, Defense, and Treasury as well as the NSC (the last in an adviser-observer capacity). Largely a paper structure, this body has been almost totally inactive during the past decade; nevertheless, responsibility for its operations currently lies with the head of the internal security section of the Criminal Division, Department of Justice.

The Interdepartmental Intelligence Conference, the other unit established by President Truman, was initially headed by J. Edgar Hoover, Director of the Federal Bureau of Investigation, and counted among its members the heads of Army, Navy, and Air Force intelligence agencies and an NSC representative (the last, again, in an adviser-observer capacity). Slightly more active than the counterpart internal security panel, the Conference has, since the death of Director Hoover, been maintained by a secretariat within the Federal Bureau of Investigation.

Both of these entities, one predominantly military and the other largely civilian in scope, are responsible for coordinating certain investigations of domestic espionage, counterespionage, sabotage, subversion, and related internal security matters. Because the differentiation between their jurisdiction is not altogether clear, fundamental disagreements between them over such matters are settled by the NSC; however, in view of the inactivity of these units, it would seem that few disputes over jurisdiction have been taken to the Council recently by these panels.<sup>233</sup>

In June, 1951, a Psychological Strategy Board was established by presidential directive.<sup>234</sup> Supplanting an earlier board created in the Department of State under Assistant Secretary Edward W. Barrett, the new panel attempted to determine the psychological objectives of the United States and coordinated and evaluated the work of operating psychological warfare agencies. Under the terms of its charter,

<sup>232</sup> Destler, *op. cit.*, pp. 28-29.

<sup>233</sup> Hobbs, *op. cit.*, p. 150.

<sup>234</sup> See *Public Papers of the Presidents of the United States: Harry S. Truman, 1951*. Washington, U.S. Govt. Print. Off., 1965, pp. 341-342.

the Board was obligated to "report to the National Security Council on . . . [its] . . . activities and on its evaluation of the national psychological operations, including implementation of approved objectives, policies, and programs by the departments and agencies concerned." Composed of the Under Secretary of State, the Deputy Secretary of Defense, and the Director of Central Intelligence (or their designees), and such other representatives as determined by them, the unit was ultimately abolished (E.O. 10483) on September 2, 1953, when Reorganization Plan No. 8 of that year (67 Stat. 642) established the United States Information Agency which assumed the functions of the Board.

Finding a need for improving the manner in which NSC policies were carried out, President Eisenhower created (E.O. 10483) the Operations Coordinating Board in September, 1953, which, after the Chief Executive approved a policy submitted by the Council, was to consult with the agencies involved as to:

- (a) their detailed operational planning responsibilities respecting such policy, (b) the coordination of the interdepartmental aspects of the detailed operational plans developed by the agencies to carry out such policy, (c) the timely and coordinated execution of such policy and plans, and (d) the execution of each security action or project so that it shall make its full contribution to the attainment of national security objectives and to the particular climate of opinion the United States is seeking to achieve in the world, and (e) initiate new proposals for action within the framework of national security policies in response to opportunity and changes in the situation.

In addition to the Under Secretary of State, who acted as chairman, the panel consisted of the Deputy Secretary of Defense, the Director of Foreign Operations, and the Director of Central Intelligence. The Special Assistant to the President for National Security Affairs might attend any session of the Board on his own volition and the Director of the United States Information Agency was to advise the body upon request. In his efforts at streamlining the national security structure, President Kennedy terminated (E.O. 10920) the Board in February 1961.

The Forty Committee (also known as the Special Group, the 54/12 Group, and the 303 Committee) was established by a secret NSC order #54/12 and derived from an informal Operations Coordinating Board luncheon group. Created sometime in 1955, the panel has had a varying membership but has reportedly included the Director of Central Intelligence, the Under Secretary of State for Political Affairs, the Secretary and Deputy Secretary of Defense and, during the past decade, the Chairman of the Joint Chiefs of Staff and the presidential assistant for national security affairs. During the past three administrations the President's national security assistant is thought to have chaired the group's sessions. According to one authority, it is this unit which makes "policies which walk the tightrope between peace and war;"<sup>235</sup> another source credits the committee with

<sup>235</sup> David Wise and Thomas B. Ross. *The Invisible Government*. New York, Vintage Books, 1974; originally published 1964, p. 263.

holding authority on the execution of CIA clandestine operations.<sup>236</sup> In this latter regard, the group functions as a shield against claims that the Chief Executive directly approved some morally questionable clandestine activity; this function of the panel would not, however, seem to excuse the President from his constitutional obligation to "take care that the laws be faithfully executed."<sup>237</sup>

With the arrival of the Nixon Administration in 1969, Dr. Kissinger instituted three new NSC coordinating mechanisms. The Under Secretaries Committee, initially headed by Under Secretary of State John N. Irwin, was "originally designed as the chief implementing body to carry out many (but not all) Presidential NSC directives" but, according to a 1971 evaluation, the panel's "actual importance (never very great) continues to lapse."<sup>238</sup>

"Another is the Senior Review Group, now [1971] at an Under Secretary level and chaired by Kissinger, which usually gives final approval to the NSC study memoranda after making sure that 'all realistic alternatives are presented'."<sup>239</sup>

The third entity, the Washington Special Actions Group, included as members, as of late 1971, the Attorney General, the Director of Central Intelligence, the Deputy Secretary of Defense, the Chairman of the Joint Chiefs, and the Under Secretary of State for Political Affairs. It functions as "top-level operations center for sudden crises and emergencies."<sup>240</sup>

On November 5, 1971, the White House announced additional reorganization efforts with regard to the intelligence community, the net outcome of which was the establishment of three more NSC panels:

. . . a *National Security Council Intelligence Committee*, chaired by the Assistant to the President for National Security Affairs. Its members . . . include the Attorney General, the DCI [Director of Central Intelligence], the Under Secretary of State, the Deputy Secretary of Defense, and the Chairman of the Joint Chiefs of Staff. The Committee will give direction and guidance on national intelligence needs and provide for a continuing evaluation of intelligence products from the viewpoint of the intelligence user.

. . . a *Net Assessment Group* within the National Security Council staff. The group . . . [is] . . . headed by a senior staff member and . . . [is] . . . responsible for reviewing

<sup>236</sup> Victor Marchetti and John D. Marks. *The CIA and the Cult of Intelligence*. New York; Alfred A. Knopf, 1974, pp. 325-327; this currently controversial account of Central Intelligence Agency and foreign intelligence community operations contains the most recent and detailed publicly available statistical estimates regarding Federal Intelligence resources.

<sup>237</sup> See U.S. Congress. Senate. Select Committee to Study Governmental Operations With Respect To Intelligence Activities. *Alleged Assassination Plots Involving Foreign Leaders*. Committee print, 94th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1975, pp. 9-13. [Also, published as S. Rept. 94-465 with identical pagination.]

<sup>238</sup> Leacacos, *op. cit.*, p. 7.

<sup>239</sup> *Ibid.*

<sup>240</sup> *Ibid.*, pp. 7-8.

and evaluating all intelligence products and for producing net assessments.

. . . an *Intelligence Resources Advisory Committee*, chaired by the DCI, including as members a senior representative from the Department of State, the Department of Defense, the Office of Management and Budget, and the Central Intelligence Agency. This Committee . . . advise[s] the DCI on the preparation of a consolidated intelligence program budget.<sup>241</sup>

These units, together with the above named groups and the Verification Panel, which is responsible for monitoring the intelligence related to the Strategic Arms Limitation Talks and is chaired by Dr. Kissinger, constitute the major NSC affiliates of interest to this study. Unless otherwise noted, all of these entities are officially operative though, in some instances, they exhibit little functional activity.

### *XI. Central Intelligence Agency*

Viewed by some as a revitalized model of the Office of Strategic Services, the Central Intelligence Agency was established as a sub-unit of the National Security Council by the National Security Act of 1947 (61 Stat. 496) with responsibilities (1) to advise the NSC on intelligence matters related to national security, (2) to make recommendations to the Council regarding the coordination of intelligence activities of the Federal Executive departments and agencies, (3) to correlate and evaluate intelligence and provide for its appropriate dissemination, (4) to perform such additional services for the benefit of existing intelligence entities as the NSC determines can be effectively accomplished by a central organization, and (5) to perform such additional functions and duties relating to national security intelligence as the Council may direct.

The Agency's organic statute was amended in 1949 by the Central Intelligence Agency Act (63 Stat. 208) which sought to improve CIA administration by strengthening the powers of the director. Among other authorities granted, this law exempts the Agency from any statutory provisions requiring the publication or disclosure of the "organization, functions, names, official titles, salaries or numbers of personnel employed" and, further, directs the Office of Management and Budget (then identified as the Bureau of the Budget) to make no reports on these matters to Congress. Nevertheless, in spite of this restrictive language, some gleanings are available on the organization of the CIA.<sup>242</sup> This scenario necessarily includes not only the evolution and current status of the Agency's internal structure, but extends as well to entities apart from the Agency which are headed by the Director of Central Intelligence and unofficial affiliates in the service of the CIA.

The head of the Old Central Intelligence Group, Admiral Roscoe H. Hillenkoetter, served as the first director of the Central Intelligence

<sup>241</sup> See *Weekly Compilation of Presidential Documents*, v. 7, November 8, 1971: 1482.

<sup>242</sup> There are, of course, various accounts of CIA operations and exploits but these are generally unenlightening with regard to organizational considerations and are, therefore, outside of the scope of this study.

Agency. But, while this leadership continuity assured an easy transition from one unit to its successor, the Agency was struggling with internal organization difficulties and liaison relationships during its first years of operation. These problems diminished with the arrival of Lieutenant General Walter Bedell Smith, former Secretary of the General Staff under General George C. Marshall and Chief of Staff to General Dwight D. Eisenhower in Europe, as Director of Central Intelligence in 1950. Former CIA official Lyman B. Kirkpatrick, Jr., offers this view of Smith's impact on the Agency.

Under the persistent prodding of General Smith, the intelligence community moved toward coordination and centralization. He was impatient with jurisdictional arguments, whether within the CIA or among the services. His attitude was that there was more than enough work for everybody. He had the authority and used it.

Within the CIA he reorganized the operational arm, established new guidelines for interagency cooperation, and established a support arm to provide the personnel, training, communication, logistics, and security so necessary in intelligence activities. He separated research from the estimating process and proposed a division of research responsibilities among the intelligence agencies. The Intelligence Advisory Committee gained stature as the governing body of the community.

Perhaps no action more typified the style and personality of General Smith than the organization of the operational offices of the CIA. The agency had inherited its foreign intelligence and counter-intelligence offices from the OSS, and in the five years since the Second World War these had been consolidated, reorganized, and reoriented to peacetime conditions. By 1948 another office had been added to engage in covert operations or political warfare. The new office was in, but not of, the CIA. It took its directives from a State-Defense committee, not the DCI. One of Smith's first actions on becoming director in October 1950 was to announce that he would issue the orders to this office. He later directed that the two offices (foreign intelligence and covert operations) be merged and that the deputy director concerned and the two assistant directors in charge of those offices work out the details. As one of the assistant directors, I participated in what were extended and exhaustive negotiations. In the summer of 1952 Smith finally accepted our proposals and called a meeting of all of the division and staff chiefs of the to-be-merged offices to announce the new organization. Although everyone present knew that the director was impatient to have the merger implemented, there were a couple who wanted to argue it. Smith gave them short shrift; his quick temper flared and he scathingly stopped the discussion, announced what was to take place, and stalked out. One of my colleagues leaned over and whispered, "My God, if he is that terrifying now, imagine what he must have been at full weight!" During the Second World War, when he was Eisen-

hower's Chief of Staff, Smith had weighed about 185, but an operation for stomach ulcers had reduced his size by fifty pounds.<sup>243</sup>

When Smith departed from the CIA directorship in 1952, he was succeeded by a man who was not only his equal in organizational abilities, but an individual virtually without equal in intelligence operations: Allen Welsh Dulles, the OSS master spy in Switzerland during World War II, lately head of the CIA's Office of Policy Coordination which carried out political subversion missions, and brother of the new Secretary of State. While Dulles, himself, has written very little about his organization and manner of administering the Central Intelligence Agency, one close observer of his operating techniques has written:

. . . one of the first things we did when he became the Director was to abolish the office of the Deputy Director of Administration [DD/A]. In a city renowned for its bureaucratic administration and its penchant for proving how right C. Northcote Parkinson was, Mr. Dulles' first act was more heretical to most Washingtonians than one of Walter Bedell Smith's first actions—the one in which he told the McCarthy [Senate investigation of Communist activity] hearings that he thought there might well be Communists in the Agency. Washington was not as upset about the Communists as it was to learn that a major agency of the Government had abolished Administration. Mr. Dulles took the view of the intelligence professional, that it was much more dangerous and therefore undesirable to have all kinds of administrators acquiring more information than they should have, than it was to find some way to get along without the administrators.

While the public was mulling over that tidbit from the CIA, the real moves were being made inside the organization, where no one could see what was going on. The Deputy of Intelligence [DD/I], strengthened by the addition of the Current Intelligence organization [which prepares the daily intelligence report submitted to the President] and other such tasks, was to be responsible for everything to do with intelligence, and more importantly, was to be encumbered by nothing that had to do with logistics and administration. That was the theory. In practice, the DD/I has a lot of administrative and support matters to contend with, as does any other large office. However, as much of the routine and continuing loads as could be was set upon the Deputy Director of Support [DD/S].

At the same time, the new and growing DD/P [Plans] (the special operations shop) was similarly stripped of all encumbrances and freed to do the operational work that Dulles saw developing as his task. This left the DD/S (Support) with a major task. He was responsible for the entire support

<sup>243</sup> Lyman B. Kirkpatrick, Jr. *The U.S. Intelligence Community Foreign Policy and Domestic Activities*. New York, Hill and Wang, 1973, pp. 32-33.

of the Agency, support of all kinds, at all times, and in all places.<sup>244</sup>

As an "intelligence professional," Dulles held strong views as to the type of individuals who should lead the Agency and serve it. During the hearings on the proposed National Security Act of 1947, he sent a memorandum on the CIA provisions to Senator Chan Gurney (R.-S.D.), Chairman of the Committee on Armed Services, indicating his view that the new intelligence entity

. . . should be directed by a relatively small but elite corps of men with a passion for anonymity and a willingness to stick at that particular job. They must find their reward in the work itself, and in the service they render their Government, rather than in public acclaim.

Elsewhere in his statement he opined that the Agency "must have a corps of the most competent men which this country can produce to evaluate and correlate the intelligence obtained, and to present it, in proper form, to the interested Government departments, in most cases to the State Department, and in many cases to the Department of National Defense, or to both."<sup>245</sup>

Dulles continued to express this view after he left the directorship, offering perhaps his most developed account on this point in a 1963 writing.

From the day of its founding, the CIA has operated on the assumption that the majority of its employees are interested in a career and need and deserve the same guarantees and benefits which they would receive if in the Foreign Service or in the military. In turn, the CIA expects most of its career employees to enter its service with the intention of durable association. No more than other large public or private institutions can it afford to invest its resources of time and money in the training and apprenticeship of persons who separate before they have begun to make a contribution to the work at hand. It can, in fact, afford this even less than most organizations for one very special reason peculiar to the intelligence world—the maintenance of its security. A sizable turnover of short-term employees is dangerous because it means that working methods, identities of key personnel and certain projects in progress will have been exposed in some measure to persons not yet sufficiently indoctrinated in the habits of security to judge when they are talking out of turn and when they are not.

The very nature of a professional intelligence organization requires, then, that it recruit its personnel for the long pull, that it carefully screen candidates for jobs in order to determine ahead of time whether they are the kind of people who will be competent, suitable and satisfied, and that once

<sup>244</sup> L. Fletcher Prouty. *The Secret Team*. Englewood Cliffs, Prentice-Hall, 1973, pp. 245–246.

<sup>245</sup> See U.S. Congress, Senate, Committee on Armed Services. *National Defense Establishment: Unification of the Armed Services*. Hearings, 80th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1947, pp. 525–528.

such people are within the fold their careers can be developed to the mutual advantage of the government and the officer.<sup>246</sup>

Yet, regardless of these expressions of personnel policy, the overriding factor in CIA recruitment during Dulles' tenure would seem to be security, a condition brought to bear not by the Director's own choosing but, rather, by the tirades of the junior Senator from Wisconsin, Joseph R. McCarthy.

The CIA Director told the President he would resign unless McCarthy's vituperation was silenced. Eisenhower had been reluctant to stand up to the politically powerful (and politically useful) senator. But he accepted Dulles' contention that McCarthy's attacks on the Agency were damaging to the national security. Vice-President Nixon was dispatched to pressure McCarthy into dropping his plans for a public investigation. The senator suddenly became "convinced" that "it would not be in the public interest to hold public hearings on the CIA, that that perhaps could be taken care of administratively."

The "administrative" remedy McCarthy demanded as the price of his silence was a vast internal purge of the Agency. The senator privately brought his charges against CIA "security risks" to Dulles' office. He had lists of alleged "homosexuals" and "rich men" in CIA employ and provided Dulles with voluminous "allegations and denunciations, but no facts." To insure, however, that his charges were taken seriously by CIA, McCarthy continued to threaten a public investigation. At his infamous hearings on alleged subversion in the Army, the senator frequently spoke of "Communist infiltration and corruption and dishonesty" in CIA. He called this a "very, very dangerous situation" which disturbs me "beyond words."

The pressure took its toll. Security standards for Agency employment were tightened, often to the point of absurdity, and many able young men were kept from pursuing intelligence careers.<sup>247</sup>

The author of the above passage suggests that the effect of the new security standards were profound for the development of the Central Intelligence Agency: in brief, individuals who had been involved in any type of leftist ideological cause would find it difficult to obtain employment with the CIA. Because of the situation, the flow of diverse viewpoints through new personnel was restricted and a like-minded manner of thinking began to evolve within the agency.

As a consequence of this state of affairs, and for other reasons, some CIA employees abandoned their intelligence careers and sought more rewarding positions in the diplomatic and foreign policy establishment. These shifts also had an interesting effect in terms of the CIA's image and impact.

<sup>246</sup> Allen W. Dulles. *The Craft of Intelligence*. New York, Harper and Row, 1973, pp. 171-172.

<sup>247</sup> Smith, *op. cit.*, pp. 370-371.

State Department officials have learned the power of their clandestine opposite numbers. In March 1954, a Texas attorney with long business experience in South America was named Assistant Secretary of State for Latin American Affairs. At one of his first briefings, the Texan learned that the CIA had set aside \$20 million to overthrow a leftist regime in Guatemala. The Assistant Secretary raised vigorous objections to the whole plan until he was silenced by his superior, the Undersecretary of State—who happened to be ex-CIA Director Walter Bedell Smith. On several other occasions during the 1950s, John Foster Dulles felt that his own ambassadors could not be “trusted” and should not be informed of CIA operations in their countries. And those operations, as often as not, were undertaken by arrogant adventurers who had developed operational independence from a relatively enlightened staff at CIA’s Washington headquarters.<sup>248</sup>

At present the Central Intelligence Agency is thought to be organized into five entities—the Office of the Director and its satellites and four functional directorates.<sup>249</sup> At the head of the agency are the Director and Deputy Director, both of whom serve at the pleasure of the President and are appointed subject to confirmation by the United States Senate. Either of these officials may be selected from among the commissioned officers of the armed services, whether active or retired, but one position must always be held by a civilian. There is also a Deputy Director of Central Intelligence for the Intelligence Community (prior to 1973 this official was known as the Deputy Director for Community Relations) who assists the Director of Central Intelligence in his administrative responsibilities outside of managing the Agency.

One satellite entity attached to the Office of the Director of Central Intelligence is a small group of senior analysts, drawn from the CIA and other agencies, who prepare the National Intelligence Estimates which are position papers assessing potentiality or capability for the benefit of U.S. policy makers—*e.g.*, Soviet strategic defense capability, grain production in Communist China, or the political stability of Argentina, Chile, Angola, or Jordan. Founded in 1950 as the Board of National Estimates and initially headed by OSS veteran Dr. William Langer, the unit was reorganized in October, 1973, when its name was changed to National Intelligence Officers (NIO).

Each NIO is either a geographic or functional expert and is allotted one staff assistant. “Flexibility” is a frequently used word in the CIA under [Director William E.] Colby, who has recruited an NIO for economic problems from RAND corporation, another for arms control (“Mr. Salt Talks”) and others for key geographic areas such as Russia, China, and the Middle East. Reportedly, the NIOs are to be recruited from all agencies within the intelligence community (with a

<sup>248</sup> *Ibid.*, p. 376.

<sup>249</sup> This general description is taken from Victor Marchetti and John D. Marks. *The CIA and the Cult of Intelligence*. New York, Alfred A. Knopf, 1974, pp. 67–79; corroborating information has been compared from other public descriptions of the Agency.

sprinkling of functional experts from the outside), and the military NIOs are to have general officer rank in order to add prestige to the position. If so, this provision is suspect, since the promotion system within the armed forces does not assure that good intelligence estimators will be advanced to general officer rank. On the contrary, as experience in Vietnam has repeatedly demonstrated, high rank is often associated with poor estimating ability and loss of touch with reality. If NIO positions are staffed with general officers, the latter will have to depend on their staff assistants for credible estimates. However, the system as envisaged will enable the NIO to go outside CIA for expertise and advice, thus playing specialists from one government agency (or industry) against each other in an adversary process of arriving at balanced estimates. It will also enable the NIO to let contracts for the study of certain problems to academia.<sup>250</sup>

The other satellite attached to the Office of the Director of Central Intelligence is the Intelligence Resources Advisory Committee, successor to the National Intelligence Resources Board created in 1968 by CIA Director Richard Helms. Both units were designed to assist in the coordination and management of the intelligence community's budget. While the old Board consisted of the Director of the Defense Intelligence Agency and the Director of the State Department's Bureau of Intelligence and Research with the Deputy Director of CIA as chairman, the new Committee, established during President Nixon's 1971 intelligence reorganization to advise "the DCI on the preparation of a consolidated intelligence program budget," added a senior representative from the Office of Management and Budget to the group and designated the CIA Director, acting in his capacity as coordinator of national intelligence, as chairman.

Another panel which might be mentioned at this juncture is the United States Intelligence Board. Established in 1960 by a classified National Security Council Intelligence Directive, the Board is the successor to the Intelligence Advisory Committee created in 1950 as an interdepartmental coordinating forum chaired by the CIA Director and counting representatives from the armed services intelligence units, the State Department's Bureau of Intelligence and Research, the National Security Agency, the Federal Bureau of Investigation, and the Atomic Energy Commission as members. The Committee and its successor function(ed) as a "board of directors" for the intelligence community. At present, USIB reportedly assists and advises the Director of Central Intelligence with respect to the issuance of National Intelligence Estimates; setting intelligence collection requirements, priorities, and objectives; coordinating intelligence community estimates of future events and of enemy strengths; controlling the classification and security systems for most of the Federal Government and protecting intelligence sources and methods; directing research in various fields of technical intelligence; and deciding what information is to be shared with the intelligence services of allied or friendly nations.<sup>251</sup> The Board consists of a representative from the State

<sup>250</sup> Blackstock, *op. cit.*, p. 239.

<sup>251</sup> Marchetti and Marks, *op. cit.*, pp. 81-84.

Department's Bureau of Intelligence and Research, the National Security Agency, the Federal Bureau of Investigation, the Energy Research and Development Administration (successor to the Atomic Energy Commission on nuclear intelligence matters), and the Deputy Director of CIA. The Director of the Defense Intelligence Agency was included in 1961 and three years later the status of the armed services representatives—the Army, Navy, and Air Force having been represented on the original Board—was downgraded from member to observer, on the grounds that the Defense Intelligence Agency member represented all of them. In the 1971 intelligence community reorganization announced by President Nixon, a Treasury Department representative was added to USIB.

Meeting approximately once a week, the Board's agenda and minutes are classified; when the panel goes into executive session, all staff members are excluded from the proceedings. USIB is supported by an interdepartmental committee structure which "encompasses every aspect of the nation's foreign intelligence requirements, ranging from the methods of collection to all areas of research."<sup>252</sup> While these standing committees have numbered as many as 15,<sup>253</sup> a recent disclosure indicates a reduction to 11 units in mid-1975.<sup>254</sup>

The other components of the Office of the Director include those traditionally found in governmental bureaucracies: press officers, congressional liaison, legal counsel, and so on. Only two merit special note: the Cable Secretariat and the Historical Staff. The former was established in 1950 at the insistence of the Director, General Walter Bedell Smith. When Smith, an experienced military staff officer, learned that agency communications, especially those between headquarters and the covert field stations and bases, were controlled by the Clandestine Services, he immediately demanded a change in the system. "The operators are not going to decide what secret information I will see or not see," he is reported to have said. Thus, the Cable Secretariat, or message center, was put under the Director's immediate authority. Since then, however, the operators have found other ways, when it is thought necessary, of keeping their most sensitive communications from going outside the Clandestine Services.

The Historical Staff represents one of the CIA's more clever attempts to maintain the secrecy on which the organization thrives. Several years ago the agency began to invite retiring officers to spend an additional year or two with the agency—on contract, at regular pay—writing their official memoirs. The product of their effort is, of course, highly classified and tightly restricted. In the agency's eyes, this is far better than having former officers openly publish what really happened during their careers with the CIA.<sup>255</sup>

<sup>252</sup> Kirkpatrick, *op. cit.*, p. 39.

<sup>253</sup> Marchetti and Marks, *op. cit.*, p. 81.

<sup>254</sup> U.S. Commission on CIA Activities Within the United States. *Report to the President*. Washington. U.S. Govt. Print. Off., 1975, p. 70.

<sup>255</sup> Marchetti and Marks, *op. cit.*, p. 70.

Outside of the Office of the Director, the Agency is organized into four functional directorates: Operations, Management and Services, Science and Technology, and Intelligence. The first of these—the Directorate of Operations—is the clandestine services unit, reportedly consisting of about 6,000 professionals and clerks in a rough two to one ratio with approximately 45 percent of this workforce stationed overseas (the “vast majority” in cover positions).<sup>256</sup> Composed of some fifteen components, the Directorate has most of its personnel (“about 4,800 people”) within the so-called area divisions which correspond to the State Department’s geographic bureau arrangement.

The largest area division is the Far East (with about 1,500 people) followed in order of descending size by Europe (Western Europe only), Western Hemisphere (Latin America plus Canada), Near East, Soviet Bloc (Eastern Europe), and Africa (with only 300 staff). The chain of command goes from the head of the Clandestine Services to the chiefs of the area divisions, then overseas to the chiefs of stations (COS) and their chiefs of bases (COB).<sup>257</sup>

There is also a Domestic Operations Division which “is, in essence, an area division, but it conducts its mysterious clandestine activities in the United States, not overseas.”<sup>258</sup>

Grouped with the area divisions, the Special Operations Division’s “main function is to provide the assets for paramilitary operations, largely the contracted manpower (mercenaries or military men on loan), the materiel, and the expertise to get the job done.”<sup>259</sup>

Apart from the area divisions are three staffs within the Directorate of Operations: “Foreign Intelligence (espionage), Counterintelligence (counterespionage), and Covert Action, which oversee operational policy in their respective specialties and provide assistance to the area divisions and the field elements.”<sup>260</sup>

The remaining three components of the Clandestine Services provide technical assistance to the operational components. These three are: the Missions and Programs Staff, which does much of the bureaucratic planning and budgeting for the Clandestine Services which writes up the justification for covert operations submitted for approval to the 40 Committee; the Operational Services Division, which among other things sets up cover arrangements for clandestine officers; and the Technical Services Division, which produces in its own laboratories the gimmicks of the spy trade—the disguises, miniature cameras, tape recorders, secret writing kits, and the like.<sup>261</sup>

The Directorate of Management and Services, formerly the Directorate of Support, is the Agency’s administrative and housekeeping

<sup>256</sup> *Ibid.*

<sup>257</sup> *Ibid.*, p. 71.

<sup>258</sup> *Ibid.*, p. 72; certain of these “mysterious clandestine activities” have been revealed in U.S. Commission on CIA Activities Within the United States, *op. cit.*, pp. 208–225.

<sup>259</sup> Marchetti and Marks, *loc. cit.*

<sup>260</sup> *Ibid.*

<sup>261</sup> *Ibid.*, p. 73.

component but, according to one former insider, "most of its budget and personnel is devoted to assisting the Clandestine Services in carrying out covert operations," contributing "in such areas as communications, logistics, and training."<sup>262</sup> Within the Directorate:

The Office of Security provides physical protection for clandestine installations at home and abroad and conducts polygraph (lie detector) tests for all CIA employees and contract personnel and most foreign agents. The Office of Medical Services heals the sicknesses and illnesses (both mental and physical) of CIA personnel by providing "cleared" psychiatrists and physicians to treat agency officers; analyzes prospective and already recruited agents; and prepares "psychological profiles" of foreign leaders (and once, in 1971, at the request of the Watergate "plumbers," did a "profile" of Daniel Ellsberg). The Office of Logistics operates the agency's weapons and other warehouses in the United States and overseas, supplies normal office equipment and household furniture, as well as the more esoteric clandestine materiel to foreign stations and bases, and performs other housekeeping chores. The Office of Communications, employing over 40 percent of the Directorate of Management and Services' more than 5,000 career employees, maintains facilities for secret communications between CIA headquarters and the hundreds of stations and bases overseas. It also provides the same services, on a reimbursable basis, for the State Department and most of its embassies and consulates. The Office of Training operates the agency's training facilities at many locations around the United States, and a few overseas. . . . The Office of Personnel handles the recruitment and record-keeping for the CIA's career personnel.<sup>263</sup>

The Directorate of Intelligence, counting some 3,500 employees, is concerned with the generation of finished intelligence products and the provision of certain services of common concern for the benefit of the entire intelligence community.<sup>264</sup> The Directorate's principal units include an Operations Center (management and coordination), a secretariat for the United States Intelligence Board which the CIA Director chairs, an Intelligence Requirements Service (collection and needs), a Central Reference Service, a Foreign Broadcast Information Service (a world-wide radio television monitoring system), an Office of Operations, an Office of Current Intelligence (daily developments), an Office of Strategic Research (long-range planning), an Office of Economic Research, an Office of Basic and Geographical Research, an Imagery Analysis Service (photographic analysis), and a National Photographic Interpretation Center (run in cooperation with the Defense Department for analyzing photographs taken from satellites and high altitude spy planes).

The fourth and newest of the Agency's directorates, Science and Technology, employs about 1,300 people in carrying out basic research

<sup>262</sup> *Ibid.*

<sup>263</sup> *Ibid.*, pp. 73-74.

<sup>264</sup> *Ibid.*, p. 75.

and development functions, the operation of spy satellites, and intelligence analysis in highly technical fields. Composed of an Office of Scientific Intelligence, an Office of Special Activities, an Office of Research and Development, an Office of Electronics, an Office of Special Projects, an Office of Computer Services, and a Foreign Missiles and Space Activities Center, the Directorate has been credited with a leadership role in the development of the U-2 and SR-71 spy planes and "several brilliant breakthroughs in the intelligence-satellite field."<sup>265</sup> In the areas of behavior-influencing drug and communications intercept systems development, the Directorate experienced a certain amount of controversy with regard to testing these entities within the domestic United States.<sup>266</sup>

Beyond this structuring of the Central Intelligence Agency there have been a variety of unofficial affiliates in the service of the CIA—front groups, proprietary organizations, and well established social, economic, and political institutions which received Agency funds for assistance they provided or secretly transmitted such money to a third party for services rendered, at least until these practices were made public.

The CIA's best-known proprietaries were Radio Free Europe and Radio Liberty, both established in the early 1950s. The corporate structures of these two stations served as something of a prototype for other agency proprietaries. Each functioned under the cover provided by a board of directors made up of prominent Americans, who in the case of RFE incorporated as the National Committee for a Free Europe and in the case of RL as the American Committee for Liberation. But CIA officers in the key management positions at the stations made all the important decisions regarding the programming and operations of the stations.<sup>267</sup>

Other CIA "businesses" which became apparent in the 1960s were the Agency's airlines—Air America, Air Asia, Civil Air Transport, Intermountain Aviation, and Southern Air Transport—and certain holding companies involved with these airlines or the Bay of Pigs effort, such as the Pacific Corporation and the Double-Chek Corporation.<sup>268</sup> Then, in early 1967, the disclosure was made that the CIA had, for fifteen years, subsidized the nation's largest student organization, the National Student Association.<sup>269</sup> This revelation heightened press interest in CIA fronts and conduits. Eventually it became known that the Agency channeled money directly or indirectly into a panoply of business, labor, and church groups, the universities, charitable organizations, and educational and cultural groups, including:<sup>270</sup>

#### African American Institute

<sup>265</sup> *Ibid.*, pp. 76-77.

<sup>266</sup> See U.S. Commission on CIA Activities Within the United States, *op. cit.*, pp. 225-232.

<sup>267</sup> *Ibid.*, pp. 134-135.

<sup>268</sup> *Ibid.*, pp. 135, 137.

<sup>269</sup> See Sol Stern. A Short Account of International Student Politics & the Gold War with Particular Reference to the NSA, CIA, Etc. *Ramparts*, v. 5, March, 1967: 29-38.

<sup>270</sup> This list is drawn from Wise and Ross, *op. cit.*, pp. 247n-248n.

American Council for International Commission of Jurists  
 American Federation of State, County and Municipal  
   Employees  
 American Friends of the Middle East  
 American Newspaper Guild  
 American Society of African Culture  
 Asia Foundation  
 Association of Hungarian Students in North America  
 Committee for Self-Determination  
 Committee of Correspondence  
 Committee on International Relations  
 Fund for International Social and Economic Education  
 Independent Research Service  
 Institute of International Labor Research  
 International Development Foundation  
 International Marketing Institute  
 National Council of Churches  
 National Education Association  
 National Student Association  
 Paderewski Foundation  
 Pan American Foundation (University of Miami)  
 Frederick A. Praeger, Publishers  
 Radio Free Europe  
 Radio Liberty  
 Synod of Bishops of the Russian Church Outside Russia  
 United States Youth Council  
 Andrew Hamilton Fund  
 Beacon Fund  
 Benjamin Rosenthal Foundation  
 Borden Trust  
 Broad-High Foundation  
 Catherwood Foundation  
 Chesapeake Foundation  
 David, Joseph and Winfield Baird Foundation  
 Dodge Foundation  
 Edsel Fund  
 Florence Foundation  
 Gotham Fund  
 Heights Fund  
 Independence Foundation  
 J. Frederick Brown Foundation  
 J. M. Kaplan Foundation  
 Jones-O'Donnell, Kentfield Fund  
 Littauer Foundation  
 Marshall Foundation  
 McGregor Fund  
 Michigan Fund  
 Monroe Fund  
 Norman Fund  
 Pappas Charitable Trust  
 Price Fund  
 Robert E. Smith Fund

San Miguel Fund  
 Sidney and Esther Rabb Charitable Foundation  
 Tower Fund  
 Vernon Fund  
 Warden Trust  
 Williford-Telford Fund

In addition to these domestically based entities, a number of foreign beneficiaries of CIA funds were revealed as well. Probably others have been disclosed which are not recorded here. Undoubtedly persistent research and investigation will unearth additional entries for this roster. However, to the extent that details regarding the organization of the Central Intelligence Agency remain cloaked in secrecy, the identity of the unofficial affiliates of the CIA will continue to be elusive.

### *XII. Defense Intelligence*

Since World War II, the intelligence organization of the Department of Defense and the armed services has been subject to a variety of changes which have sought to reduce the independence of the nation's fighting forces by unifying their administration with a view toward promoting a more effective use of resources. This effort began in a grand manner with the creation of the National Military Establishment and the Office of the Secretary of Defense in 1947 (61 Stat. 495) and the institution of the Department of Defense two years later (63 Stat. 578). Intelligence was but one common defense function which was greeted by the unification trend.

At the end of World War II the Joint Chiefs of Staff decided to continue the Joint Intelligence Committee created in 1942 as a coordinating mechanism. With the demise of the Office of Strategic Services in 1945, the Joint Chiefs created the Joint Intelligence Group (sometimes referred to as J-2) within its Joint Staff authorized by the National Security Act of 1947 (61 Stat. 505). In 1961 the Joint Intelligence Group was supplanted by the newly created Defense Intelligence Agency which assumed the role of principal coordinator for intelligence matters among the armed services.

Until 1961, coordination with the civilian side of the Department of Defense was maintained through the Defense Secretary's Assistant for Special Operations, who served as principal aide to the Secretary and Deputy Secretary on all matters pertaining to the national intelligence effort. The office of Assistant for Special Operations rather suddenly disappeared in the aftermath of the Bay of Pigs disaster in 1961. Another arrangement, never publicized, was made for a special assistant to the Defense Secretary to supervise these activities. He represented the Secretary on special interdepartmental intelligence boards and committees.<sup>271</sup>

Intelligence coordination matters were given a significant impetus in 1972 when an Assistant Secretaryship was created to supervise "Defense intelligence programs through the entire management cycle, from initial research and development through programming, budget-

<sup>271</sup> Ransom, *op. cit.*, p. 102.

ing, and the final process of follow-up evaluation . . . [and to provide] the principal point for management and policy coordination with the Director of Central Intelligence, the CIA, and other intelligence officials and agencies outside the Department of Defense.”<sup>272</sup>

The new Assistant Secretary of Defense (Intelligence) also has management overview responsibilities with regard to the Defense Intelligence Agency and the National Security Administration in terms of coordinating their programs with those of the other Defense Department intelligence functionaries. Established by a departmental directive (DoD 5105.21) dated August 1, 1961, the Defense Intelligence Agency is responsible for :

(1) the organization, direction, management, and control of all Department of Defense intelligence resources assigned to or included within the DIA ;

(2) review and coordination of those Department of Defense intelligence functions retained by or assigned to the military departments. Over-all guidance for the conduct and management of such functions will be developed by the Director, DIA, for review, approval, and promulgation by the Secretary of Defense ;

(3) supervision of the execution of all approved plans, programs policies, and procedures for intelligence functions not assigned to DIA ;

(4) obtaining the maximum economy and efficiency in the allocation and management of Department of Defense intelligence resources. This includes analysis of those DOD intelligence activities and facilities which can be fully integrated or collected with non-DOD intelligence organizations ;

(5) responding directly to priority requests levied upon the Defense Intelligence Agency by USIB [United States Intelligence Board] ;

(6) satisfying the intelligence requirements of the major components of the Department of Defense.

The Agency was a by-product of the post-Sputnik “missile gap” controversy of the late 1950s. Faced with disparate estimates of Soviet missile strength from each of the armed services which translated into what have been called self-serving budget requests for weapons for defense, the United States Intelligence Board created a Joint Study Group in 1959 to study the intelligence producing agencies. In 1960 this panel returned various recommendations, among which were proposals for the consignment of the defense departments to observer, rather than member, status on the Intelligence Board and the creation of a coordinating Defense Intelligence Agency which would represent the armed services as a member of USIB. Defense Secretary Robert McNamara adopted these proposals.

The Director of DIA functions as the principal intelligence staff officer to both the Secretary of Defense and the Joint Chiefs of Staff, reporting to the Secretary through the Joint Chiefs. The Director is

<sup>272</sup> U.S. Department of Defense. *National Security Strategy of Realistic Deterrence: Secretary of Defense Melvin R. Laird's Annual Defense Department Report FY 1973*. Washington, U.S. Govt. Print. Off., 1972, pp. 134-135.

also commander of the Defense attache system and chairman of the weekly meetings of the Military Intelligence Board, composed of the chiefs of the four armed services. In addition to a General Counsel office, an Inspector General unit, and a Scientific Advisory Committee, the Defense Intelligence Agency presently consists of the following components which respond directly to the Director/Deputy Director leadership: Chief of Staff/Deputy for Management and Plans (policy development and coordination, plans, operations management and formulation of requirements for functional management systems), Deputy Director for Intelligence (including responsibility for all-source finished military intelligence but not scientific and technical intelligence, maintenance of target systems and physical vulnerability research, military capabilities, and current intelligence assessments, reporting, and warning), Deputy Director for Collection, Deputy Director for Scientific and Technical Intelligence, Deputy Director for Estimates, Deputy Director for Attache and Human Resources, Deputy Director for Support (support activities and administrative services), Deputy Director for Information Systems (intelligence information and telecommunications systems), Deputy Director for Personnel, Comptroller, and the Defense Intelligence School created in 1962 and supervised by a commandant.<sup>273</sup>

The National Security Agency, an independently organized entity within the Department of Defense, is the product of efforts at unifying and coordinating defense cryptologic and communications security functions.

In the first postwar years, the cryptologic duties of the American armed forces reposed in the separate agencies of the Army, the Navy, and the Air Force. The Army, at least, charged its agency with maintaining "liaison with the Department of the Navy, Department of the Air Force, and other appropriate agencies, for the purpose of coordinating communication security and communication intelligence equipment and procedures." Presumably the Navy and the Air Force units were similarly charged. This arrangement, which relied on internal desire instead of external direction, prolonged the abuses [once] hinted at by [General Douglas MacArthur's World War II intelligence chief, Major General Charles A.] Willoughby. To rectify them and achieve the benefits of centralized control, the Defense Department in 1949 established the Armed Forces Security Agency. The A.F.S.A. took over the strategic communications-intelligence functions and the coordination responsibilities of the individual agencies. It left them with tactical communications intelligence, which can best be performed near the point of combat and not at a central location (except for basic system solutions), and with low-echelon communications security, which differs radically in ground, sea, and air forces. Even in these areas, A.F.S.A. backed them up. A.F.S.A. drew its personnel from the separate departmental agencies, though

<sup>273</sup> Earlier organization models for the Defense Intelligence Agency may be found in MacCloskey (1967), *op. cit.*, pp. 92-93; Ransom (1970), *op. cit.*, p. 105; Kirkpatrick (1973), *op. cit.*, pp. 40-41.

it later hired separately, and housed itself in their buildings.<sup>274</sup>

The success of the unified approach to cryptology evidenced by the operations of the Armed Forces Security Agency warranted an expansion of that institution to include cryptosystems outside of the Defense Department, such as those maintained by State. Accordingly, President Truman promulgated a classified directive creating the National Security Agency on November 4, 1952, abolishing the Armed Forces Security Agency, and transferring its assets and personnel to the new successor. Such an aura of official secrecy surrounded NSA that no acknowledgement of its existence appeared in the government organization manuals until 1957 when a brief, but vague, description was offered. In brief, according to one expert, NSA "creates and supervises the cryptography of all U.S. Government agencies" and "it interprets, traffic-analyzes, and cryptanalyzes the messages of all other nations, friend as well as foe."<sup>275</sup> It is the American Black Chamber reincarnated with the most highly sophisticated technology available, an estimated staff of 20,000 employees at its home base (Fort Meade, Maryland) with between 50,000 to 100,000 persons in its service overseas, and an annual budget thought to range between \$1 and \$1.2 billion.<sup>276</sup>

According to best estimates, the National Security Agency is organized into three operating divisions—the Office of Production (code and cipher breaking), the Office of Communications Security (code and cipher production), and the Office of Research and Development (digital computing and radio propagation research, cryptanalysis, and development of communications equipment)—and supporting units for recruiting and hiring, training, and the maintenance of both physical and personnel security.<sup>277</sup>

In November, 1971, President Nixon directed certain changes in the organization of the intelligence community, among them the creation of a "National Cryptologic Command" under the Director of the National Security Agency.<sup>278</sup> The result of this announcement was the organization of the Central Security Service, comprised of the Army Security Agency, the Naval Security Group, and the U.S. Air Force Security Service with the NSA Director concurrently serving as the Chief/CSS. Apparently established to consolidate the cryptanalytic activities of the armed services, the official purpose of CSS, as stated in the FY 1973 Annual Defense Department Report to Congress, is to

provide a unified, more economical, and more effective structure for executing cryptologic and related electronic operations previously conducted under the Military Departments. The Military Departments will retain administrative and lo-

<sup>274</sup> Kahn, *op. cit.*, pp. 379–380.

<sup>275</sup> *Ibid.*, pp. 380–381.

<sup>276</sup> Douglas Watson, NSA: America's Vacuum Cleaner of Intelligence. *Washington Post*, March 2, 1975: A1.

<sup>277</sup> Kahn, *op. cit.*, pp. 385–388; Ransom, *op. cit.*, pp. 130–132; Wise and Ross, *op. cit.*, p. 210.

<sup>278</sup> See *Weekly Compilation of Presidential Documents*, v. 7, November 8, 1971: 1482.

gistic support responsibilities for the military units involved, but these units will be managed and controlled by the CSS.<sup>279</sup>

The 1971 intelligence community reorganization also called for the consolidation of all Defense Department personnel security investigations into a single Office of Defense Investigations. From this mandate a departmental directive (DoD 5105.42) dated April 18, 1972, was issued chartering the Defense Investigative Service. Operational as of October 1 of that year, the Service consists of a Director, a headquarters establishment, fourteen district offices and various subordinate field offices and resident agencies throughout the United States and Puerto Rico. The Service examines allegations of criminal and/or subversive behavior attributed to potential and actual Defense Department employees holding sensitive positions.

The 1971 reorganization "also directed that a Defense Map Agency be created by combining the now separate mapping, charting, and geodetic organizations of the military services in order to achieve maximum efficiency and economy in production." The result of this mandate was the establishment of the Defense Mapping Agency on January 1, 1972, under the provisions of the National Security Act of 1947, as amended, with a Director responsible to the Secretary of Defense through the Joint Chiefs of Staff.

In the aftermath of these unification efforts within the defense establishment, each of the armed services continues to maintain an intelligence organization and their departments control their own intelligence production activities, particularly tactical or combat intelligence affecting their operations (cryptological, mapping, and pertinent personnel security investigation functions having been consolidated for administration as discussed above).

An Assistant Chief of Staff for Intelligence (G-2) has continued with the Army General Staff since World War II. This officer supervised the Army Intelligence Corps, which included both collection and analysis functions, and the Army Security Agency, established September 15, 1945 to execute cryptologic duties. In June, 1962, a major reorganization of Army intelligence operations brought about the merger of these two units into the Army Intelligence and Security Branch.

Prior to January 1, 1965, the Military District of Washington and each of the six Armies within the United States were responsible for counterintelligence activities throughout their geographic areas, and controlled an Intelligence Corps Group which carried on these activities. On January 1, 1965, the seven Intelligence Corps Groups were consolidated into a new major command—U.S. Army Intelligence Corps Command. About two months later it was redesignated the U.S. Army Intelligence Command.<sup>280</sup>

This Command, located at Fort Holabird, Maryland, continues to function as a primary Army intelligence entity under G-2. The Army Security Agency appears to have less direct intelligence production

<sup>279</sup> U.S. Department of Defense. *National Security of Realistic Deterrence*. . . . *op. cit.*, p. 135.

<sup>280</sup> MacCloskey, *op. cit.*, p. 100.

significance for G-2 in the aftermath of the 1971 reorganization when it was placed under the control of the Chief of the Central Security Service. Other Army agencies, such as the Army Transportation Corps, are capable of contributing an intelligence product should G-2 consult them regarding some aspect of their expertise. During the Army's most recent major commitment of forces in Southeast Asia, a combined intelligence organization was maintained in Vietnam. This structure was headed by an Assistant Chief of Staff, Military Assistance Command/Vietnam (J-2) who was responsible for exercising general staff supervision over all Army, Navy, Air Force, and Marine Corps intelligence activities as well as serving as Assistant Chief of Staff for Intelligence (G-2) to General William Westmoreland, Commanding General, U.S. Army/Vietnam.<sup>281</sup>

The Office of Naval Intelligence is currently called the Naval Intelligence Command and continues to report to the Chief of Naval Operations through the Command Support Programs Office.

The field organization for carrying out ONI's missions has three major components: (1) Naval District Intelligence officers, under the management control of ONI and operating in the United States and certain outlying areas; (2) intelligence organizations with the forces afloat, which are directly under unit commanders with over-all ONI supervision; and (3) naval attache's functioning under ONI direction as well as State Department and Defense Intelligence Agency supervisions.

District intelligence officers operate primarily in counter-intelligence and security fields. The District Intelligence Office (DIO) is directly responsible to the Naval District Commandant, with additional duty in some areas on the staff of the commander of the sea frontier of his district. Civilian agents usually are assigned to the district intelligence officers along with naval intelligence officers, and the former conduct security and major criminal investigations involving naval personnel or material.

With the forces afloat or in overseas bases, flag officers in command of each area, fleet, or task force have staff intelligence sections functioning primarily in the operational or tactical intelligence field. The intelligence officer who heads this staff section works not only for the unit commander, but also performs some collection missions for ONI.

Naval attaches, trained by ONI in intelligence and languages, collect naval intelligence for ONI as well as serve the diplomatic chief at the post to which they are assigned.<sup>282</sup>

While ONI serves certain of its intelligence needs, the Marine Corps "maintains a small intelligence staff in its headquarters, and intelligence officers are billeted throughout the corps" and these personnel

<sup>281</sup> See U.S. Department of the Army. *Vietnam Studies: The Role of Military Intelligence, 1965-1967* by Major General Joseph A McChristian. Washington U.S. Govt. Print. Off., 1974, pp. 4-6, 8, 11, 13-20, 24, 27-28, 41-42, 47-57, 71-78, 148, and 157.

<sup>282</sup> Ransom, *op. cit.*, pp. 119-120.

“are concerned primarily with tactical, or operational, rather than national intelligence.”<sup>283</sup>

Transferred to the Navy Department for wartime service in 1941 (E.O. 8929), the Coast Guard was returned to the Treasury Department in 1946 (E.O. 9666) and has maintained a very small intelligence unit “mainly concerned with port security, keeping subversive elements out of the Merchant Marine and off the waterfronts, enforcing Coast Guard laws and insuring the internal security of the Coast Guard.”<sup>284</sup>

When the United States Air Force became a separate service apart from the Army in 1947, a general staff directorate—called the Air Staff—was instituted with an Assistant Chief of Staff for Intelligence (ACS/I and sometimes still unofficially referred to as A-2). This officer supervises an immediate office organized into a Special Advisory Group (a “brains trust” designed to keep the ASC/I abreast of scientific, technical, and strategic matters of prime concern to the air arm), a data-handling systems group, a policy and programs unit, a resources management component, a collection directorate, and a strategic estimates directorate. The ASC/I has also held staff supervision authority of the USAF Security Service (personnel and physical security) and the Aeronautical Chart and Information Center (aeronautical charts, graphic air target materials, flight information publications and documents, terrain models, maps, evaluated intelligence on air facilities, geodetic and geophysical data, and related cartographic services). Overseas attaches are administered through the collection directorate which at one time included a Reconnaissance Division, acknowledged to be “charged with overseeing the development of the latest ‘spy-in-the-sky’ equipment, some of it exotic.”<sup>285</sup> This entity may have been displaced by the National Reconnaissance Office, an Air Force intelligence agency only recently disclosed to exist, which reportedly operates satellite intelligence programs for the entire intelligence community on a budget estimated at more than \$1.5 billion a year.<sup>286</sup>

### XIII. State Department

The formal intelligence organization of the Department of State began with the liquidation of the Office of Strategic Services.

By an Executive order [E.O. 9621] of September 20, 1945, President Truman terminated the Office of Strategic Services and transferred its research and analysis branch and presentation branch to an Interim Research and Intelligence Service in the Department of State. At the same time there was established the position of Special Assistant to the Secretary of State in charge of Research and Intelligence. Acting Secretary [Dean] Acheson announced on September 27 the appointment of Colonel Alfred McCormack, Director of Military Intelligence in the War Department, as Special Assistant to set up the new agency.

<sup>283</sup> *Ibid.*, p. 119.

<sup>284</sup> Ottenberg, *op. cit.*, p. 138.

<sup>285</sup> Ransom, *op. cit.*, pp. 123-125; also See MacCloskey, *op. cit.*, pp. 102-103.

<sup>286</sup> Marchetti and Marks, *op. cit.*, p. 90.

Colonel McCormack explained the work of the Department's agency as mainly a research program. "The intelligence needed by the State Department" he declared, "is primarily information on the political and economic factors operating in other countries of the world, and on the potential effect of those factors in relations with this Government." He estimated that approximately 1,600 OSS personnel were transferred to State, a number soon reduced by about 50 percent. Two offices were created, an Office of Research and Intelligence under Dr. Sherman Kent, with five geographical intelligence divisions corresponding roughly to the Department's geographic organization, and the Office of Intelligence Collection and Dissemination under Colonel George R. Fearing, who had served with distinction as an intelligence officer with the army. Colonel McCormack indicated that most of the work would be done in Washington, but that from fifty to seventy-five representatives with special training would be attached to embassies overseas to do particular types of work. As examples of the work done, Colonel McCormack cited the report made on the transportation system of North Africa, which was invaluable to the American forces of invasion, and a study of the industrial organization and capacity of Germany.

Once created, the intelligence program underwent a series of revisions and modifications. For example, established as a self-sufficient intelligence unit on a geographic basis, the service was changed in April, 1946, in accordance with the so-called Russell Plan, so that the geographic intelligence functions were transferred to the political offices, thereby limiting the functions of the Office of Intelligence and Research to matters which cut across geographic lines. At the same time an Office of Intelligence Coordination and Liaison was established to formulate, in consultation with the geographic and economic offices, a Departmental program for basic research. The day after the Departmental regulations making this radical change were issued, Colonel McCormack resigned on the ground that he regarded the new organization as unworkable and unsound and felt that it would make impossible the establishment of a real intelligence unit within the Department. On February 6, 1947, the original type of organization was reinstated when the Office of Intelligence and Liaison was changed to the Office of Intelligence Research and the geographical divisions were restored to its jurisdiction.<sup>287</sup>

While a variety of reorganizations have shaped the unit during the succeeding years, the Bureau of Intelligence and Research, which the component has been designated since 1957, is the principal intelligence agency of the State Department. This status, however, should be qualified: the State Department does not engage in intelligence collection other than the normal reporting from diplomatic posts in foreign countries, though it has provided cover for CIA staff attached to U.S. diplo-

<sup>287</sup> Stuart, *op. cit.*, pp. 429-430.

matic posts. As one authority has commented: "The Department of State since World War II serves as a minor producer and major consumer within the new intelligence community."<sup>288</sup>

Holding status equivalent to that of an Assistant Secretary, the Director of the Bureau functions as senior intelligence adviser to the Secretary of State, departmental representative on the U.S. Intelligence Board, and chief of the intelligence staff at State. Recently reorganized in 1975, the Bureau is composed of two directorates and three supporting offices. These are:

The Directorate for Research, organized into five regional units (Africa, American Republics, East Asia and Pacific, Europe and the Soviet Union, Near East and South Asia), three functional components (Economic Research and Analysis, Strategic Affairs, Political/Military and Theater Forces), and the Office of the Geographer. The Directorate is responsible for finished intelligence products;

The Directorate for Coordination, consisting of an Office of Intelligence Liaison, Office of Operations Policy, and Office of Resources Policy, conducts liaison and clearances with other agencies of the Federal government on matters of departmental intelligence interest, activity, policy impact, and resource allocation;

The Office of the Executive Director, a support unit responsible for administrative functions.

The Office of External Research another support entity which encourages and contracts for non-governmental research in the behavioral and social agencies; and

The Office of Communications and Information handling which, in its support role, manages sensitive intelligence documents (security) and operates the Department's watch center for monitoring international crisis developments.<sup>289</sup>

#### *XIV. President's Foreign Intelligence Advisory Board*

Established as an impartial group of distinguished citizens who would meet periodically to review the activities and operations of the intelligence community, the President's Foreign Intelligence Advisory Board is officially mandated to:

(1) advise the President concerning the objectives, conduct, management and coordination of the various activities making up the overall national intelligence effort;

(2) conduct a continuing review and assessment of foreign intelligence and related activities in which the Central Intelligence Agency and other Government departments and agencies are engaged;

(3) receive, consider and take appropriate action with respect to matters identified to the Board, by the Central Intelligence Agency and other Government departments and agencies of the intelligence community, in which the support

<sup>288</sup> Ransom, *op. cit.*, p. 135.

<sup>289</sup> See U.S. Department of State. *INR: Intelligence and Research in the Department of State*. Washington, U.S. Govt. Print. Off., 1973, pp. 13-19.

of the Board will further the effectiveness of the national intelligence effort; and

(4) report to the President concerning the Board's findings and appraisals, and make appropriate recommendations for actions to achieve increased effectiveness of the Government's foreign intelligence effort in meeting national intelligence needs.<sup>290</sup>

The current PFIAB is the successor to the President's Board of Consultants on Foreign Intelligence Activities created (E.O. 10656) in early 1956 out of a mixed motivation which sought to respond to a recommendation of the (Hoover) Commission on Organization of the Executive Branch of Government calling for "a committee of experienced private citizens, who shall have the responsibility to examine and report to [the President] periodically on the work of Government foreign intelligence activities."<sup>291</sup> The PBCFIA was also established out of concern over congressional efforts then underway to institute a joint committee on the CIA to carry out oversight duties with regard to the intelligence community.<sup>292</sup>

Composed of eight members, the Board of Consultants met a total of nineteen times during its tenure under President Eisenhower, five sessions being held with Chief Executive, and submitted over forty-two major recommendations regarding the functioning of the intelligence community. As a matter of formality, the panel submitted resignations on January 7, 1961, in anticipation of the new Kennedy Administration.

Inactive during the next four months, the unit was revitalized (E.O. 10938) in the aftermath of the Bay of Pigs fiasco and given its present designation, the President's Foreign Intelligence Advisory Board. Provision was also made for the payment of compensation to the PFIAB members, in addition to expenses incurred in connection with the work of the panel. While President Johnson maintained the Board under its 1961 mandate, President Nixon prescribed (E.O. 11460) specific functions for the group during his first year in office. President Ford has continued the operations of the PFIAB under this directive. The unit currently meets on the first Thursday and Friday of every other month, is assisted by a small staff, and utilizes occasional ad hoc committees or work groups to organize some aspects of its work.

#### XV. Loyalty-Security

While domestic loyalty and security matters with regard to potential and actual Federal employees had been treated with concern during World War II, investigations in pursuit of these ends became more vigorous with the onset of the Cold War and the "Communist menace"<sup>293</sup> perceived in the late 1940s and 1950s.<sup>293</sup> The signal for this

<sup>290</sup> E.O. 11460, March 20, 1969 (34 F.R. 5535).

<sup>291</sup> See U.S. Commission on Organization of the Executive Branch of Government. *Intelligence Activities: A Report to the Congress*. Washington, U.S. Govt. Print. Off., 1955, pp. 1, 59-65, 71. [References also include the recommendations of the Commission's Task Force on Intelligence Activities which are included in the cited document.]

<sup>292</sup> Kirkpatrick, *op. cit.*, pp. 34, 61.

<sup>293</sup> See Eleanor Bontecou. *The Federal Loyalty-Security Program*. Ithaca, Cornell University Press, 1953, pp. 1-30.

heightened probing of public employee political sentiments, generally conducted by the Civil Service Commission's Bureau of Personnel Investigations and the Federal Bureau of Investigation (some agencies, such as the Atomic Energy Commission and the armed service departments, had their own personnel investigative services), was probably President Truman's March 21, 1947 directive (E.O. 9835) establishing a government-wide loyalty-security program and an organizational framework for its administration.

When President Truman issued his 1947 executive order initiating the loyalty-security program for federal employees, he struck a new note in the expanded concept of executive powers. In all previous peacetime loyalty-testing experience, Congress rather than President had taken the lead.

Controversy greeted the order. Some critics condemned it as totally unnecessary, others as needful but excessively rigorous, and still others as too mild. Truman may well have headed off more stringent congressional action in this arena, but [Former Interior Secretary Harold] Ickes insisted that the order resulted from cabinet hysteria engendered by Attorney General Tom C. Clark's pressures upon the President. The listing of alleged subversive organizations, association with which equated "disloyalty" for a federal official, by the Attorney General has been one of the most fertile sources of disagreement. Never before in American history, even during war crises, had the government officially established public black lists for security purposes.

The vast literature supporting and condemning the executive loyalty order has searched deeply into complex and contradictory aspects of contemporary American life. American liberals had long crusaded for the kind of executive initiative that Truman exhibited, but exempted the field of civil rights from governmental interference even in the cause of security. Conservatives, who decried extensions of federal functions, demanded that the security program increase in rigor, scope, and effectiveness. Disagreement centers upon the means the program used rather than the ends it sought. The nation's servants, it seemed, could not have their positions and at the same time enjoy traditional privileges of citizenship.<sup>294</sup>

In brief, the president's order required a loyalty investigation of every individual entering Federal employment; this inquiry was to be conducted by the Civil Service Commission in most cases; sources to be consulted in such a probe included FBI, Civil Service, armed forces intelligence, and House Committee on Un-American Activities Committee files as well as those of "any other appropriate government investigative or intelligence agency." pertinent local law-enforcement holdings, the applicant's school, college, and prior employment records, and references given by the prospective employee. Department and agency heads were responsible for removing disloyal employees and appointed loyalty boards composed of not less than three representatives from their unit to hear loyalty cases. A Loyalty Re-

<sup>294</sup> Harold M. Hyman. *To Try Men's Souls: Loyalty Tests in American History*. Berkeley and Los Angeles, University of California Press, 1959, p. 334.

view Board within the Civil Service Commission examined cases where an employee was being dismissed from the Federal government for reason of disloyalty.

Activities and associations of an applicant or employee which might be considered in connection with the determination of disloyalty include one or more of the following:

- a. Sabotage, espionage, or attempts or preparations therefor, or knowingly associating with spies or saboteurs;
- b. Treason or sedition or advocacy thereof;
- c. Advocacy of revolution or force or violence to alter the constitutional form of government of the United States;
- d. Intentional, unauthorized disclosure to any person, under circumstances which may indicate disloyalty to the United States, of documents or information of a confidential or non-public character obtained by the person making the disclosure as a result of his employment by the Government of the United States;
- e. Performing or attempting to perform his duties, or otherwise acting so as to serve the interests of another government in preference to the interests of the United States;
- f. Membership in, affiliation with or sympathetic association with any foreign or domestic organization, association, movement, group or combination of persons, designated by the Attorney General as totalitarian, fascist, communist, or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.<sup>295</sup>

While the program raised a variety of questions regarding the civil rights of Federal employees, it also generated a cache of information of intelligence interest (but of questionable quality).

The loyalty-testing problem remained to face Republican President Dwight Eisenhower. Soon after he assumed office, Eisenhower modified the loyalty-testing program. His 1953 directive [E.O. 10450] decentralized the security apparatus to the agency level and altered the criteria for dismissal to include categories of security risks—homosexuals, alcoholics, persons undergoing psychiatric treatment—without reference to subversion. But security risk and disloyalty had already become a fixed duo in the public mind. The Eisenhower modification [which eliminated the Loyalty Review Board] did not basically alter the loyalty-testing structure.

Other executive orders and legislative requirements have extended loyalty-security processes to passport applicants, port employees, industrial workers, American officials in the United Nations, recipients of government research grants, and scientists engaged in official research and development programs. The military services and the Atomic Energy Commission [recently dissolved to form the Energy Research

<sup>295</sup> See 12 F.R. 1935.

and Development Administration and the Nuclear Regulatory Commission] conduct their own clearance procedures. The American national government, in short, has been involved in an unending, [almost two] dozen-year-long search for subversives. How effective this drive has been no one has yet satisfactorily proved.<sup>296</sup>

The Civil Service Commission continues to conduct most of these investigations for the majority of Federal agencies; the Defense Investigative Service performs the personnel clearance function for Defense Department employees and may provide assistance to other entities in these matters at the direction of the Secretary of Defense.

### XVI. Watergate

In the early morning hours of June 17, 1972, Washington, D.C., Metropolitan Police, responding to a request for assistance from a security guard, apprehended and arrested five men who had illegally entered the headquarters suite of the Democratic National Committee located in the Watergate Hotel complex. Approximately three months later these individuals, and two others who had escaped detection at the arrest scene, were indicted. These were, as is now known, burglars with an intelligence mission, authorized by some of the most powerful officials in the Federal government. Inquiries into this incident by law enforcement and congressional investigators subsequently revealed a most unusual and legally questionable intelligence organization.<sup>297</sup>

<sup>296</sup> Hyman, *op. cit.*, pp. 335-356.

<sup>297</sup> The major congressional investigators of Watergate matters were the Senate Select Committee on Presidential Campaign Activities and the House Judiciary Committee. The most useful materials produced by these panels regarding organizational considerations were:

U.S. Congress. Senate. Select Committee on Presidential Campaign Activities. *The Final Report of the Select Committee on Presidential Campaign Activities*. Washington, U.S. Govt. Print. Off., 1974. (93rd Congress, 2d Session. Senate. Report No. 93-981) ;

\_\_\_\_\_. House. Committee on the Judiciary. *Statement of Information: White House Surveillance Activities* (Book VII). Washington, U.S. Govt. Print. Off., 1974.

\_\_\_\_\_. \_\_\_\_\_. \_\_\_\_\_. *Statement of Information: Internal Revenue Service* (Book VIII). Washington, U.S. Govt. Print. Off., 1974.

\_\_\_\_\_. \_\_\_\_\_. \_\_\_\_\_. *Testimony of Witnesses*. Hearings, 93rd Congress, 2d Session. Washington, U.S. Govt. Print. Off., 1974.

Other relevant published congressional materials generated by other committees include the following:

U.S. Congress, Joint Committee on Internal Revenue Taxation, *Investigation of the Special Service Staff of the Internal Revenue Service*. Committee print, 94th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1975.

\_\_\_\_\_. Senate. Committee on Foreign Relations. *CIA Foreign and Domestic Activities*. Hearings, 94th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1975.

\_\_\_\_\_. \_\_\_\_\_. \_\_\_\_\_. *Dr. Kissinger's Role in Wiretapping*. Hearings, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974.

\_\_\_\_\_. \_\_\_\_\_. \_\_\_\_\_. *Report on the Inquiry Concerning Dr. Kissinger's Role in Wiretapping, 1969-1971*. Committee print, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974.

\_\_\_\_\_. \_\_\_\_\_. \_\_\_\_\_. Committee on the Judiciary. *Electronic Surveillance for National Security Purposes*. Hearings, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974.

Sometime in 1970, the White House, concerned, in part, about increasing domestic protests and acts of violence as well as recent leakages of national security information embarrassing to the Administration, produced a top secret study entitled "Operational Restraints on Intelligence Collection." Authored by Tom Charles Huston, assistant counsel to the President and White House project officer on security programs, this paper (commonly referred to as the "Huston Plan") suggested techniques for making domestic intelligence operations, more effective, perhaps to curtail violent protests or to identify those responsible for or otherwise trafficking in leaked national security materials. Among the recommendations offered in the document were increased use of electronic surveillances and penetrations ("existing coverage is grossly inadequate"), mail coverage, and surreptitious entries (break-ins). Huston was quite candid about the implications of these undertakings, saying:

Covert [mail] coverage is illegal and there are serious risks involved. However, the advantages to be derived from its use outweigh the risks. This technique is particularly valuable in identifying espionage agents and other contacts of foreign intelligence services.

And with regard to break-ins:

Use of this technique is clearly illegal: it amounts to burglary. It is also highly risky and could result in great embarrassment if exposed. However, it is also the most fruitful tool and can produce the type of intelligence which cannot be obtained in any other fashion.<sup>293</sup>

When his report was completed, Huston, apparently forwarded it for scrutiny by the President.

On July 14, 1970, [White House Chief of Staff H. R.] Haldeman sent a top secret memorandum to Huston, notifying him of the President's approval of the use of burglaries,

(Continued)

\_\_\_\_\_. \_\_\_\_\_. \_\_\_\_\_. *Political Intelligence in the Internal Revenue Service: The Special Service Staff*. Committee print, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974.

\_\_\_\_\_. \_\_\_\_\_. \_\_\_\_\_. and the Committee on Foreign Relations. *Warrantless Wiretapping and Electronic Surveillance—1974*. Hearings, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974.

\_\_\_\_\_. \_\_\_\_\_. \_\_\_\_\_. *Warrantless Wiretapping and Electronic Surveillance: Report*. Committee print, 94th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1975.

\_\_\_\_\_. \_\_\_\_\_. \_\_\_\_\_. House. Committee on Armed Services. *Inquiry into the Alleged Involvement of the Central Intelligence Agency in the Watergate and Ellsberg Matters*. Hearings, 94th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1974.

\_\_\_\_\_. \_\_\_\_\_. \_\_\_\_\_. *Inquiry into the Alleged Involvement of the Central Intelligence Agency in the Watergate and Ellsberg Matters: Report*. Committee print, 93rd Congress, 1st session. Washington, U.S. Govt. Print. Off., 1973.

\_\_\_\_\_. \_\_\_\_\_. \_\_\_\_\_. Committee on the Judiciary. *Wiretapping and Electronic Surveillance*. Hearings, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974.

<sup>293</sup> The Huston Plan continues to be a highly classified document; quotations utilized here are extracted from sanitized segments of the paper appearing in U.S. Congress. Senate. Select Committee on Presidential Campaign Activities. *Presidential Campaign Activities of 1972: Watergate and Related Activities* (Book 3). Hearings, 93rd Congress, 1st session. Washington, U.S. Govt. Print. Off., 1973, pp. 1319-1324.

illegal wiretaps and illegal mail covers for domestic intelligence. In the memorandum, Haldeman stated:

The recommendations you have proposed as a result of the review, have been approved by the President. He does not, however, want to follow the procedure you outlined on page 4 of your memorandum regarding implementation. He would prefer that *the thing simply be put into motion* on the basis of this approval. The formal official memorandum should, of course, be prepared and that should be the device by which to carry it out. . . . [emphasis added]

It appears that the next day, July 15, 1970, Huston prepared a decision memorandum, based on the President's approval, for distribution to the Federal intelligence agencies involved in the plan—the FBI, the CIA, the National Security Agency and the Defense Intelligence Agency. In his May 22, 1973, public statement, the President reported that the decision memorandum was circulated to the agencies involved on July 23, 1970. However, the decision memorandum is dated July 15, 1970, indicating that it was forwarded to the agencies on that day or shortly thereafter.

Huston's recommendations were opposed by J. Edgar Hoover, Director of the FBI. Hoover had served as the chairman of a group comprised of the heads of the Federal intelligence agencies formed to study the problems of intelligence-gathering and cooperation among the various intelligence agencies. In his public statement of May 22, 1973, President Nixon stated:

After reconsideration, however, prompted by the opposition of Director Hoover, the agencies were notified 5 days later, on July 28, that the approval had been rescinded.

Haldeman's testimony [before the Senate Select Committee on Presidential Campaign Activities] is to the same effect. [White House Counsel John] Dean, however, testified that he was not aware of any rescission of approval for the plan and there apparently is no written record of a rescission on July 28 or any other date. There is, however, clear evidence that, after receipt of the decision memorandum of July 15, 1970, Mr. Hoover did present strong objections concerning the plan to Attorney General Mitchell.<sup>299</sup>

Huston attempted to counter Hoover's arguments in a memorandum to Haldeman dated August 5, eight days after the President allegedly ordered the rescission, in which he indicated "that the NSA, DIA, CIA and the military services basically supported the Huston recommendations."<sup>300</sup>

Later, on September 18, 1970 (almost 2 months after the President claims the plan was rescinded), Dean sent a top

<sup>299</sup> U.S. Congress. Senate. Select Committee on Presidential Campaign Activity. *The Final Report* . . . , *op. cit.*, p. 4.

<sup>300</sup> *Ibid.*, p. 5.

secret memorandum to the Attorney General suggesting certain procedures to “*commence our domestic intelligence operation as quickly as possible.*” [emphasis added] This memorandum specifically called for the creation of an Inter-Agency Domestic Intelligence Unit which had been an integral part of the Huston plan. Dean’s memorandum to the Attorney General observed that Hoover was strongly opposed to the creation of such a unit and that it was important “to bring the FBI fully on board.” Far from indicating that the President’s approval of Huston’s recommendation to remove restraints on illegal intelligence-gathering had been withdrawn, Dean, in his memorandum, suggested to the Attorney General:

I believe we agreed that it would be inappropriate to have any blanket removal of restrictions; rather, the most appropriate procedure would be to decide on the type of intelligence we need, based on an assessment of the recommendations of this unit, and then proceed to *remove the restraints as necessary to obtain such intelligence.* [emphasis added]<sup>301</sup>

The Inter-Agency Domestic Intelligence Unit was never realized and it is difficult to determine if any other recommendation from the Huston Plan was directly implemented. Nevertheless, the document may have functioned as an intellectual stimulant to those high officials subsequently involved in the Watergate scandals. Huston left the White House sometimes in 1971 and returned to private law practice in Indianapolis. FBI Director J. Edgar Hoover, the principal critic and opponent of the Huston Plan, died on May 2, 1972.

Out of this background, a number of intelligence organizational developments began to occur in and around the White House.

In June 1971, the leak of the Pentagon Papers prompted the President to create a special investigations unit (later known as the Plumbers) inside the White House under the direction of Egil Krogh. Krogh, in turn, was directly supervised by [Assistant to the President] John Ehrlichman. Krogh was soon joined by David Young and in July the unit, staffing up for a broader role, added G. Gordon Liddy and E. Howard Hunt, both known to the White House as persons with investigative experience. Liddy was a former FBI agent; Hunt, a former CIA agent.<sup>302</sup>

Probably the first such White House intelligence component in history, the special investigations unit planned and executed the burglary of the office of Dr. Daniel Ellsberg’s psychiatrist, Dr. Lewis J. Fielding. Liddy, Hunt, and two of their Cuban-American recruits later broke into the Democratic National Committee headquarters in the Watergate Hotel complex.<sup>303</sup>

The Committee to Re-Elect the President [headed by former Attorney General John Mitchell and, together with the Finance Committee for the Re-Election of the President,

<sup>301</sup> *Ibid.*, pp. 5-6.

<sup>302</sup> *Ibid.*, p. 12.

<sup>303</sup> *Ibid.*, pp. 12-13.

counting some 35 former White House aides among its personnel] was gearing up for its own political intelligence-gathering program around the same time as the Ellsberg break-in. In September 1971, John Dean asked [former Special Assistant to the President] Jeb Stuart Magruder to join him for lunch with Jack Caulfield. Caulfield, a White House investigator who had conducted numerous political investigations, some with [former New York City policeman] Anthony Ulasewicz [who had conducted investigations for Ehrlichman], wanted to sell Magruder his political intelligence plan, "Project Sandwedge," for use by CRP. Magruder had been organizing the campaign effort since May 1971, having received this assignment from Mitchell and Haldeman. In essence, the Sandwedge plan proposed a private corporation operating like a Republican "Intertel" [a private international detective agency] to serve the President's campaign. In addition to normal investigative activities, the Sandwedge plan also included the use of bagmen and other covert intelligence gathering operations.<sup>304</sup>

While Caulfield had proposed Sandwedge to the White House in the spring of 1971 and later had proposed its adoption by the Committee to Re-Elect the President, the plan was rejected in both instances.

With Sandwedge rebuffed, Magruder and Gordon Strachan of Haldeman's staff asked Dean to find a lawyer to serve as CRP general counsel who could also direct an intelligence-gathering program. Magruder stated [before the Senate Select Committee on Presidential Campaign Activity] that he and Dean had, on previous occasions, discussed the need for such a program with Attorney General Mitchell. The man Dean recruited was G. Gordon Liddy, who moved from the special investigations unit in the White House to CRP. Magruder testified that, when Dean sent Liddy to the Committee To Re-Elect the President in 1971, he (Magruder) was unaware of Liddy's activities for the Plumbers, particularly his participation in the break-in of Dr. Fielding's office.<sup>305</sup>

Once in place at CRP headquarters, Liddy's principal efforts were devoted to developing, advocating and implementing a comprehensive political intelligence-gathering program for CRP under the code name "Gemstone."<sup>306</sup> Ultimately a version of this plan—calling for surreptitious entry and bugging of Democratic National Committee headquarters in Washington and later, if sufficient funds were available, penetration of the headquarters of Democratic presidential contenders and the Democratic convention facilities in Miami—was executed with the Watergate break-in on May 28, 1972.<sup>307</sup>

Other intelligence activities were directly undertaken by members of the White House staff during the period of the first Nixon Administration. These operations included electronic surveillance matters, moni-

<sup>304</sup>*Ibid.*, p. 17.

<sup>305</sup>*Ibid.*, p. 18.

<sup>306</sup>*Ibid.*, p. 20.

<sup>307</sup>See *Ibid.*, pp. 21–25, 27–29.

toring and investigating the behavior of Senator Edward Kennedy (D.-Mass.) and Dr. Daniel Ellsberg with a view to causing them public discredit, burglarizing and possibly damaging the Brookings Institution, and probing individuals both within and outside of the government in a clandestine manner to determine their involvement in the disclosure of a memorandum written by ITT lobbyist Dita Beard (columnist Jack Anderson had alleged that a \$400,000 contribution to the Nixon campaign was linked by the document to a favorable ruling by the Justice Department on ITT's antitrust difficulties).<sup>308</sup>

In addition, White House staff, in pursuit of political intelligence, enlisted the assistance of certain government agencies. These actions resulted in what has been described as "attempts to abuse governmental process."<sup>309</sup> Agencies utilized in this manner by White House personnel included the Internal Revenue Service (harassment of political enemies, identification of sensitive cases, and supplying privileged information from taxpayer returns), the Federal Bureau of Investigation (supplying derogatory information about individuals from raw investigative files), the Antitrust Division of the Justice Department (supplying sensitive or derogatory information about individuals or groups), the Secret Service (wiretaps, surveillance information, and sensitive political information), and the Federal Communication Commission (media harassment).<sup>310</sup>

This, in general, was an important part of the organization of the White House intelligence forces during the Nixon tenure in the presidency. A portion of it was lost with the arrest of the Watergate burglars; the remaining portion slowly crumbled with investigations into its existence and operations by Congress and Federal prosecutors.

### *XVII. Justice Department*

The Justice Department is presently organized into eight offices (legislative affairs, management and finance, legal counsel, policy and planning, public information, the community relations service, the pardon attorney, and the executive office for the U.S. attorneys), two boards (parole and immigration appeals), six prosecutorial divisions (civil, criminal, antitrust, tax, land and natural resources, and civil rights), and six bureaus (FBI, Law Enforcement Assistance Administration, Drug Enforcement Administration, Immigration and Naturalization Service, the United States Marshals Service, and the Bureau of Prisons/Federal Prison Industries). Certain of these units have the potential for intelligence production, perhaps in the course of developing materials (in the case of the divisions) or by virtue of their particular information holdings (such as the files of the Immigration and Naturalization Service). The principal intelligence (and investigative) component within the Justice Department, however, is the FBI.<sup>311</sup>

Both the Attorney General and the Director of the FBI have responsibilities for the coordination of intelligence activities within the De-

<sup>308</sup> See *Ibid.*, pp. 111-113, 117-129.

<sup>309</sup> *Ibid.*, p. 130.

<sup>310</sup> *Ibid.*, pp. 130-150.

<sup>311</sup> It should also be noted that the mandate of the Drug Enforcement Administration provides that agency with a specified intelligence function (Reorganization Plan No. 2 of 1973 [87 Stat. 1091] and E.O. 11727).

partment and with other Federal agencies. Organizational efforts in service to this duty exhibited themselves in 1967 when Attorney General Ramsey Clark created the Interdivision Information Unit for "reviewing and reducing to quickly retrievable form all information that may come to this Department relating to organizations and individuals throughout the country who may play a role, whether purposefully or not, either in instigating or spreading civil disorders or in preventing or checking them."<sup>312</sup> While this entity received and indexed information from a variety of sources (Federal poverty programs, the Labor and Post Office Departments, the Internal Revenue Service, and the neighborhood legal services offices), an Intelligence Evaluation Committee, composed of representatives from Justice, Defense, and the Service, was supposed to coordinate and evaluate the information but proved to be a rather inactive entity.<sup>313</sup>

In July of 1969, Attorney General John Mitchell established the Civil Disturbance Group to coordinate intelligence, policy, and operations within the Justice Department with regard to domestic civil disturbances. Both the Interdivision Information Unit and the Intelligence Evaluation Committee were placed under the new panel's jurisdiction and Mitchell asked the CIA to "investigate the adequacy of the FBI's collection efforts in dissident matters and to persuade the FBI to turn over its material to the CDG."<sup>314</sup>

In 1970 the moribund Intelligence Evaluation Committee was reconstituted with representatives from Justice, FBI, CIA, Defense, Secret Service, NSA, and late in its activities, a Treasury member. Technically, Robert Mardian, Assistant Attorney General for Internal Security, was chairman of the reconstituted panel but White House Counsel John Dean also played a leadership role with the group and meetings were held at his office on various occasions.

The IEC was not established by Executive Order. In fact, according to minutes of the IEC meeting on February 1, 1971, Dean said he favored avoiding any written directive concerning the IEC because a directive "might create problems of Congressional oversight and disclosure." Several attempts were nevertheless made to draft a charter for the Committee, although none appears to have been accepted by all of the IEC members. The last draft which could be located, dated February 10, 1971, specified the "authority" for the IEC as "the Interdepartmental Action Plan for Civil Disturbances," something which had been issued in April 1969 as the result of an agreement between the Attorney General and the Secretary of Defense. Dean thought it was sufficient just to say that the IEC existed "by authority of the President."<sup>315</sup>

By the end of January, 1971, a staff had been organized for the Committee and did "the work of coordination, evaluation and preparation of estimates for issuance by the Committee."<sup>316</sup> For cover pur-

<sup>312</sup> U.S. Commission on CIA Activities Within the United States, *op. cit.*, p. 118.

<sup>313</sup> *Ibid.*, p. 119.

<sup>314</sup> *Ibid.*, p. 121.

<sup>315</sup> *Ibid.*, p. 126.

<sup>316</sup> *Ibid.*, p. 127.

poses, the IES was attached to the Interdivision Information Unit, even though the Unit was not actually involved in the operations of the Staff.

The Intelligence Evaluation Committee met on only seven occasions; the last occasion was in July 1971. The Intelligence Evaluation Staff, on the other hand, met a total of one hundred and seventeen times between January 29, 1971, and May 4, 1973.

The IES prepared an aggregate of approximately thirty studies or evaluations for dissemination. It also published a total of fifty-five summaries called intelligence calendars of significant events. The preparation of these studies, estimates or calendars was directed by John Dean from the White House or by Robert Mardian as Chairman of the IEC.<sup>317</sup>

Both the IEC and the IES were terminated in July, 1973, by Assistant Attorney General Henry Petersen.<sup>318</sup>

The Department's principal intelligence (and investigative) agency, the FBI, currently employs over 8,400 special agents.

All operations of the FBI are directed and coordinated through 13 headquarters divisions. Each of the headquarters divisions reports to either the Assistant to the Director-Deputy Associate Director (Administration) or the Assistant to the Director-Deputy Associate Director (Investigation) except for the Inspection Division and the Office of Planning and Evaluation which report directly to the Associate Director. The field operations are carried out by 59 field offices located throughout the United States and Puerto Rico.<sup>319</sup>

Other special unit facilities of the Bureau include the FBI Laboratory, established in 1932, the FBI Academy for training new agents, created in 1935, and the National Crime Information Center, a computerized criminal information system operated by the FBI since December, 1970.

Although the FBI relinquished overseas operations in 1946, the bureau still maintains overseas liaison agents with other security and intelligence agencies to insure a link between cases or leads which develop overseas but which come to rest in the continental United States. In the aftermath of the American intervention in the Dominican Republic crisis in 1965, there were reports that President Johnson had assigned FBI agents to certain missions on that island. If so—and the reports were never confirmed—such a mission was limited and temporary.<sup>320</sup>

At present the Bureau maintains liaison posts in sixteen foreign countries.<sup>321</sup> There has also been a recent disclosure that the FBI

<sup>317</sup> *Ibid.*

<sup>318</sup> *Ibid.*, p. 128.

<sup>319</sup> U.S. Congress. House. Committee on Appropriations. *Departments of State, Justice, and Commerce, The Judiciary, and Related Agencies Appropriations for 1976: Department of Justice*. Hearings, 94th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1975, p. 190.

<sup>320</sup> Ransom, *op. cit.*, p. 145.

<sup>321</sup> U.S. Congress. House. Committee on Appropriations, *op. cit.*, p. 192.

periodically dispatches private citizens on intelligence-gathering missions outside of the United States.<sup>322</sup>

In January, 1973, the Bureau re-established its Liaison Section which keeps in constant communication with other agencies of the intelligence community, Director Hoover had abolished the unit in September, 1970, reportedly due to a dispute with the Central Intelligence Agency over a refusal to disclose an intelligence source.<sup>323</sup>

Responsible for criminal, civil, and internal security investigations, the FBI conducted 745,840 such probes in FY 1974 and 774,579 such inquiries the previous fiscal year.<sup>324</sup>

Until his death on May 2, 1972, the Bureau was headed by J. Edgar Hoover. L. Patrick Gray III was named Acting Director the following day and ultimately nominated for the permanent position on February 17, 1973. Controversy over Gray's involvement in Watergate-related matters caused him to request the withdrawal of his nomination on April 5 and he resigned as Acting Director on April 27. He was succeeded by William D. Ruckelshaus, Administrator of the Environmental Protection Agency, who served as Acting Director until Kansas City (Mo.) Police Chief Clarence M. Kelley, nominated June 7, was confirmed to head the FBI on June 27, 1973.

One other Justice Department unit which has exhibited increasing intelligence importance is the Drug Enforcement Administration. Created by reorganization plan (87 Stat. 1091) in 1973, the agency is only beginning its intelligence operations and recently provided the following account regarding this aspect of its activities.

Our objectives with respect to the intelligence program have been to begin the routine production of strategic intelligence reports, to design and implement regional intelligence units, to build an intelligence oriented data base through the production of finished tactical intelligence reports, and to support our operations on the Southwest Border with a 24 hour-a-day intelligence center covering several regions and including several agencies. Results in these areas are indicated by the following facts:

DEA has taken the lead in developing a set of national narcotic indicators which can be used by DEA, NIDA [National Institute on Drug Abuse] and SAODAP [Special Action Office for Drug Abuse Prevention] to monitor drug abuse trends. These national narcotics indicators include data from STRIDE (System to Retrieve Information from Drug Evidence) on the price, availability and sources of heroin; data from DAWN (Drug Abuse Warning Network) on emergency room visits of drug users; and data on serum hepatitis throughout the United States. When these systems are forged together with the NIDA systems, and general surveys, they become a very powerful set of indicators on the drug abuse situation.

<sup>322</sup> See John M. Crowdsen. U.S. Citizens Used By F.B.I. Abroad. *New York Times*, February 16, 1975: 1ff.

<sup>323</sup> See Jeremiah O'Leary. Gray Re-establishes Intelligence Link to Units. *Washington Star-News*, January 10, 1973; also appears in *New York Times*, January 11, 1973.

<sup>324</sup> U.S. Congress. House. Committee on Appropriations, *op. cit.*, p. 233.

Regional intelligence units have been established in every DEA regional office. These units have responsibilities not only for collecting intelligence information, but also for producing tactical intelligence products to be used at the regional level. Personnel in these units are being trained in the collection and analysis of intelligence information by DEA's training program.

Through the first 6 months of fiscal year 1975, 160 analyses of drug networks, 1,877 profiles of specific traffickers and 9,386 enforcement targets have been produced. These analyses represent the foundation of the national narcotics intelligence system.

In the development of a National Narcotics Intelligence System it is mandatory on DEA that a high level of liaison with other enforcement agencies, Federal, State and local be maintained; and interchange of information with these agencies be developed. In terms of this requirement I am particularly encouraged with the operation we call the Unified Intelligence Division of the New York Joint Task Force. This is a true interagency operation utilizing DEA agents, New York City and State Police and funded in part by an LEAA grant. The program succeeds in bringing combined drug information to bear on the traffickers in our most populous city and greatest area of drug abuse.<sup>325</sup>

#### *XVIII. Treasury Department*

The Treasury Department has long contained components with an intelligence potential. Treasury attaches serving with American embassies provide valuable foreign economic intelligence for departmental units within the jurisdiction of the Under Secretary for Monetary Policy as well as for other units, such as the State Department and other agencies represented on the United States Intelligence Board and the National Security Council. The Treasury Department is also developing and expanding its Federal Law Enforcement Training Center which will be utilized by a variety of agencies for training investigative personnel as well as State Department security agents, Internal Revenue Service intelligence special agents and internal security inspectors, Secret Service agents, and Alcohol, Tobacco, and Firearms Bureau special agents.<sup>326</sup>

Among the intelligence units within the Treasury Department, the Bureau of Alcohol, Tobacco, and Firearms has primary responsibilities for monitoring and pursuing illegal trafficking in and/or sale of distilled spirits, tobacco, and firearms (including explosives). The Bureau utilizes some 1,600 special agents, conducts electronic surveillance operations, and has both undercover personnel and paid informers in its service. In addition to maintaining intelligence activities in support of its regular duties, the Bureau undoubtedly has an intelli-

<sup>325</sup> From the statement of DEA Administrator John R. Bartels, Jr., in *Ibid.*, pp. 847-848.

<sup>326</sup> See U.S. Congress. Senate. Committee on Appropriations. *Treasury, Postal Service, and General Government Appropriations: Fiscal Year 1976*. Hearings, 94th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1975, pp. 2309-2324.

gence capacity regarding political candidate and foreign dignitary protection obligations which must be met on occasion.<sup>327</sup>

The U.S. Secret Service engages in intelligence operations in support of its responsibilities for protecting the President, presidential candidates, and certain foreign dignitaries, pursuing counterfeiter, and, in cooperation with its police auxiliaries (Executive Protective Service, White House Police, and Treasury Security Force), the maintenance of security at certain Federal and diplomatic facilities. The Secret Service presently consists of slightly more than 1,200 special agents plus administrative personnel. During FY 1974 some segment of this workforce completed 15,403 protective intelligence cases and anticipated completing 16,000 such cases during the next fiscal year.<sup>328</sup>

The U.S. Customs Service, while largely a law enforcement agency, has an intelligence potential in such matters as narcotics and munitions control, prevention and detection of terrorism in international transportation facilities, and enforcement of Federal regulations affecting articles in international trade.<sup>329</sup>

The Internal Revenue Service, responsible for administering and enforcing the internal revenue laws other than those relating to alcohol, tobacco, firearms, explosives, and wagering, consists of a national office and a decentralized field staff organized into seven regions containing 58 districts. The Intelligence Division, staff with over 2,600 special agents, is the principal IRS intelligence component and is responsible for identifying willful noncompliance with the tax laws as well as devious and complex methods utilized to avoid tax obligations. In addition to the use of informants, undercover operatives, and electronic surveillance, the Intelligence Division, until recently, maintained an Intelligence Gathering and Retrieval System. Inaugurated in May, 1969, this computerized data bank of personal information was suspended in January, 1975, after criticism was made that the system contained information of non-germane interest to a tax-collection and enforcement agency and that holdings constituted an invasion of privacy.<sup>330</sup> This matter, certain surveillance activities involving the IRS office in Miami (Operation Leprechaun), and related spying operations have recently brought the agency's intelligence program under congressional scrutiny.<sup>331</sup>

Another controversial aspect of IRS intelligence operations involves the now defunct Special Service Staff established within the Compliance Division. Initially created in July, 1969, as the Activist Organizations Committee, the unit came into existence.

. . . apparently in response to pressures emanating from the White House and from Congress to insure that dissident groups were complying with the tax laws.

<sup>327</sup> *Ibid.*, pp. 157-160, 165-166.

<sup>328</sup> See *Ibid.*, pp. 704, 707; also see U.S. Congress. Senate. Committee on Appropriations. *Review of Secret Service Protective Measures*. Hearings, 94th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1975.

<sup>329</sup> See U.S. Congress. Senate. Committee on Appropriations. *Treasury, Postal Service, and General Government Appropriations . . .*, *op. cit.*, pp. 613-617.

<sup>330</sup> See *Ibid.*, pp. 457-464.

<sup>331</sup> See U.S. Congress. House. Committee on Ways and Means. Subcommittee on Oversight. *Internal Revenue Service Intelligence Operations*. Hearings, 94th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1975.

Several weeks before, at hearings before the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations on June 18, 1969, a former member of the Black Panthers had testified that it was his belief that the organization had never filed tax returns and had never been audited by IRS. Similarly, an IRS official had raised the question of whether certain politically-active groups, then tax-exempt, should continue to qualify for this status.<sup>332</sup>

In the aftermath of these events, Dr. Arthur Burns, Counselor to the President, and Tom Charles Huston, a White House staffer concerned with security programs, began urging IRS to establish a special political intelligence component to deal with these tax matters.<sup>333</sup>

The SSS was established in several organizational meetings held in the IRS during July, 1969. During this time, the initial SSS personnel were chosen and the functions of the SSS were set out. The SSS was to "coordinate activities in all Compliance Divisions involving ideological, militant, subversive, radical, and similar type organizations; to collect basic intelligence data; and to insure that the requirements of the Internal Revenue Code concerning such organizations have been complied with." Also, some people associated with the SSS indicated that they believed the SSS was to play a role in controlling "an insidious threat to the internal security of this country."

The people involved with the SSS had a difficult time determining precisely what organizations and individuals to focus on. It appears from the staff's examination that the day-to-day focus of the SSS was largely determined by information it received from other agencies, as the FBI and the Inter-Divisional Information Unit of the Justice Department.

The SSS generally operated by receiving information from other investigative agencies and congressional committees, establishing files on organizations and individuals of interest, checking IRS records on file subjects, and referring cases to the field for audit or collection action. Also the SSS provided information to the Exempt Organization Branch (Technical) with respect to organizations whose exempt status was in question. This method of operation was established by late 1969.<sup>334</sup>

With a staff which apparently never exceeded eight individuals, the Special Service unit "began with the names of 77 organizations and by the time it was disbanded in 1973 there was a total of 11,458 SSS files on 8,585 individuals and 2,873 organizations . . . with

<sup>332</sup> U.S. Congress. Senate. Committee on the Judiciary. *Political Intelligence in the Internal Revenue Service: The Special Service Staff*. Committee print, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974, p. 9.

<sup>333</sup> U.S. Congress. Joint Committee on Internal Revenue Taxation. *Investigation of the Special Service Staff of the Internal Revenue Service*. Committee print, 94th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1975, p. 5.

<sup>334</sup> *Ibid.*, pp. 6-7.

widely varying points of view, from all parts of the country and from many vocational and economic groups.”<sup>335</sup> In addition to identifying subjects for IRS scrutiny, the SSS also functioned as a reference source for White House intelligence actors.<sup>336</sup>

Assessing the experience of such special intelligence entities, one congressional scrutinizer of the Special Service Staff observed:

The Constitution guarantees every American the right to think and speak as he pleases without having to fear that the Government is listening. There can be little doubt that political surveillance and intelligence-gathering, aimed at the beliefs, views, opinions and political associations of Americans only inhibits the free expression which the First Amendment seeks to protect. Yet the formation of governmental surveillance units is not a new occurrence. Throughout our Nation's history such programs have been instituted to protect "national security" interests which were perceived to be threatened.

It is apparent, however, that the extraordinary political unrest of the late sixties had a powerful effect on those at the governmental helm. Using this as justification, they undertook to use the powers at their disposal to stifle and control the growing political dissidence and protest they were witnessing. The plain words of the Constitution were ignored.

There is no evidence to indicate that the creation of so many "secret" intelligence units as well as the expansion of existing units throughout the government at roughly the same time was the result of any conscious conspiracy. But the fact remains that the contemporaneous creation of these units permitted an incipient arrangement whereby the special talents of investigation, prosecution arrangement whereby the special talents of investigation, prosecution, and administrative penalties (tax actions)—most of the powers at the government's disposal—were levelled against those who chose to dissent, whether lawfully or otherwise. Although each agency may not have known specifically of another's intelligence program, the fruits of such units were freely exchanged so that each agency knew that another was also "doing something."<sup>337</sup>

Ultimately, the Special Service Staff operation came under question at the highest level of the Internal Revenue Service.

In May 1973 (one day after he was sworn in), Commissioner Donald C. Alexander met with top IRS personnel with respect to the SSS and directed that the SSS actions were to relate only to tax resisters. This was reemphasized in a second meeting held at the end of June 1973. In early August 1973, the Commissioner learned of National Office responsibility for an IRS memorandum relating to the SSS published in Time magazine. The Commissioner felt that this memo-

<sup>335</sup> *Ibid.*, p. 7.

<sup>336</sup> *Ibid.*, p. 9.

<sup>337</sup> U.S. Congress. Senate. Committee on the Judiciary. *Political Intelligence in the Internal Revenue Service . . .*, *op. cit.*, pp. 49-50.

randum described activities that were "antithetical to the proper conduct of . . . tax administration" and he announced (on August 9, 1973) that the SSS would be disbanded.<sup>338</sup>

### XIX. Overview

This is the organizational status of the Federal intelligence function on the eve of America's bi-centennial.<sup>339</sup> Institutional permanence did not appear within this sphere of government operations until almost a decade and a half before the turn of the present century. For a variety of reasons—inexperience, scarce resources, lack of useful methodology, failure to apply available technology, and a leadership void—a functionally effective intelligence structure probably did not exist within the Federal government until the United States was plunged into World War II. And what observations might be offered regarding the current intelligence community organization?

An outstanding characteristic of the contemporary intelligence structure is its pervasiveness. There are a panoply of Federal agencies with clearly prescribed intelligence duties or a reasonable potential for such functioning. One authority recently estimated that ten major intelligence entities maintain a staff of 153,250 individuals on an annual budget of \$6,228,000,000.<sup>340</sup> Such statistics provide some indication of the size of the immediate intelligence community within the Federal government but, of course, ignores the commitment of re-

<sup>338</sup> U.S. Congress. Joint Committee on Internal Revenue Taxation, *op cit.*, p. 7.

<sup>339</sup> This study does not purport to present an exhaustive scenario of intelligence agencies but has sought to include the principal entities which have been or continue to be involved in intelligence operations. Agencies not discussed here but which do conceivably contribute information relevant to the intelligence matters include the United States Information Agency, which maintains numerous overseas offices, the Agency for International Development, with missions in Asia, Africa, the Middle East, and Latin America, and the Department of Agriculture, which has attache's in United States embassies.

For an overview of the chronological development of the principal Federal intelligence entities, see Appendix I.

<sup>340</sup> The following estimate is taken from Marchetti and Marks, *op. cit.*, p. 80: certain comparative data is supplied from Federal budget and U.S. Civil Service Commission sources. The statistics appear to be for FY 72 or FY 73.

#### SIZE AND COST OF THE U.S. INTELLIGENCE COMMUNITY

Organization	Personnel	Budget
Central Intelligence Agency . . . . .	16, 500	\$750, 000, 000
National Security Agency . . . . .	24, 000	1, 200, 000, 000
Defense Intelligence Agency . . . . .	5, 000	200, 000, 000
Army Intelligence . . . . .	35, 000	700, 000, 000
Air Force Intelligence (including National Reconnaissance Office) . . . . .	56, 000	2, 700, 000, 000
State Department (Bureau of Intelligence and Research) . . . . .	350	8, 000, 000
Federal Bureau of Investigation (Internal Security Division) . . . . .	800	40, 000, 000
Atomic Energy Commission (Intelligence Division) . . . . .	300	20, 000, 000
Treasury Department . . . . .	300	10, 000, 000
Total . . . . .	153, 250	6, 228, 000, 000

#### COMPARE

Item	Fiscal year 1972	Fiscal year 1973
Budget outlay, actual (billions) . . . . .	\$231. 9	\$246. 5
Federal employees (civilian) . . . . .	2, 811, 779	2, 824, 242

sources to intelligence efforts, on one hand, by front groups, proprietary organizations, and informers, and, on the other hand, by sub-national government agencies, and other Federal entities (such as Department of Agriculture overseas attaches, National Aeronautics and Space Administration satellite launching systems, and the products of the National Weather Service). With these additional components identified, the pervasive nature of the intelligence organization begins to become more apparent.

It might also be argued that the intelligence community exhibits an organizational tendency toward clusters of centralized leadership. Overseas intelligence operations leadership has been concentrated in the Director of Central Intelligence; armed forces intelligence leadership has been concentrated in the chief of the Defense Intelligence Agency; armed forces cryptological leadership has been concentrated in the head of the National Security Agency/Central Security Service. A propensity for further unifying these leadership capacities may be seen in the example of Dr. Henry Kissinger (when serving as Assistant to the President for National Security Affairs/chief of staff, National Security Council) and, to some degree, in the case of the White House intelligence functionaries during the Nixon Administration. While the coordination of intelligence activities is a desirable goal in government efficiency, the centralization of intelligence leadership can pose threats to civil liberties.

Finally, as the Federal intelligence organization has grown, there appears to be a tendency toward the confusion of the purposes of intelligence operations. Many intelligence institutions, past and present, function(ed) without an explicit statutory mandate for their activities. More consideration might be given to the relationship between domestic intelligence and law enforcement responsibilities: intelligence units have been organized to spy on citizens (and sometimes harass them) seemingly without any regard as to whether or not illegal behavior might be detected. Also, entities established to enforce the laws domestically have become enamored on occasion with intelligence pursuits which bear little significance to their primary law enforcement duty.

The Constitution of the United States continues to guarantee "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searchers and seizures. . . ." The Federal intelligence organization has the capacity to significantly enhance and support that right or to manifest itself as one of the cruelest detractors of that tenet of American government. Vigilance on the part of the citizenry as to encroachments upon its rights and liberties is an utmost necessity for the preservation of a meaningful democracy. Yet, public confidence in the state tolerates a condition of official secrecy with regard to almost every aspect of intelligence activity. Institutional reliance upon the fullest commitment of the intelligence community to the preservation and realization of the constitutionally guaranteed rights of the people is the necessary consequence. Endowed with its special privilege of operational secrecy, the Federal intelligence organization, in any violation of its pledge of service to the citizenry, can expect to elicit a prohibitive punishment from the polity, for it has, of course, a unique potential to execute the ultimate breach of trust, the demise of the demos itself.



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## APPENDIX I

### THE EVOLUTION AND ORGANIZATION OF FEDERAL INTELLIGENCE INSTITUTIONS 1882-1975

- 1882 Office of Intelligence established within the Bureau of Navigation, Department of the Navy, by administrative directive; first permanent intelligence unit within the Navy.
- 1885 Military Intelligence Division established within the Adjutant General's Office, Department of War, by administrative directive; first permanent intelligence unit within the Army.
- 1901 Philippine Military Information Bureau established within the United States Army by administrative directive; special intelligence unit developed for use in the Philippine Islands relying upon both overt information collection techniques and undercover operatives.
- 1902 Department of the Treasury Secret Service staff increased by appropriation act (32 Stat. 120 at 140) for purposes of providing protection to the President; origin of Secret Service intelligence activities.
- 1903 General Staff of the United States Army created (32 Stat. 830); intelligence section (G-2) organized by administrative directive.
- 1908 Intelligence section (G-2) of the General Staff, United States Army, absorbed by the Army War College at the direction of the Chief of Staff.  
Bureau of Investigation established within the Department of Justice by administrative directive; efforts to create such a unit by statute had been rejected by Congress earlier in the year and also during the previous year.
- 1917 War Department Cipher Bureau (MI-8) created by administrative directive; first permanent cryptology, code development and code breaking unit within the armed services.  
General John J. Pershing, commander of the American Expeditionary Forces, establishes an intelligence section (G-2) within his General Staff in Europe.
- 1918 Intelligence section (G-2) of the General Staff, United States Army, reconstituted and developed.
- 1919 Code and Cipher Solution Section, Department of War, secretly established, secretly funded, and maintained in New York City; the unit became popularly known as the American Black Chamber and was responsible for developing and breaking a variety of codes, ciphers and cryptological messages for the War and State Departments.  
Intelligence Division, Bureau of Revenue, Department of the Treasury established by administrative directive.

- 1920 United States Marine Corps undergoes reorganization of headquarters staff with the result that an Intelligence Section is established within the Operations and Training Division.
- 1929 American Black Chamber is dissolved at the direction of the Secretary of State, Henry Stimson; the Department of State was the principal financier, user, and beneficiary of the services of the unit but Stimson, newly appointed, disapproved of its activities, saying "Gentlemen do not read each other's mail."
- 1936 Intelligence Division, United States Coast Guard, Department of the Treasury, established by administrative directive; while the Coast Guard had maintained a single intelligence officer prior to this time, additional law enforcement duties and prohibition era responsibilities prompted a major intelligence staff increase at this time.
- 1940 Intelligence Staff section (A-2) established within the United States Army Air Corps by administrative directive.
- 1941 Office of the Coordinator of Information established by a presidential directive of July 11, 1941; the authority of the Coordinator was "to collect and analyze all information and data which may bear upon national security," to correlate such data and to make it available in various ways to the President.
- 1942 Office of Strategic Services established by military order of June 13, 1942; the presidential directive of July 11, 1941 was simultaneously cancelled.  
Allied Intelligence Bureau established at the direction of General Douglas MacArthur; the Bureau functioned during the war as a coordinating and planning device for allied armed forces in the Pacific Theater.
- 1945 Office of Strategic Services terminated by E.O. 9621 of September 20, 1945; functions transferred to the Departments of War and State.
- 1946 National Intelligence Authority and its staff arm, the Central Intelligence Group, created by a presidential directive of January 22, 1946, for purposes of coordinating intelligence activities and advising the President regarding same.  
Atomic Energy Commission established (60 Stat. 755); responsible for atomic energy intelligence regarding detection and assessment of worldwide atomic detonations and assessments of the use of atomic energy.
- 1947 National Security Council, National Security Resources Board (abolished 1953), and Central Intelligence Agency established by National Security Act (61 Stat. 497).  
Deputy Chief of Staff for Intelligence established within the newly created Department of the Air Force (61 Stat. 497).  
Office of Intelligence Research established within the Department of State by administrative directive; renamed the Bureau of Intelligence and Research in 1957.
- 1948 Office of Policy Coordination established by secret National Security Council directive NSC 10/2; responsible for covert-action programs, the unit was abolished in 1951 and its functions and personnel were transferred to the Central Intelligence Agency.

- Office of Special Operations established by action of the President (possibly by secret directive); responsible for covert intelligence collection, the unit was abolished in 1951 and its functions were transferred to the Central Intelligence Agency.
- 1949 Armed Forces Security Agency established by a Department of Defense directive for purposes of administering strategic communications-intelligence functions, cryptology, code development and code breaking; and coordination of similar activities by other defense agencies; reorganized as the National Security Agency in 1952.
- 1950 Intelligence Advisory Committee established (authority unclear); created at the urging of the Director of the Central Intelligence Agency and functioned as an interdepartmental panel composed of representatives of the major agencies having intelligence responsibilities; absorbed by the United States Intelligence Board in 1960.
- 1952 National Security Agency created by a classified presidential directive of November 4, 1952; largely unacknowledged as a government agency until 1957, NSA functions under the direction, authority and control of the Secretary of Defense and is responsible for coordinating, developing, and advancing cryptological, code breaking, code development, and communications intelligence activities.
- 1956 President's Board of Consultants on Foreign Intelligence Activities established by E.O. 10656 of February 6, 1956, for purposes of a civilian review of the foreign intelligence activities of the Federal government; established in the wake of a Hoover Commission report of 1955 recommending a joint congressional oversight committee on intelligence activities which was being considered by Congress.
- 1960 United States Intelligence Board established by a classified National Security Council directive, assuming the functions of the Intelligence Advisory Committee; the Board makes administrative recommendations concerning the structure of the Federal intelligence organization and prepares National Intelligence Estimates for the National Security Council on specific foreign situations of national security concern or a general international matter.
- 1961 President's Foreign Intelligence Advisory Board established by E.O. 10938 of May 4, 1961; successor to the President's Board of Consultants on Foreign Intelligence Activities, the panel advises the President on the objectives and conduct of foreign intelligence and related activity by the United States.
- Defense Intelligence Agency established by Department of Defense Directive 5105.21 of August 1, 1961; coordinates armed forces intelligence activities and provides direct intelligence assistance to the Secretary of Defense and the Joint Chiefs of Staff.
- 1968 National Intelligence Resources Board created at direction of the Director of the Central Intelligence Agency; interagency committee created to bring about economy within intelligence activities and operations.

- 1971 Intelligence Resources Advisory Committee created by the Director of the Central Intelligence Agency; successor to the National Intelligence Resources Board, the panel advises the CIA Director on the preparation of a consolidated intelligence program budget.
- 1971 Net Assessments Group established by presidential announcement of November 5, 1971; responsible for analyzing United States defense capabilities vis-a-vis those of the Soviet Union and the People's Republic of China.
- Verification Panel established by presidential announcement of November 5, 1971; responsible for intelligence pertaining to the SALT talks.
- Intelligence Committee, National Security Council, established by presidential announcement of November 5, 1971; advises on intelligence needs and provides for a continuing evaluation of intelligence products from the viewpoint of the intelligence user.
- Forty Committee (also called the Special Group, the 54-12 Group, and the 303 Committee) continued (authority uncertain); in existence since the earliest years of the Central Intelligence Agency, the panel's membership varies but its function remains that of reviewing proposals for covert action.
- Central Security Service proposed (established in 1972) in presidential announcement of November 5, 1971; functions under the direction of the head of the National Security Agency who serves concurrently as Chief of the Service.
- Defense Investigative Service proposed (established by DoD 5105.42 of April 18, 1972) in presidential announcement of November 5, 1971; new agency consolidates armed service and Defense Department personnel investigation functions into single entity.
- Defense Mapping Agency proposed (established under the provisions of the National Security Act of 1947, as amended, on January 1, 1972) in presidential announcement of November 5, 1971; new agency consolidates armed service mapping activities and operations.

## APPENDIX II

### GOVERNMENT INFORMATION SECURITY CLASSIFICATION POLICY

A democratic system of government, based upon popular power and popular trust, may both respect privacy, "the voluntary withholding of information reinforced by a willing indifference," and practice secrecy, "the compulsory withholding of knowledge, reinforced by the prospect of sanctions for disclosure." Qualifications are attached to these two conditions by legislatures, officers of government, and the courts.

Both are enemies, in principle, of publicity. The tradition of liberal, individualistic democracy maintained an equilibrium of publicity, privacy, and secrecy. The equilibrium was enabled to exist as long as the beneficiaries and protagonists of each sector of this tripartite system of barriers respected the legitimacy of the other two and were confident that they would not use their power and opportunities to disrupt the equilibrium. The principles of privacy, secrecy and publicity are not harmonious among themselves. The existence of each rests on a self-restrictive tendency in each of the others. The balance in which they co-exist, although it is elastic, can be severely disrupted; when the pressure for publicity becomes distrustful of privacy, a disequilibrium results. Respect for privacy gives way to an insistence on publicity coupled with secrecy, a fascination which is at once an abhorrence and a dependent clinging.<sup>1</sup>

The abuse of secrecy in matters of government can be attributed to no one particular realm. Public servants, beyond the reach of the electorate, however, may tend to misuse secrecy simply because they are immune to any direct citizen reprisal. In this regard, one of the first serious analysts of social organization, the sociologist Max Weber (1864-1920), has commented: "Every bureaucracy seeks to increase the superiority of the professionally informed by keeping their knowledge and intentions secret." Perhaps a more important observation for the American democratic experience is provided by Weber when he notes:

The pure interest of the bureaucracy in power, however, is efficacious far beyond those areas where purely functional interests makes for secrecy. The concept of the "official secret" is the specific invention of bureaucracy, and nothing is so fanatically defended by the bureaucracy as this attitude,

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<sup>1</sup>Edward A. Shils. *The Torment of Secrecy: The Background and Consequences of American Security Policies*. New York, The Free Press, 1956, pp. 26-27.

which cannot be justified beyond . . . specifically qualified areas. In facing a parliament, the bureaucracy, out of a sheer power instinct, fights every attempt of the parliament to gain knowledge by means of its own experts or from interest groups. The so-called right of parliamentary investigation is one of the means by which parliament seeks such knowledge. Bureaucracy naturally welcomes a poorly informed and hence a powerless parliament—at least in so far as ignorance somehow agrees with the bureaucracy's interests.<sup>2</sup>

The extent to which a sovereign legislature allows a bureaucracy to create "state secrets" on its own initiative and authority also contributes to the abuse of government secrecy. In a democracy, the elected representatives of the people must bear the responsibility of fixing the basis for and creation of official secrets. As an extension of its law-making power, the legislature must exercise authority to determine that its information protection statutes are faithfully administered. Under a constitutional arrangement such as that found in the American Federal Government, care must be taken to divorce the use of state secrecy from the separation of powers doctrine. Because information has been designated an official secret, this condition should not necessarily serve to justify the Executive's withholding of the data from Congress. (See *United States vs. Nixon*, 418 U.S. 683, 706 (1974)).

Ideally, all information held by a democratic government belongs to the citizenry. However, for reasons of national defense, foreign relations, commercial advantage, and personal privacy, some information may require protection and, therefore, becomes a secret. Such a limitation is not absolute: Congress, the Executive, and the courts might, when circumstances so require, have access to official secrets and, in time, efforts should be made to remove the secrecy restriction and release the information in question to the public.

In addition, there are certain types of information which, in accordance with the constitutional doctrine of the separation of powers, might justifiably be retained exclusively within one branch of the Federal Government. (See *United States v. Nixon*, 418 U.S. at 706.) Such a class of information should be kept to a minimum and be withheld with a considerate attitude. In brief, there are types of information which may be protected from inspection by other branches of government as well as from general public scrutiny. Again, such a restriction need not be an absolute matter of policy; considerations of accountability, public trust, criminal wrongdoing, or scholarly research needs may prompt occasional exceptions to the rule. A type of information which may be permissively protected is specified at present in the Freedom of Information Act (5 U.S.C. 552).

### *I. National Defense*

Although members of the United States armed forces were, from the time of the Revolution, prohibited from communicating with the enemy and spying during war had similarly been condemned since

<sup>2</sup> H. H. Gerth and C. Wright Mills, eds. *From Max Weber: Essays in Sociology* New York, Oxford University Press, 1946, pp. 233-234.

that time, no directives regarding the protection of information or guarding against foreign military intelligence were issued until after the Civil War. During the time of the rebellion, President Lincoln placed strict governmental control over communications—the telegraph, the mails, and, to a considerable extent, the press. The military controlled communications and civilians within the shifting war zones.<sup>3</sup>

A few years after the cessation of hostilities, the War Department turned its attention to security procedures for peacetime. General Orders No. 35, Headquarters of the Army, Adjutant General's Office, issued April 13, 1869 read: "Commanding officers of troops occupying the regular forts built by the Engineer Department will permit no photographic or other views of the same to be taken without the permission of the War Department." Such language thus placed limited information control at the disposal of the War Department. The substance of this order was continued in compiled Army regulations of 1881, 1889, and 1895.<sup>4</sup>

Deteriorating relations with Spain and the possibility of open warfare subsequently prompted more stringent security precautions. A portion of General Orders No. 9, Hdq. Army, A.G.O., issued March 1, 1897, directed:

No persons, except officers of the Army and Navy of the United States, and persons in the service of the United States employed in direct connection with the use, construction or care of these works, will be allowed to visit any portion of the lake and coast defenses of the United States without the written authority of the Commanding Officer in charge.

Neither written nor pictorial descriptions of these works will be made for publication without the authority of the Secretary of War, nor will any information be given concerning them which is not contained in the printed reports and documents of the War Department.

Revised for inclusion in General Orders No. 52, War Department, issued August 24, 1897, "the principal change was insertion of a paragraph indicating that the Secretary of War would grant special permission to visit these defenses only to the United States Senators and Representatives in Congress *who were officially concerned therewith* and to the Governor or Adjutant General of the State where such defenses were located" [emphasis added].<sup>5</sup> That the War Department did not want to extend special defense facilities visitation permission to any or all Members of Congress is evident. This policy of selective congressional access to secret defense matters has continued, in various forms, into the present period.

In 1898 there was the passage of a statute (30 Stat. 717) "to protect the harbor defenses and fortifications constructed or used by the

<sup>3</sup> See James G. Randall. *Constitutional Problems Under Lincoln, Revised Edition*. Urbana: University of Illinois Press, 1951, chapters III, IV, VII and XIX.

<sup>4</sup> Dallas Irvine. "The Origin of Defense-Information Markings in the Army and former War Department" [typescript.] Washington, National Archives and Records Service, General Services Administration, 1964; under revision 1972, p. 3. All references from revision typescript; military orders, regulations, and directives referred to may be found in the annexes of this study.

<sup>5</sup> *Ibid.*, p. 4.

United States from malicious injury, and for other purposes." The sanctions of this law provided that "any person who . . . shall knowingly, willfully or wantonly violate any regulation of the War Department that has been made for the protection of such mine, torpedo, fortification or harbor-defense system shall be punished . . . by a fine of not less than one hundred nor more than five thousand dollars, or with imprisonment for a term not exceeding five years, or with both, in the discretion of the court." The effect of this statute was that it not only sanctioned War Department directives regarding the protection of information, but also gave increased force to such orders by providing criminal penalties for violations. The statute was published for the information of the military in General Orders No. 96, War Department, A.G.O., July 13, 1898.

Army regulations of 1901 continued the language of the 1897 order with its provision for granting certain Members of Congress special access to the coastal and lake defenses. New regulations in 1908 omitted specific mention of congressional visitors and said:

Commanding officers of posts at which are located lake or coastal defenses are charged with the responsibility of preventing, as far as practicable, visitors from obtaining information relative to such defenses which would probably be communicated to a foreign power, and to this end may prescribe and enforce appropriate regulations governing visitors to their posts.

American citizens whose loyalty to their Government is unquestioned may be permitted to visit such portions of the defenses as the commanding officer deems proper.

The taking of photographic or other views of permanent works of defense will not be permitted. Neither written nor pictorial descriptions of these works will be made for publication without the authority of the Secretary of War, nor will any information be given concerning them which is not contained in the printed reports and documents of the War Department.

These portions of the 1908 regulations (pars. 355 and 356) were continued in regulations books of 1910 (pars. 358 and 359), (pars. 347 and 348), and 1917 (pars. 347 and 348). The language constitutes the first open admission by the War Department of an effort to protect fixed defenses against foreign military intelligence.<sup>6</sup>

Criminal sanctions for unlawful entry upon military property were extended in a codification statute (35 Stat. 1088-1159 at 1097) of March 4, 1909. While the penalty provisions of the Act of July 7, 1898 (30 Stat. 717) were included in the law, another provision was added, reading:

Whoever shall go upon any military reservation, army post, fort, or arsenal, for any purpose prohibited by law or military regulation made in pursuance of law, or whoever shall reenter or be found within any such reservation, post, fort, or arsenal, after having been removed therefrom or ordered not to reenter by any officer or person in command or charge thereof,

<sup>6</sup> *Ibid.*, p. 7.

shall be fined not more than five hundred dollars, or imprisoned not more than six months, or both.

Although supposedly based upon the provisions of the 1898 statute, in the words of one expert in this policy sphere,

this language was so amplified as to amount virtually to new legislation. The new language tends to divert attention to what the earlier act had referred to by means of the word "trespass." Attention therefore needs to be called to the fact that the new language as well as the old effectively gave the force of law, with imposed penalty for violation, to the provisions of current Army regulations about photographs and written or pictorial descriptions of seacoast defenses and about local regulations to prevent visitors from obtaining information for a foreign power.

In view of the pertinent content of current Army regulations [this] section . . . from the Criminal Code of 1909 may be regarded as the first very good approximation of legislation against espionage in time of peace. The act of 1898, even in the light of then current Army regulations, can be argued, from its text, to be directed more against sabotage than against espionage.<sup>7</sup>

The provision was also incorporated, without change, in the United States Code of 1925.

The first complete system for the protection of national defense information, devoid of special markings, was promulgated in General Orders No. 3, War Department, of February 16, 1912. This directive set forth certain classes of records which were to be regarded as "confidential" and, therefore, kept under lock, "accessible only to the officer to whom intrusted." Those materials falling into this category included submarine mine projects and land defense plans. "Trusted employees" of the War Department, as well as "the officer to whom intrusted," might have access to "maps and charts showing locations on the ground of the elements of defense, of the number of guns, and of the character of the armament" and "tables giving data with reference to the number of guns, the character of the armament, and the war supply of ammunition."

Serial numbers were to be issued for all such "confidential" information with the number marked on the document(s) and lists of the records kept at the office from which they emanated. Within one year's time officers responsible for the safekeeping of these materials were to check on their location and existence. While available to all commissioned officers at all times, "confidential" information was not to be copied except at the office of issue.

The language of [these] instructions . . . was incorporated (par. 94, p. 216) in the *Compilation of General Orders, Circulars, and Bulletins of the War Department Issued Between February 15, 1881, and December 31, 1915* (Washington, 1916). The paragraph of this compilation in which the instructions were carried was rescinded by Changes in Com-

<sup>7</sup> *Ibid.*, p. 8.

pilation of Orders No. 35, October 1, 1922, which referred to superseding pamphlet Army Regulations 90-40. The latter had been issued on May 2, 1922 under the headings "Coast Artillery Corps. Coast Defense Command." The comparable language appeared in Paragraph 17, "Safe-keeping of military records concerning seacoast defenses." It was generally similar to the language previously in effect, but specified that the two major categories of records involved should be classed as SECRET and CONFIDENTIAL, respectively. These markings by that time had special meanings elsewhere prescribed.<sup>8</sup>

Until the turn of the century, policy directives concerned with the protection of national defense information were confined to coastal and lake fortifications material. This should not necessarily indicate that only documents having to do with these matters were protected under such regulations.

On October 3, 1907 the Chief of Artillery invited the attention of The Adjutant General . . . to the fact that the word "confidential" was being used without any prescribed meaning as a marking on communications and printed issuances. He pointed out the ridiculousness of the situation by citing examples, including one issuance marked "Confidential" that contained merely formulas for making whitewash. In his stated opinion there should be some way of indicating degree of confidentiality, some time limit on the effect of a marking whenever practicable, and requirement of an annual return of confidential materials in the possession of particular officers. He proposed the establishment of four degrees of confidentiality that can be approximated by the following expressions:

1. For your eyes only
2. For the information of commissioned officers only
3. For official use only
4. Not for publication<sup>9</sup>

Additional communication on this matter elicited a response from the Chief Signal Officer that printed issuances, such as manuals and instruction books, contained instructions on their dissemination. An example of this type of control prescription was cited from a Signal Corps manual: "This Manual is intended for the sole personal use of the one to whom it is issued, and should not under any circumstances be transferred, loaned, or its contents imparted to unauthorized persons."

The matter was subsequently referred to the Chief of Staff who presented the suggestions to the Acting Secretary of War. In a memorandum of November 12, 1907, Major General William P. Duvall, Assistant to the Chief of Staff

indicated that the idea of setting time limits on the confidentiality of particular items was hardly practicable and that

<sup>8</sup> *Ibid.*, p. 11.

<sup>9</sup> *Ibid.*, pp. 11-12; original letter contained in Annex E of *Ibid.*

the idea of having returns made of specially protected material was undesirable because it would be too complicated in application. The memorandum agreed that the marking "Confidential" should have a prescribed meaning equivalent to "For your eyes only" but went along with the remarks to the Chief Signal Officer in proposing that materials intended to be available only to a certain class or classes of individuals should be "marked so as to indicate to whom the contents may be communicated."<sup>10</sup>

As a consequence of this memorandum and an attached draft circular on the whole matter, Circular No. 78, War Department, of November 21, 1907, in part, addressed itself to altering policy on this area.

The first paragraph prohibited further indiscriminant use of the marking "Confidential" on communications from the War Department and permitted its use on such communications only "where the subject-matter is intended for the sole information of the person to whom addressed." The second paragraph, dealing with internal issuances, required that they be accompanied by a statement indicating the class or classes of individuals to whom the contents might be disclosed. The third paragraph listed five internal issuances that were not to be considered confidential any longer. The fourth paragraph indicated that internal serial issuance marked "Confidential" in the past were for the use of Army officers and enlisted men and Government employees "when necessary in connection with their work."<sup>11</sup>

It has been observed that this circular was not actually concerned explicitly with defense information, but rather with internal communications and publications of the military. As the first such directive addressed to these matters, it marks the beginning of a policy of protecting internal documents for reasons of national defense.

"Second, it placed reliance for any necessary protection of the content of internal issuances, not on jargonized stamped words or expressions, but on an accompanying statement of what was intended in the case of a particular issuance." In brief, the authority of a protective label was not acceptable for safeguarding internal documents. The technique of utilizing an explanatory statement on these materials served to maintain a rational and self-evident policy for safeguarding internal information.

Third, the provision pertaining to use of the marking "Confidential" was unclear in that it did not identify any class of information to which the label might be applied. The directive only served notice that this marking could not be used on internal documents. No meaning was prescribed for the term "Confidential" as used in written and/or verbal discourse. And the thrust of the circular with regard to the proper use of the marking related not to the content or origin of the information in question but rather to the intended recipient.<sup>12</sup>

<sup>10</sup> *Ibid.*, p. 13.

<sup>11</sup> *Ibid.*, p. 14.

<sup>12</sup> *Ibid.*, p. 17; original memorandum contained in Annex H of *Ibid.*

The provisions of Circular No. 78 were not included in Army regulations of 1908, 1910, 1913, or 1917. It did appear in the *Compilation of General Orders, Circulars, and Bulletins . . .* issued in 1916 (par. 176). This anonymity, together with the confusion already noted with regard to the use of the marking "Confidential", would tend to reflect that the directive had little impact in curtailing the improper use of the "Confidential" label.

On May 19, 1913, the Judge Advocate General sent a communique to the Chief of Staff wherein he proposed additional regulations for the handling of confidential communications, saying:

Telegrams are inherently confidential. Outside of officials of a telegraph company, no one has authority to see a telegram, other than the sender and receiver, except on a subpoena *duces tecum* issued by a proper court.

A commanding officer of a post where the Signal Corps has a station has no right to inspect the files of telegrams, at least files other than those sent at government expense.

The record of the Signal Corps operators is excellent. I consider the enlisted personnel of the Signal Corps superior to that of any other arm. The leaks that occur through the inadvertence or carelessness of enlisted men of the Signal Corps are few in number. Those occurring through intention on the part of these men are fewer still. In my opinion leaks most frequently occur through the fault of officers in leaving confidential matters open on their desks where others may read as they transact other business.<sup>13</sup>

The Judge Advocate General's suggestions resulted in Changes in Army Regulations No. 30, War Department, issued June 6, 1916, and reading:

In order to reduce the possibility of confidential communications falling into the hands of persons other than those for whom they are intended, the sender will enclose them in an inner and an outer cover; the inner cover to be a sealed envelope or wrapper addressed in the usual way, but marked plainly CONFIDENTIAL in such a manner that the notation may be most readily seen when the outer cover is removed. The package thus prepared will then be enclosed in another sealed envelope or wrapper addressed in the ordinary manner with no notation to indicate the confidential nature of the contents.

The foregoing applies not only to confidential communications entrusted to the mails or to telegraph companies, but also to such communications entrusted to messengers passing between different offices of the same headquarters, including the bureaus and offices of the War Department.

Government telegraph operators will be held responsible that all telegrams are carefully guarded. No received telegram will ever leave an office except in a sealed envelope, properly addressed. All files will be carefully guarded and

<sup>13</sup> *Ibid.*, p. 17; original memorandum contained in Annex H *Ibid.*

access thereto will be denied to all parties except those authorized by law to see the same.

An examination of *The Code of Laws of the United States of America in Force December 6, 1926* (44 Stat. 1-2452) does not readily reveal any specification of officials granted the authority to examine telegraph or telegram files. It is possible that this power is indirectly conferred by some statutory provision or that the last line of the above directive is of a prospective nature.

It has also been suggested that Changes in Army Regulations No. 30 of 1916 was issued in ignorance of Circular No. 78 of 1907 which was discussed earlier.<sup>14</sup> This situation most likely resulted from the somewhat fugitive nature of Circular No. 78.

## II. World War I

On April 6, 1917 the United States declared war on Germany, (40 Stat. 1). This action prompted new regulations to protect national defense information. Mobilization was begun immediately and the first American troops arrived in France in late June. It was also at this juncture that the American military, working with their French and British allies, had an opportunity to observe the information security systems of other armies.

November 22, 1917, General Orders No. 64, General Headquarters, American Expeditionary Force, was issued on the matters of the protection of official information. This directive established three markings for information, saying:

“Confidential” matter is restricted for use and knowledge to a necessary minimum of persons, either members of this Expedition or its employees.

The word “Secret” on a communication is intended to limit the use or sight of it to the officer into whose hands it is delivered by proper authority, and, when necessary, a confidential clerk. With such a document no discretion lies with the officer or clerk to whom it is delivered, except to guard it as SECRET in the most complete understanding of that term. There are no degrees of secrecy in the handling of documents so marked. Such documents are completely secret.

Secret matter will be kept under lock and key subject to use only by the officers to whom it has been transmitted. Confidential matter will be similarly cared for unless it be a part of officer records, and necessary to the entirety of such records. Papers of this class will be kept in the office files, and the confidential clerk responsible for the same shall be given definite instructions that they are to be shown to no one but his immediate official superiors, and that the file shall be locked except during office hours.

Orders, pamphlets of instructions, maps, diagrams, intelligence publications, etc., from these headquarters . . . which are for ordinary official circulation and not intended for the public, but the accidental possession of which by the enemy would result in no harm to the Allied cause; these will have

<sup>14</sup> *Ibid.*, p. 19.

printed in the upper left hand corner, "For Official Circulation Only."

. . . Where circulation is to be indicated otherwise than is indicated . . . [above] . . . there will be added limitation in similar type, as:

Not to be taken into Front Line Trenches.

Not to be Reproduced.

Not to go below Division Headquarters.

Not to go below Regimental Headquarters.

Commenting on this prescription, one authority has noted:

This order itself makes clear that the markings "Confidential" and "Secret" were already in use, for it says "There appears to be some carelessness in the indiscriminant use of the terms 'Confidential' and 'Secret'." This previous usage was undoubtedly taken over from the French, who used these two markings, often with added injunctions such as "not to be taken into the first line." The British also had a marking "For official use only."<sup>15</sup>

In early December, 1917, a proposal was advanced by the Acting Chief of the War College Division, War Department General Staff, Col. P. D. Lockridge, regarding the use of information markings. The matter prompting this communique to the Chief of Staff was seemingly some concern that markings being utilized by the A.E.F. be officially authorized and supervised within units of War Department jurisdiction outside of the Expeditionary Force command. It would also seem that "Secret," "Confidential," and other protective labels were already in use among other military divisions. Obtaining quick approval from the Acting Chief of Staff, Lockridge's suggestion was next acted upon by the Adjutant General's Office which decided to incorporate it in Changes in Compilation of Orders No. 6, War Department, issued December 14, 1917. "In view of the importance of the matter, unnumbered and undated advance copies of the intended issuance were distributed, and a printed 'extract' of the regular printed issuance was subsequently given wide circulation."<sup>16</sup>

The directive outlined the conditions under which "Secret," "Confidential," and "For Official Use Only" markings were to be utilized. Materials designated "Secret" would not have their existence disclosed but those labeled "Confidential" might circulate "to persons known to be authorized to receive them." The third marking was designed to restrict information from communication to the public or the press. In addition, the order contained the following proviso: "Publishing official documents or information, or using them for personal controversy, or for private purpose without due authority, will be treated as a breach of official trust, and may be punished under the Article of War, or under Section I, Title I, of the Espionage Act [40 Stat. 217] approved June 15, 1917."

This reference to both the Articles of War and the Espionage Act thoroughly confuses the purpose of the issuance. While

<sup>15</sup> *Ibid.*, p. 26.

<sup>16</sup> See *Ibid.*, pp. 26-27.

the Articles of War contained provisions against corresponding with the enemy and against spying, the reference here can only be to the provisions of the Articles of War against disobedience of orders and miscellaneous misconduct. Section 1, Title I, of the Espionage Act, on the other hand, was very comprehensive with respect to any mishandling of "information respecting the national defense." If that section alone had been referred to, the implication would have been that the new issuance related entirely to defense information. Inclusion of the reference to the Articles of War makes it possible to argue that the marking "For official use only" was not intended to apply exclusively to defense information and that the intention with respect to the marking "Confidential" is hardly clear.<sup>17</sup>

The thrusts of the Espionage Act of 1917, and the Act of 1911 (36 Stat. 1084) prohibiting the disclosure of national defense secrets, were toward the regulation and punishment of espionage. Neither statute specifically sanctioned the information protection practices of the War Department or the armed forces, nor were the orders and directives of these entities promulgated pursuant to these laws. The markings prescribed for the use of the military were designed for utilization on internal communications and documents. With the passage of the Trading with the Enemy Act (40 Stat. 411) provision was made (40 Stat. 422 § 10(i)) for the President to designate patents, the publication of which might "be detrimental to the public safety or defense, or may assist the enemy or endanger the successful prosecution of the war," to be kept secret. No label was devised for this action. Quite the contrary, the means provided for maintaining this secrecy was to "withhold the grant of a patent until the end of the war." This would appear to be the first direct statutory grant of authority to the Executive to declare a type of information secret. Also, although the provision pertained to defense policy, utilization of this authority was placed in civilian, not military hands.

There is speculation that reference to the Espionage Act was made in Compilation of Orders No. 6 to emphasize the precautions for safeguarding defense information upon a wartime army composed of new recruits at all ranks.

There is no indication that there was any realization at this time that difficulties could arise in enforcing the Espionage Act if official information relating to the national defense was not marked as such, insofar as it was intended to be protected from unauthorized dissemination. Violation of the first three subsections of Section I, Title I, of the act depended in the one case on material relating to the national defense having been turned over to someone not entitled to receive it" and in the other case on such material having been lost or compromised through "gross negligence." Since the expression "relating to the national defense" was nowhere defined the possibility of the public being permitted to have any authenticated knowledge whatever about the national defense, even the fact

<sup>17</sup> *Ibid.*, pp. 28-29.

that Congress had passed certain legislation related thereto, depended on application of the expressions "not entitled to receive it" and "gross negligence."

In any prosecution for violation of either of the last two subsections the burden of proving that one or the other key expression had application in the case would rest on the prosecution, and proof would be difficult unless clear evidence could be adduced that authority had communicated its intention that the specific material involved should be protected or unless that material was of such a nature that common sense would indicate that it should be protected. For purposes of administering these two subsections of the Espionage Act the marking of defense information that is to be protected is almost essential, and its marking can also be of great assistance for purposes of administering the preceding three subsections.

It would be logical to suppose that the marking of defense information began out of legal necessities for administering the Espionage Act, but the indications are that such was not the case. The establishment of three grades of official information to be protected by markings was apparently something copied from the A.E.F., which had borrowed the use of such markings from the French and British.<sup>18</sup>

### *III. Peacetime Protection*

Changes in military regulations governing the protection of sensitive information did not occur until well after the armistice and return of American troops from Europe. On January 22, 1921 the War Department issued a pamphlet (Army Regulations No. 330-5) entitled "DOCUMENTS: 'Secret,' 'Confidential,' and 'For Official Use Only,'" which, with slight modification, constituted a compilation of the wartime information regulations which were to remain in force during peacetime. Its essential provisions, with regard to the utilization of the classification markings, were that (1) "Secret" was to be used on information "of great importance and when the safeguarding of that information from actual or potential enemies is of prime necessity;" (2) "Confidential" pertained to material "of less importance and of less secret nature than one requiring the mark of 'Secret,' but which must, nevertheless, be guarded from hostile or indiscreet persons;" and (3) "For official use only" had reference to "information which is not to be communicated to the public or to the press, but which may be communicated to any person known to be in the service of the United States whose duty it concerns, or to persons of undoubted loyalty and discretion who are cooperating with Government work."

A basic shortcoming of these regulations would seem to be the inferred unspecific qualitative nature of the instruction pertaining to the use of "Confidential." The presumption is that regulations pertaining to the use of the "Secret" marking are sufficiently clear that material warranting this designation might be easily distinguished from that in the "Confidential" category *and* that the person affixing "Confidential" to a document had some qualitative familiarity with "Secret" information. Another fault of this directive

<sup>18</sup> *Ibid.*, pp. 31-32.

is its failure to relate itself to the Espionage Act of 1917 or to limit itself to defense information. It merely provided for the continuation of a system of markings that had been established in war time. This system was not a product of any thoughtful consideration of the general problem of protecting defense information and other official information. It was a result of reflex response to immediate necessities arising in the prosecution of the war.<sup>19</sup>

Two commendable aspects of the instructions, in terms of subsequent policy developments, were the inclusion of the name, authority, and date of the affixing officer classifying a document and provisions for the cancellation of a mark at a later time. These points served to emphasize that responsibility must be personally borne for restricting information, that limitation must be carried out under established authority of some type, and that a time might arise when the protection was no longer warranted, desirable, or needed.

Between 1921 and 1937 the regulation underwent various modifications and changes. Only two major policy shifts appear to have occurred during these revisions. A February 12, 1935 edition of the pamphlet introduced "Restricted," a fourth marking designed to protect "research work or the design, development, test, production, or use of a unit of military equipment or a component thereof which it is desired to keep secret." The provision further noted that the class of information which this new label was designed to safeguard "is considered as affecting the national defense of the United States within the meaning of the Espionage Act (U.S.C. 59:32)." The instructions regarding the other three information markings still contained no reference to the Espionage Act.

The following year, Army regulations of February 11, 1936, omitted "For Official Use Only" and redefined the other markings. Of particular interest is the broadened understandings of the type of information to which these labels might be applied, including foreign policy material and what might be properly called "political" data. "Secret" referred to information "of such nature that its disclosure might endanger the national security, or cause serious injury to the interests or prestige of the Nation, an individual, or any government activity, or be of great advantage to a foreign nation." Similarly, "Confidential" could be applied to material "of such a nature that its disclosure, although not endangering the national security, might be prejudicial to the interests or prestige of the Nation, an individual, or any government activity, or be of advantage to a foreign nation." And "Restricted" might be used in instances where information "is for official use only or of such a nature that its disclosure should be limited for reasons of administrative privacy, or should be denied the general public." The outstanding characteristic of these provisions is their broad discretionary nature with regard to subjects of application. While initial regulations were designed to safeguard coastal defense facility information, 1936 saw the possibility of information restriction policy extending to almost any area of governmental activity. Such regulations were promulgated without any clear statutory au-

<sup>19</sup> *Ibid.*, p. 34.

thority. Even the Espionage Act was designed for wartime use. Yet, under armed forces directives governing information protection during the late 1930s, "to reveal secret, confidential, or restricted matter pertaining to the national defense is a violation of the Espionage Act," according to Army regulations of 1937.

In *Changes in Navy Regulations and Naval Instructions No. 7* of September 15, 1916, that service had gone so far as to prescribe that "Officers resigning are warned of the provision of the national defense secrets act," implying that former Naval personnel returned to civilian life could not, without subjecting themselves to prosecution, discuss information which had been protected under Navy regulations. The violation in question would involve the 1911 secrets law (36 Stat. 1084), not the Navy's directives on the matter. The point is an interesting one in that it illustrates armed forces regulations pertaining to the protection of information, though not promulgated in accordance with a statute, enjoyed the color of statutory law for their enforcement.

The omission of "For official use only" from Army regulations in 1936 raises another ponderable: to what extent was this referent used after that date. Habits are difficult to break, perhaps more so in the framework of military regimen. The label had been used since the establishment of the A.E.F. in France. Were the old stamps kept, used, obeyed? To what extent were other markings fabricated and applied: "private," "official," "airmen only." No informative response can be made to this question. The point is that by the late 1930s, restriction labels knew no bounds: they could be applied to virtually any type of defense or non-defense information; they pertained to situations involving "national security," a policy sphere open to definition within many quarters of government and by various authorities; and they carried sanctions which left few with any desire to question their appropriateness or intention.

If, in terms of the multiplicity of policy areas to which they could be applied, the significance of a system of information control markings came to be realized within the higher reaches of government leadership, it is not surprising that the management of these matters should be seized by the very highest level of authority within the Executive Branch. There were, of course, political advantages, but the dictates of good administration also prompted such action. The first presidential directive on the matter (E.O. 8381), issued March 22, 1940, was purportedly promulgated in accordance with a provision of a 1938 law (52 Stat. 3) which read:

Whenever, in the interests of national defense, the President defines certain vital military and naval installations or equipment as requiring protection against the general dissemination of information thereto, it shall be unlawful to make any photograph, sketch, picture, drawing, map, or graphical representation of such vital military and naval installation or equipment without first obtaining permission of the commanding officer.

Utilizing the provision regarding "information relative thereto," the President authorized the use of control labels on "all official military or naval books, pamphlets, documents, reports, maps, charts, plans, de-

signs, models, drawings, photographs, contracts or specifications which are now marked under the authority of the Secretary of War or the Secretary of the Navy as 'secret,' 'confidential,' or 'restricted,' and all such articles or equipment which may hereafter be so marked with the approval or at the direction of the President." Commenting on this situation, one authority has noted :

Congress, in passing the act of January 12, 1938 [52 Stat. 3], can hardly have expected that it would be interpreted to be applicable to documentary materials as "equipment." . . . The Provisions of the Executive order were probably a substitute for equivalent express provisions of law that Congress could not be expected to enact. Mention may be made in this connection of the refusal of Congress, long after the attack on Pearl Harbor, to pass the proposed War Security Act submitted to Congress by Attorney General Francis Biddle on October 17, 1942 (H.R. 1205, 78th Congress, 1st Session).<sup>20</sup>

Noteworthy, as well, is the wholesale adoption of the broad definitions, prescribed by the armed forces, of the types of policy to which these markings might be applied. Revision or modification of these jurisdictions or the scope of label applications remained, essentially, with the officers of the War and Navy Department. No civilian control was provided over the frequency or appropriate use of the labels. It was apparently presumed that the markings would be utilized only by the armed services.

#### IV. World War II

With the advent of the Second World War, more widespread use of an information protection system was required. In addition, large numbers of civilians would be responsible for its administration and operation. Approximately one year after the entry of the United States into the hostilities it became necessary to establish government-wide regulations regarding security classification procedures. The principal instrumentality issuing directives on this matter was the Office of War Information. Established (E.O. 9182) on June 13, 1942 as a unit within the Office for Emergency Management, the War Information panel consisted of the consolidated Office of Facts and Figures, Office of Government Reports, Division of Information of the Office for Emergency Management, and segments of the Foreign Information Service. It operated until its abolition (E.O. 9608) on August 31, 1945, when its peacetime functions were transferred to the Bureau of the Budget and the Department of State.<sup>21</sup>

On September 28, 1942, the Office of War Information issued Regulation No. 4 governing the administration and use of security classification markings on sensitive documents. It is not known how this directive was circulated, but it was not published in the *Federal Register*. The authority under which it was promulgated is also of

<sup>20</sup> *Ibid.*, pp. 48-49.

<sup>21</sup> For general information on the Office of War Information see: Harold Childs, ed. "The Office of War Information. *Public Opinion quarterly*, v. 7, Spring, 1943: entire issue; Elmer Davis and Byron Price. *War Information and Censorship*. Washington, American Council on Public Affairs, 1943.

uncertain origin. Nevertheless, in addition to provisions warning against overclassification and the proper identification, handling, and dissemination of sensitive information, the instrument defined three categories of classification: <sup>22</sup>

*Secret Information* is information the disclosure of which might endanger national security, or cause serious injury to the Nation or any governmental activity thereof.

*Confidential Information* is information the disclosure of which although not endangering the national security would impair the effectiveness of government activity in the prosecution of war.

*Restricted Information* is information the disclosure of which should be limited for reasons of administrative privacy, or is information not classified as confidential because the benefits to be gained by a lower classification, such as permitting wider dissemination where necessary to effect the expedition's accomplishment of a particular project, outweigh the value of the additional security obtainable from the higher classification.

On May 19, 1943, Office of War Information Supplement No. 1 to Regulation No. 4 was issued, prescribing the establishment of the Security Advisory Board.<sup>23</sup> Composed of armed services officers, this unit according to the directive creating it, functioned as "an advisory and coordinating board in all matters relating to carry out the provisions of OWI Regulations No. 4." Again, the authority for promulgating the supplementary instrument and the operating authority of the Board are not clear.

After the end of World War II, the SAB continued to function as a part of the State-War-Navy Coordinating Committee—later the State-Army-Navy-Air Force Coordinating Committee. On March 21, 1947, provisions of Executive Order 9835 directed the SAB to draft rules for the handling and transmission of documents and information that should not be disclosed to the public. A preliminary draft was completed by the SAB but were not issued before the SAB and its parent coordinating committee went out of existence.

After enactment of the National Security Act in 1947 [61 Stat. 495] which created the National Security Council (NSC), the NSC was given responsibility to consider and study security matters, which involve many executive departments and agencies, and to make recommendations to the President in this vital area. The Interdepartmental Committee on Internal Security (ICIS) was subsequently created and the activity of this committee was, according to the Wright Commission [on Government Security established in

<sup>22</sup> A copy of the directive is in the files of the House Government Information and Individual Rights Subcommittee.

<sup>23</sup> *Ibid.*

1955] report, responsible for issuance of Executive Order 10290 in 1951.<sup>24</sup>

Prior to the appearance of the 1951 directive, President Truman promulgated, pursuant to the opening provision of the 1938 defense installations protection law [52 Stat. 3], E.O. 10104 which replaced E.O. 8381 issued by President Roosevelt in accordance with the same authority. Authorization for the same three security classification markings was continued and the new instrument also "formalized the designation 'Top secret,' which had been added to military regulations during the latter part of World War I to coincide with classification levels of our allies."<sup>25</sup> Supervisory authority for carrying out the provisions of the order was vested in the Secretary of Defense and the three armed services secretaries.

It is important to emphasize that through the historical period of the use of classification markings described thus far until 1950, such formal directives, regulations, or Executive orders applied to the protection of military secrets, rarely extending into either those affecting nonmilitary agencies or those involving foreign policy or diplomatic relations. One exception is in the area of communications secrecy, governed by section 798 of the Espionage Act. This law, which protects cryptographic systems, communications intelligence information, and similar matters, applies, of course, to both military and nonmilitary Federal agencies such as the State Department. Aside from more restrictive war-time regulations, nonmilitary agencies had, until 1958, relied generally on the 1789 "housekeeping" statute . . . as the basis for withholding vast amounts of information from public disclosure.<sup>26</sup>

On September 24, 1951, through the issuance of E.O. 10290, President Truman extended the coverage of the classification system to nonmilitary agencies which had a role in "national security" matters. The directive cited no express constitutional or statutory authority for its promulgation. Instead, the Chief Executive seems to have relied upon implied powers such as the "faithful execution of the laws" clause. Although these postures for the order were generally recognized and accepted as a legitimate basis for issuing such an instrument, the President's role in the matter was felt to have limitations as well.<sup>27</sup>

Foremost among these is the well settled rule that an Executive order, or any other Executive action, whether by formal order or by regulation, cannot contravene an act of Congress which is constitutional. Thus, when an Executive order collides with a statute which is enacted pursuant to the constitutional authority of the Congress, the statute will prevail

<sup>24</sup> U.S. Congress. House. Committee on Government Operations. *Executive Classification of Information—Security Classification Problems Involving Exemption (b) (1) of the Freedom of Information Act (5 U.S.C. 552)*. Washington, U.S. Govt. Print. Off., 1973. (93rd Congress, 1st Session. House. Report No. 221), p. 8.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*, pp. 8-9.

<sup>27</sup> See U.S. Congress. House. Committee on Government Operations. *Safeguarding Official Information in the Interests of the Defense of the United States*. Washington, U.S. Govt. Print. Off., 1962. (87th Congress, 2d session. House. Report no. 2456), pp. 29-31

[*Kendall v. United States*, 12 Peters 524 (1838)]. This rule, in turn, gives rise to a further limitation which finds its source in the power of the Congress to set forth specifically the duties of various officers and employees of the executive branch. Since the President can control only those duties of his subordinates which are discretionary, to the extent that the Congress prescribes these duties in detail, these officials can exercise no discretion and their actions cannot be controlled by the President. In other words, if the Congress enacts a statute which is constitutionally within its authority, the President cannot lawfully, either by Executive order, regulation, or any other means, direct his subordinates to disobey that statute, regardless of whether it affects third persons or whether it is only a directive concerning the management of the executive branch of the Government.<sup>28</sup>

The legal justification for the program does not appear as barren as the foregoing seems to imply. Not only have Constitutional grounds (Article II) been put forward to justify the power of the President to establish a classification program, but statutory authority has been inferred from a number of laws, notably the Freedom of Information Act (5 U.S.C.A. 552, as amended by Public Law 93-502), the espionage laws (18 U.S.C.A. 792 et seq., notably sections 795 and 798), the Internal Security Act of 1950 (50 U.S.C.A. 783(b)), and the 1947 National Security Act (61 Stat. 495).<sup>28a</sup>

Congress might attempt to overturn an Executive order by rescinding it or by possibly offering alternative language supplanting or amending the directive (though there would seem to be a constitutional conflict in such a course of action in the case of E.O. 10290). Thus, on September 28, 1951, Senator John W. Bricker (R. Ohio) introduced S. 2190 which provided for the repeal of the directive, but the bill failed to receive any consideration.<sup>29</sup> The order thus remained in effect until 1953.

When President Eisenhower took office in January 1953, he took notice of the widespread criticism of Executive Order 10290 and requested Attorney General [Herbert] Brownell for advice concerning its rescission or revision. On June 15, 1953, the Attorney General recommended rescission of the Executive order and the issuance of a new order which would "protect every requirement of national safety and at the same time, honor the basic tenets of freedom of information."

That fall, President Eisenhower replaced the controversial Truman order with Executive Order No. 10501, "Safeguarding Official Information in the Interests of the Defense of the United States." This order, issued on November 5, 1953, became effective on December 15, 1953; it was amended several

<sup>28</sup> *Ibid.*, pp. 31-32.

<sup>28a</sup> "Developments in the Law—the National Security Interest and Civil Liberties," *Harvard Law Review*, v. 85, 1972, pp. 1130-1198. For judicial recognition of these provisions as plausible justification for a documentation classification program, see the concurring opinion of Mr. Justice Marshall in *New York Times Co. vs. United States*, 403 U.S. 713, 740, 741 (1971).

<sup>29</sup> See *Ibid.*, pp. 33-35.

times in the succeeding years, but for almost twenty years served as the basis for the security classification system until it was superseded in March 1972.<sup>30</sup>

It became necessary for the Eisenhower Administration and its successor to issue clarifying directives and new orders relative to E.O. 10501 over the next decade. The additions included:

Memorandum to Executive Order 10501 (24 F.R. 3779) dated November 5, 1953, specified 28 agencies without original classification authority and 17 agencies in which classification authority is limited to the head of the agency.

Executive Order 10816 (24 F.R. 3777), issued May 7, 1959. This order accomplished the following:

Under Executive Order 10290 (September 24, 1951) all Government agencies had authority to classify information. Executive Order 10501 canceled this authorization for those agencies "having no direct responsibility for national defense," but was silent on the problem of declassifying any information which agencies with no direct defense responsibility had classified previously. The new order clarified the hiatus which had existed.

Under section 7 of Executive Order 10501 only persons whose official duties were in the interest of "promoting national defense" had access to classified information. It was discovered that this excluded persons who wished to examine documents while carrying out bone fide historical research. The new order allowed access to classified information to trustworthy persons engaged in such research projects, provided access was "clearly consistent with the interests of national defense."

The new order allowed the transmission of "confidential" defense material within the United States by certified and first-class mail, in addition to the original authorization to use registered mail.

Memorandum to Executive Order 10501 (24 F.R. 3777), dated May 7, 1959, added 2 agencies to the 28 agencies previously designated by the President as having no authority to classify information under Executive Order 10501.

Memorandum to Executive Order 10501 (25 F.R. 2073), dated March 9, 1960, provided that agencies created after November 5, 1953 (date of issuance of Executive Order 10501), shall not have authority to classify information under the Executive order unless specifically authorized to do so. In addition, the memorandum listed eight such agencies which were granted authority to classify defense material.

Executive Order 10901 (26 F.R. 217), dated January 9, 1961, adopted a "positive" approach to the authority to control national defense information. Prior to this revision, all Government agencies except those specifically listed, could stamp "Top secret," "Secret," or "Confidential" on the information they originated. Executive Order 10901 super-

<sup>30</sup> See *Ibid.*, pp. 33-35.

seded previous authority and listed by name those agencies granted authority to classify security information. The order lists 32 agencies which have blanket authority to originate classified material because they have "primary responsibility for matters pertaining to national defense," and the authority can be delegated by the agency head as he wishes. The order lists 13 agencies in which the authority to originate classified information can be exercised only by the head of agencies which have "partial but not primary responsibility for matters pertaining to national defense." The order states that Government agencies established after the issuance of Executive Order 10901 do not have authority to classify information unless such authority is specifically granted by the President.

Executive Order 10964 (27 F.R. 8932), dated September 20, 1961, set up an automatic declassification and downgrading system. The four classes of military-security documents created are:

(1) Information originated by foreign governments, restricted by statutes, or requiring special handling, which is excluded from the automatic system;

(2) Extremely sensitive information placed in a special class and downgraded or declassified on an individual basis;

(3) Information or material which warrant some degree of classification for an indefinite period will be downgraded automatically at 12 year intervals until the lowest classification is reached; and

(4) All other information which is automatically downgraded every 3 years until the lowest classification is reached and the material is automatically declassified after 12 years.

The order requires that, to the fullest extent possible, the classifying authority shall indicate the group the material falls into at the time of originating the classification.

Executive Order 10985 (27 F.R. 439), dated January 12, 1962, removes from certain agencies the power to classify information, and adds other agencies to the list of those with the authority to classify.<sup>33</sup>

While these changes were being effected, the Executive also established two evaluation commissions to examine the administration and operation of the security classification system and to make recommendations for its improvement. These panels were established at a time when the Special Government Information Subcommittee of the House Government Operations Committee was also undertaking an inquiry into many of the same matters. The activities and recommendations of the Subcommittee will be discussed shortly.

#### *V. The Coolidge Committee*

Shortly after the Special Government Information Subcommittee began its hearings on the availability of information from Federal departments and agencies, the Secretary of Defense, Charles E. Wilson, created, on August 13, 1956, a five-member Committee on Classified

<sup>33</sup> H. Rept. 87-2456, *op. cit.*, pp. 11-12.

Information with Charles A. Coolidge, a prominent Boston attorney and former Assistant Secretary of Defense, as chairman. Other members of the panel were retired high-ranking officers representative of the four armed services. In his letter establishing the committee, the Secretary indicated he was “seriously concerned over the unauthorized disclosure of classified military information” and urged that the group “undertake an examination of the following matters affecting national security”:

1. A review of present laws, executive orders, Department of Defense regulations and directives pertaining to the classification of information and the safeguarding of classified information, to evaluate the adequacy and effectiveness of such documents.

2. An examination of the organizations and procedures followed within the Department of Defense designed to implement the above cited documents, to evaluate the adequacy and effectiveness of such organizations and procedures.

3. An examination of the means available to the Department of Defense to fix responsibility for the unauthorized disclosure of classification information, and to determine the adequacy and effectiveness of such means in preventing future unauthorized disclosures of such information.

4. An examination of the organization and procedures in the Department of Defense designed to prevent the inadvertent disclosure of classified information in any manner.<sup>34</sup>

Utilizing a small staff, the committee did not hold any formal hearings but, according to the chairman, “we had conferences without a stenographer present, to get the opinions of our conferees.” After being charged with their mission by the Secretary, the panel “decided we would hold conferences starting with the Office of the Secretary of Defense organization and running down into the services and in general confer with people throughout the Department of Defense, whom we thought had peculiar knowledge of and interest in security matters.”<sup>35</sup>

The instructions to the Coolidge Committee made no mention of studying overclassification or arbitrary withholding of information from the public and from Congress. In a September 25, 1956, letter to Secretary Wilson, Chairman Moss of the Special Government Information Subcommittee expressed the hope that the Coolidge Committee would also review the withholding aspects of the problem, as had been revealed in the earlier subcommittee hearings. He was assured in an October 9, 1956, response from Assistant Secretary of Defense Ross that since the two subjects are related, “it is probable that the report of the Coolidge Committee will make recommendations bearing on our public information policies

<sup>34</sup> U.S. Congress. House. Committee on Government Operations. Special Subcommittee on Government Information. *Availability of Information from Federal Departments and Agencies (Part 8)*. Hearings, 85th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1957, p. 2010.

<sup>35</sup> *Ibid.*, pp. 2011–2012; a complete list of witnesses appears at pp. 2012–2014.

as well as our procedures for preventing the unauthorized disclosure of classified military information.”<sup>36</sup>

After three months of study, the panel issued a report on November 8, 1956, which contained twenty-eight specific recommendations, ten of which concerned overclassification, and the following general conclusion:

Our examination leads us to conclude that there is no conscious attempt within the Department of Defense to withhold information which under the principles set forth at the beginning of this report the public should have; that the classification system is sound in concept and, while not operating satisfactorily in some respects, it has been and is essential to the security of the nation; and that further efforts should be made to cure the defects in its operation.<sup>37</sup>

With the publication of the committee’s report, Chairman Coolidge and members of the panel went before the House Special Government Information Subcommittee to discuss their findings and recommendation.<sup>38</sup> A few months later the Department of Defense implemented portions of the study’s recommendations.<sup>39</sup>

Secretary Wilson issued a new DoD directive covering the procedures for classification of security information under Executive Order 10501. His July 8, 1957, action replaced a dozen previous directives and memorandums and consolidated classification instructions into a single new document—DoD Directive 5200.1—entitled “Safeguarding Official Information in the Interests of the Defense of the United States.” It incorporated a number of the specific recommendations made by the Coolidge Committee.

Despite concern over the problem of overclassification, the Coolidge Committee made no recommendation for penalties or disciplinary action in cases of misuse of abuse of classification. The new DoD directive did mention disciplinary action for overclassification, but there is no evidence of its ever having been used.<sup>40</sup>

## VI. *The Wright Commission*

Paralleling the activities of the Coolidge Committee was the Commission on Government Security, established by law (69 Stat. 595)

<sup>36</sup> H. Rept. 93-221, *op. cit.*, p. 16.

<sup>37</sup> U.S. Department of Defense. Committee on Classified Information. *Report to the Secretary of Defense by the Committee on Classified Information*. Washington, Department of Defense, 1956, p. 23.

<sup>38</sup> U.S. Congress. House. Committee on Government Operations. Special Subcommittee on Government Information. *Availability of Information From Federal Departments and Agencies (Part 8)*, *op. cit.*, pp. 2011-2095, 2097-2132; the entire report of the Coolidge Committee may be found at pp. 2133-2160.

<sup>39</sup> See U.S. Department of Defense. Office of the Secretary of Defense. *Department of Defense Implementation of Recommendations of Coolidge Committee on Classified Information*. Washington, Department of Defense, 1957 (published in two parts).

<sup>40</sup> H. Rept. 93-221, *op. cit.*, p. 17; DoD Directive 5200.1 may be found in U.S. Congress. House. Committee on Government Operations. Special Subcommittee on Government Information. *Availability of Information From Federal Departments and Agencies (Part 13)*. Hearings, 85th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1957, pp. 3243-3260.

on August 9, 1955, and taking its popular name from its chairman, prominent Los Angeles attorney and former American Bar Association president, Loyd Wright. Composed of six Republicans and six Democrats, four of whom were selected by the President, four by the Speaker of the House and four by the President of the Senate, the panel's mandate was thus expressed (69 Stat. 596-597):

The Commission shall study and investigate the entire Government Security Program, including the various statutes, Presidential orders, and administrative regulations and directives under which the Government seeks to protect the national security, national defense secrets, and public and private installations, against loss or injury arising from espionage, disloyalty, subversive activity, sabotage, or unauthorized disclosures, together with the actual manner in which such statutes, Presidential orders, administrative regulations, and directives have been and are being administered and implemented, with a view to determining whether existing requirements, practices, and procedures are in accordance with the policies set forth in the first section of this joint resolution, and to recommending such changes as it may determine are necessary or desirable. The Commission shall also consider and submit reports and recommendations on the adequacy or deficiencies of existing statutes, Presidential orders, administrative regulations, and directives, and the administration of such statutes, orders, regulations, and directives, from the standpoints of internal consistency of the overall security program and effective protection and maintenance of the national security.

Organized in December, 1955, the Commission was sworn on January 9, 1956. Four special subject subcommittees were formed with a panel on Legislation and Classification of Documents composed of James P. McGarney, chairman, Senator Norris Cotton (R.-N.H.), Senator John Stennis (D.-Miss.), and, ex officio, Chairman Wright.

After acquiring office space in the General Accounting Office building, the Commission began recruiting a staff for its challenging task. The chairman, with the approval of the Commission, selected the supervisory staff, consisting of an administrative director, a director of project surveys, a director of research, a general counsel, a chief consultant and an executive secretary.

The entire staff, carefully selected on a basis of personal integrity, unquestionable loyalty, and discretion, combined with appropriate experience and a record of devotion to duty in responsible positions, worked under the personal direction of the Chairman.

To avoid entanglement in public controversies, to maintain an objective and impartial approach to its work, the Commission held no public hearings and made no press releases or public statements reflecting its view or describing its activities.<sup>41</sup>

<sup>41</sup> Commission on Government Security. *Report of the Commission on Government Security*. Washington, U.S. Govt. Print. Off., 1957. (85th Congress, 1st session. Senate. Document No. 64), pp. xiv-xv.

The Commission enlisted the assistance of four private consultants and the loan of two special aides from the Senate Office of Legislative Counsel and Government Printing Office. Expert advice was also recruited through a Citizens Advisory Committee which met with the Commission on three occasions. "During each of the several sessions many aspects of the Commission's conclusions and recommendations were discussed. These conferences provided views that emanated from fresh, new perspectives, and contributed to the solution of many complex and challenging problems."<sup>42</sup>

On June 23, 1957, the Commission issued a massive 807-page report on various aspects of government security policy and operations. A small portion of the document surveyed the historical evolution of the document classification program, examined the legal basis for the then existing arrangements, and scrutinized the scope and mechanics of the operation. The report also offered suggestions for the improvement of the classification effort, saying, in summary:

The changes recommended by the Commission in the present program for classification of documents and other material are of major importance. The most important change is that the Confidential classification be abolished. The Commission is convinced that retention of this classification serves no useful purpose which could not be covered by the Top Secret or Secret classification. Since the recommendation is not retroactive it eliminates the immediate task of declassifying material now classified Confidential. The Commission also recommends abolition of the requirement for a personal security check for access to documents or material classified Confidential. The danger inherent in such access is not significant and the present clearance requirements afford no real security-clearance check.

The report of the Commission stresses the dangers to national security that arise out of overclassification of information which retards scientific and technological progress, and thus tends to deprive the country of the lead time that results from the free exchange of ideas and information.<sup>43</sup>

The Commission also addressed the attitude it found that Congress had taken toward rules for classification, and the balance between free speech and national security:

Congressional inaction in this particular area can be traced to the genuine fear of imposing undue censorship upon the bulk of information flowing from various governmental agencies and which the American people, for the most part, have the right to know. Any statute designed to correct this difficulty must necessarily minimize Constitutional objections by maintaining the proper balance between the guarantee of the first Amendment, on the one hand, and required measures to establish a needed safeguard against any real danger to our national security.<sup>43a</sup>

<sup>42</sup> *Ibid.*, p. vii; consultants are listed at p. ii and members of the Citizens Advisory Committee may be found at pp. vii-ix.

<sup>43</sup> *Ibid.*, pp. xix-xx.

<sup>43a</sup> *Ibid.*, p. 620.

The Wright Commission also provoked two major controversies. The first of these was an allegation that the press often breached security by utilizing classified information either directly or indirectly in news stories. It was also charged that such information had been purloined by journalists. Challenged by the House Special Subcommittee on Government Information, neither assertion was substantiated.<sup>44</sup>

The most controversial portion of the Wright Commission recommendations was its proposal urging Congress to "enact legislation making it a crime for any person willfully to disclose without proper authorization, for any purpose whatever, information classified 'secret' or 'top secret' knowing, or having reasonable grounds to believe, such information to have been so classified." The recommended bill would impose a \$10,000 fine and jail term of up to 5 years for those convicted of violating its provisions. The Commission made it clear that its proposal was aimed at persons outside of government, such as newsmen. The recommendation was soundly criticized in articles and editorials from such papers as the New York Times, Baltimore Sun, Chicago Daily Sun-Times, Boston Traveler, Cleveland Plain Dealer, Detroit Free Press, Washington Post and Times Herald, and Editor and Publisher. One article by James Reston of the New York Times pointed out that it would have even resulted in the prosecution of the reporter, Paul Anderson of the St. Louis Post Dispatch, who uncovered and published "secret" documents in the "teapot Dome" scandal during the 1920's.<sup>45</sup>

### VII. The Moss Committee

While a number of congressional committees have some aspects of government information policy within their jurisdiction, the House of Representatives devoted concentrated attention to the matter in 1955 with the creation of the Special Government Information Subcommittee of the Government Operations Committee. The establishment of the panel was due to a variety of factors. According to one authority, the event "took place in an atmosphere of press concern about growing post-war secrecy in general and the Eisenhower Administration's information policies in particular. In November 1954, just as the nation was electing a Democratic Congress, the Administration established the controversial Office of Strategic Information."<sup>46</sup> This particular agency of the Commerce Department was reportedly "responsible for formulating policies and providing advice and guidance to public agencies, industry and business, and other

<sup>44</sup> See: U.S. Congress. House. Committee on Government Operations. Special Subcommittee on Government Information. *Availability of Information from Federal Departments and Agencies (Part 10)*. Hearings, 85th Congress 1st session, Washington, U.S. Govt. Print. Off., 1957, p. 2435 *Ibid.* (Part 13), pp. 3305-3316; U.S. Congress. House. Committee on Government Operations. *Availability of Information from Federal Departments and Agencies*. Washington, U.S. Govt. Print. Off., 1958. (85th Congress, 2d session. House. Report No. 1884), pp. 14-19, 31-39.

<sup>45</sup> H. Rept. 93-221, *op. cit.*, p. 21; the bill appears in Commission on Government Security, *op. cit.*, p. 737.

<sup>46</sup> Robert O. Blanchard. Present at the Creation: the Media and the Moss Committee. *Journalism Quarterly*, v. 49, Summer, 1972: 272.

private groups who are concerned with producing and distributing unclassified scientific, technical, industrial, and economic information, the indiscriminate release of which may be inimical to the defense interests of the United States.”<sup>47</sup> The criticisms leveled against the Office included “adding new classification categories of government, failing to define ‘strategic information’ in a clear-cut way that would limit the operation of the agency, favoring some companies with information withheld from others, and calling for voluntary withholding of publication or broadcast of ‘strategic information.’”<sup>48</sup> The press community was particularly interested in such a subcommittee given the experience of the Freedom of Information Committee of the American Society of Newspaper Editors. Relying upon a March 29, 1955 directive from the Secretary of Defense regarding the limiting of departmental information activities to matters that would make “a constructive contribution” to the mission of DoD, Deputy Assistant Secretary (Public Affairs) Karl Honaman responded to an information request from the editors’ group, saying:

The public is eager to be informed of the activities of the Defense Department and need to have this information in order to play their part effectively as citizens. There are, nevertheless, many cases where demands for information which take up the time of people with busy schedules do not truly meet the requirement of being useful or valuable, nor yet very interesting to the public. These are tests that should be met. Thus, I would substitute for self-service, public-serving, and I am sure this is a part of the interpretation of constructive.<sup>49</sup>

The Defense Secretary’s directive, the experience and outcry of the American Society of Newspaper Editors, and the mounting penchant for information control within the Executive were of sufficient concern to Government Operations Committee Chairman William L. Dawson (D.-Ill.) and House Majority Leader John McCormack (D.-Mass.) that they agreed to the creation of a government subcommittee and selected Rep. John E. Moss (D.-Calif.) as chairman. Since 1963 the panel has functioned as a standing subcommittee of the Government Operations Committee. In 1971, Rep. Moss relinquished leadership of the unit whereupon Rep. William S. Moorhead (D.-Pa.) became chairman; in 1975 Rep. Bella S. Abzug (D.-N.Y.) assumed direction of the panel.

In its 2-year study of security classification policies that spanned the Coolidge and Wright groups, the House Government Information Subcommittee concentrated heavily on the Department of Defense. The conclusions and recommendations made, in turn, through reports of the full Government Operations Committee are particularly important to recall because they pinpointed major problem areas which

<sup>47</sup> U.S. General Services Administration. National Archives and Records Service, Federal Register Division. *United States Government Organization 1955-56*. Washington, U.S. Gov’t. Print. Off., 1955, p. 258.

<sup>48</sup> Blanchard, *loc. cit.*

<sup>49</sup> Cited in James Russell Wiggin, *Freedom or Secrecy, Revised Edition*. New York, Oxford University Press, 1964, p. 109.

existed over 15 years ago. They also proposed a number of specific recommendations to correct many of these problems . . . —recommendations that were largely ignored by both Republican and Democratic administrations. Had such recommendations been properly implemented by top Pentagon officials, it is possible that the security classification “mess” referred to by President Nixon almost 14 years after the issuance of the first of these committee reports could have long since been corrected.<sup>50</sup>

On the general matter of the administration of information policy and operations by the military, the Subcommittee observed:

Never before in our democratic form of government has the need for candor been so great. The Nation can no longer afford the danger of withholding information merely because the facts fail to fit a predetermined “policy.” Withholding for any reason other than true military security inevitably results in the loss of public confidence—or a greater tragedy. Unfortunately, in no other part of our Government has it been so easy to substitute secrecy for candor and to equate suppression with security.

And further on in the same report:

In a conflict between the right to know and the need to protect true military secrets from a potential enemy, there can be no valid argument against secrecy. The right to know has suffered, however, in the confusion over the demarcation between secrecy for true security reasons and secrecy for “policy” reasons. The proper imposition of secrecy in some situations is a matter of judgment. Although an official faces disciplinary action for the failure to classify information which should be secret, no instance has been found of an official being disciplined for classifying material which should have been made public. The tendency to “play it safe” and use the secrecy stamp, has therefore, been virtually inevitable.<sup>51</sup>

When the Subcommittee once again turned its attention to security classification policy in 1972, a study of the administration of E.O. 10501 revealed “that administrative penalties are the only type of action taken in cases involving improper physical protection of information. No criminal charges were ever made by the agencies surveyed. . . .”<sup>52</sup> No actions were taken against known cases of overclassification.<sup>53</sup>

With regard to the allegations of Chairman Wright of the Commission on Government Security that newsmen were “purloining” classified documents, the Subcommittee concluded:

<sup>50</sup> H. Rept. 93-221, *op cit.*, p. 21.

<sup>51</sup> H. Rept. 85-1884, *op. cit.*, p. 152.

<sup>52</sup> See U.S. Congress, House, Committee on Government Operations, *U.S. Government Information Policies and Practices—Security Classification Problems Involving Subsection (b)(1) of the Freedom of Information Act (Part 7)*. Hearings, 92nd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1972, p. 2932.

<sup>53</sup> *Ibid.*, pp. 2926-2937.

No member of the press should be immune from responsibility if sound evidence can be produced to prove that he has in fact deliberately "purloined" and knowingly breached properly classified military secrets, But the press must not be made the whipping boy for weaknesses in the security system caused by overzealous censors who misuse that system to hide controversy and embarrassment.<sup>54</sup>

As a consequence of its first study of the security classification system and the administration of E.O. 10501, the Subcommittee made the following recommendations to improve operations.

1. The President should make effective the classification appeals procedure under section 16 of the Executive Order 10501 and provide for a realistic, independent appraisal of complaints against overclassification and unjustified withholding of information.

2. The President should make mandatory the marking of each classified document with the future date or event after which it will be reviewed or automatically downgraded or declassified.

3. The Secretary of Defense should set a reasonable date for the declassification of the huge backlog of classified information, with a minimum of exceptions.

4. The Secretary of Defense should direct that disciplinary action be taken in cases of overclassification.

5. The Secretary of Defense should completely divorce from the Office of Security Review the function of censorship for policy reasons and should require that all changes made or suggested in speeches, articles and other informational material be in writing and state clearly whether the changes are for security or policy reasons.

6. The Secretary of Defense should establish more adequate procedures for airing differences of opinion among responsible leaders of the military services before a final policy decision is made.

7. The Congress should reaffirm and strengthen provisions in the National Security Act giving positive assurance to the Secretaries and the military leaders of the services that they will not be penalized in any way if, on their own initiative, they inform the Congress of differences of opinion after a policy decision has been made.<sup>55</sup>

Although these suggestions, as previously noted, failed to obtain any response or support for implementation from the Executive, the Subcommittee was not without some successes in its efforts to reduce unnecessary secrecy practices in information management. As the panel later saw the situation,<sup>56</sup> the Department of Defense responded to its

<sup>54</sup> H. Rept. 85-1884, *op. cit.*, 154-155.

<sup>55</sup> *Ibid.*, p. 161.

<sup>56</sup> See U.S. Congress, House, Committee on Government Operations, *Availability of Information from Federal Departments and Agencies (Progress of Study, February, 1957-July, 1958)*. Washington, U.S. Govt. Print. Off., 1958. (85th Congress, 2d session. House. Report no. 2578), pp. 58-60.

wishes by issuing a new directive dated September 27, 1958 which, according to the Pentagon's press release

. . . establishes a new method by which millions of military documents, originated prior to January 1, 1946, and classified top secret, secret, and confidential will now be downgraded or declassified.

The new directive which becomes effective 60 days after signature, automatically cancels, except within a few limited categories, the security classifications on millions of documents which no longer need protection in the national interest. In addition, the directive will downgrade to secret all top secret documents which are exempted from declassification.<sup>57</sup>

Although the substance of the order was most agreeable to the Subcommittee, the successful implementation of it, in the opinion of the Subcommittee left much to be desired. An April 15, 1959 report to the Moss panel from the DOD Office of Declassification Policy indicated that means to carry out the directive were still under discussion.<sup>58</sup>

Additional efforts were made by the subcommittee to reduce the number of executive agencies authorized to exercise classification authority under Executive Order 10501. Studies on the use of classification authority by a list of agencies surveyed by the subcommittee were made available to the White House and on March 9, 1960, President Eisenhower signed a memorandum having the effect of prohibiting some 33 Federal agencies from classifying information under the Executive order. President Eisenhower later issued Executive Order 10901 on January 9, 1961, prohibiting 30 additional agencies from classifying military information, thus limiting classification authority to 45 specifically named departments and agencies.<sup>59</sup>

The Subcommittee felt that, as constituted a decade before, it had succeeded in prompting another DOD directive regarding the declassification of post-World War II documents.

The . . . directive was originally scheduled to take effect on December 27, 1960, but its effective date was postponed until May 1, 1961. It applied to documents originated on or after January 1, 1946, and established two "time ladders" for automatically downgrading or declassifying documents after specific time levels have elapsed. Non-exempted material would be downgraded at 3-year intervals from top secret to secret to confidential, and automatically declassified after a total of 12 years' existence in a classified status. Exempted material, such as war plans, intelligence documents, and similar

<sup>57</sup> U.S. Congress. House. Committee on Government Operations. *Availability of Information from Federal Departments and Agencies (Progress of Study, August, 1958-July, 1959)*. Washington. U.S. Govt. Print. Off., 1959. (86th Congress, 1st session. House. Report no. 1137), pp. 81-82; the text of the directive may be found at pp. 87-91.

<sup>58</sup> *Ibid.*, pp. 93-97; H. Rept. 93-221, *op. cit.*, p. 24.

<sup>59</sup> H. Rept. 93-221, *op. cit.*, pp. 24-25.

information, would be downgraded from top secret to secret to confidential at 12-year intervals but would not be automatically declassified. The automatic downgrading and declassification provisions of DOD Directive 5200.10 were subsequently incorporated into Executive Order 10964, issued by President Kennedy on September 20, 1961.

Executive Order 10964 also added a new section 19 to Executive Order 10501 directing department heads to "take prompt and stringent administrative action" against Government personnel who knowingly and improperly release classified information. Where appropriate, it directed that such cases be referred to the Justice Department for possible prosecution under applicable criminal statutes.<sup>60</sup>

With the advent of a new administration in 1961, both President Kennedy and Secretary of Defense Robert McNamara were apprised of the Subcommittee's findings and suggestions with regard to the administration of information policy. "Among the major recommendations was a proposal to make effective the classification appeals procedure available under section 16 of Executive Order 10501, so as to provide for a realistic independent appraisal of complaints against overclassification and unjustified withholding of information. While the President did name Mr. Lee C. White, Assistant Special Counsel to the President, as the designated person to receive complaints under section 16, there is no indication that the procedure was utilized."<sup>61</sup>

It was also at this time that the Subcommittee began turning its attention to legislation to assist in and otherwise clarify public access to documentary government information. By 1963 a variety of measures began to be introduced and hearings were undertaken on the matter. The result was the Freedom of Information Act (80 Stat. 250) signed into law by President Johnson on July 4, 1966 to go into effect one year later.<sup>62</sup> In its provision of permissive exemptions of categories of information which might be withheld from the public, the legislation recognized records "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy."<sup>63</sup>

When oversight hearings on the administration and operation of the act were undertaken by the Foreign Operations and Government Information Subcommittee, successor to the Moss panel, in 1972, scrutiny of the Executive's utilization of this exemption to withhold information resulted in a broad re-examination of the security classification program. Relevant major findings were that, according to a survey of the department and agencies regarding four years' administration of the law, the secret information exemption ranked third in

<sup>60</sup> *Ibid.*, p. 25

<sup>61</sup> *Ibid.*

<sup>62</sup> For a legislative history of the act see U.S. Congress. House. Committee on Government Operations. *U.S. Government Information Policies and Practices—Administration and Operation of the Freedom of Information Act (Part 4)*. Hearings, 92nd Congress, 2d session. Washington, U.S. Gov't Print. Off., 1972, pp. 1367-1373.

<sup>63</sup> See 5 U.S.C. 552 (b) (1). 1970 ed: this language was amended in 1974 by P.L. 93-502 which strengthened portions of the FOI law.

a field of nine in terms of being one of the least utilized provisions for withholding documents.<sup>64</sup>

Another revelation resulting from the proceedings concerned the costs of classification operations. One expert witness, a retired Air Force official with many years of experience on the subject, testified:

There is a massive wastage of money and manpower involved in protecting this mountainous volume of material with unwarranted classification markings. Last year, I estimated that about \$50 million was being spent on protective measures for classified documents which were unnecessarily classified. After further observation and inquiry, and including expenditures for the useless clearances granted people for access to classified material, it is my calculation that the annual wastage for safeguarding documents and equipment with counterfeit classification markings is over \$100 million.<sup>65</sup>

Although the Defense Department reported that there was "no available data on the total costs which could be attributed to security classification or to the protection and handling of classified documents and materials,"<sup>66</sup> the Subcommittee commissioned a General Accounting Office study on the matter.<sup>67</sup> In remarks on the House floor, Chairman Moorhead compared the results of the GAO analysis with an Office of Management Budget report on public information costs, saying:

The GAO analysis was requested last summer [1971] by the Foreign Operations and Government Information Subcommittee, which is charged with the duty of determining the economy and efficiency of Government information activities. The OMB figures were compiled from reports of Government agencies the year after they were ordered by President Nixon to cut down "self-serving and wasteful public relations activities" outside the White House [1971].

The GAO surveyed the secrecy systems in the Departments of Defense and State, the Atomic Energy Commission, and the National Aeronautics and Space Administration—the four agencies responsible for the huge bulk of documents classified under the secrecy system. Those four agencies, the GAO reported, spend \$126,322,394 annually on various activ-

<sup>64</sup> See U.S. Congress. House. Committee on Government Operations. *U.S. Government Information on Policies and Practices—Administration and Operation of the Freedom of Information Act (Part 4)*, op. cit., pp. 1342-1343.

<sup>65</sup> U.S. Congress. House. Committee on Government Operations. *U.S. Government Information Policies and Practices—Security Classification Problems Involving Subsection (b) (1) of the Freedom of Information Act (Part 7)*, op. cit., p. 2532.

<sup>66</sup> U.S. Congress. House. Committee on Government Operations. *U.S. Government Information Policies and Practices—The Pentagon Papers (Part 2)*. Hearings, 92nd Congress, 1st session. Washington, U.S. Govt. Print. Off., 1971, p. 690.

<sup>67</sup> For the entire study and accompanying papers see U.S. Congress. House. Committee on Government Operations. *U.S. Government Information Policies and Practices—Security Classification Problems Involving Subsection (b) (1) of the Freedom of Information Act*, op. cit., pp. 2286-2293.

ities related to the security classification system, such as the classification, declassification, storing, and safeguarding of Government documents and the conduct of personnel security investigations.

The OMB listed the annual expenditures of the same four agencies for all of their public information programs as \$64,029,000.

While the \$126,000,000 annual secrecy expense covers the top four secret-generating agencies in Government, it is only a part of the total cost of hiding information from the public. The GAO admitted that even their experts could not get all of the data necessary to arrive at the total cost of the security classification system. They said they had to use assumptions, extrapolations, and [sic] other cost-estimating techniques and to ignore some costs where estimates could not be readily developed.

One of the biggest blanks in the GAO study of the cost secrecy is the money that defense contractors charge the taxpayers for their role in the Government's secrecy system. None of the big four Government agencies gave the GAO firm figures on this cost, but we are working with the auditors to develop a firm estimate on the cost of secrecy added to defense contracts. It will, I fear, add hundreds of millions of dollars to the secrecy budget.<sup>68</sup>

The third major finding of the Subcommittee was that Executive departments and agencies were variously utilizing some 62 different information control markings to limit the distribution and dissemination of documents upon which they appear. Their number did not include the "Top secret," "Secret," and "Confidential" labels authorized by E.O. 10501 and, in virtually every case, they were promulgated and used without any statutory authority.<sup>69</sup> An added note of discomfort derives from the fact that additional such markings might exist and be employed to restrict information. There was no assurance from Executive Branch witnesses that any management or elimination of these document control labels would be undertaken.

#### *VIII. Other Congressional Actors*

The House Government Information Subcommittee was not, of course, the only congressional panel involved in security classification policy matters. During a hearing in 1970, a subcommittee of the Senate Foreign Relations Committee challenged the authority of the President to promulgate E.O. 10501. The legal adviser of the State Department, with the approval of the Justice Department, responded by citing justifications for the order which appeared in the 1957 *Report of the Commission on Government Security* which cited the 1789 "housekeeping" statute (1 Stat. 68), portions of the Espionage Act of 1917 (40 Stat. 217), segments of the Internal Security Act of 1950 (64 Stat. 987), and the authority of the National Security Act

<sup>68</sup> *Congressional Record*, v. 118, May 15, 1972: H4557-H4558.

<sup>69</sup> See U.S. Congress, House, Committee on Government Operations, *U.S. Government Information Policies and Practices—Security Classification Problems, Involving Subsection (b) (1) of the Freedom of Information Act, op. cit.*, p. 2933.

of 1947 (61 Stat. 495.)<sup>70</sup> No additional action was taken by the subcommittee on the question.

In the spring of 1972 the Special Intelligence Subcommittee of the House Armed Forces Committee held hearings on the Nixon Administration's new classification directive, E.O. 11652, prevailing classification administration, and a bill to create a continuing classification policy study commission. During eight days of testimony the panel heard largely Executive Branch witnesses.<sup>71</sup> The bill did not receive endorsement and no report has yet been issued on the proceedings.

*E.O. 11652*

Publication of the now famous "Pentagon Papers" prompted congressional inquiry into the collection, unauthorized removal, dissemination, and press reproduction of these documents.<sup>72</sup>

After the eruption of the controversy over the publication of parts of the "Pentagon Papers" by the New York Times, Washington Post, and other newspapers, it was revealed that President Nixon had, on January 15, 1971, directed that "a review be made of security classification procedures now in effect." He established an "interagency committee to study the existing system, to make recommendations with respect to its operation and to propose steps that might be taken to provide speedier declassification." He later directed that "the scope of the review be expanded to cover all aspects of information security."<sup>73</sup>

The interagency committee created was headed by William H. Rehnquist, then Assistant Attorney General, Office of Legal Counsel, and included representatives from the National Security Council, the Central Intelligence Agency, the Atomic Energy Commission, and the Departments of State and Defense. With Rehnquist's appointment to the Supreme Court in late 1971 David Young, Special Assistant to the National Security Council assumed the chairmanship of the panel. Simultaneously,

the White House on June 30, 1971, issued an "administratively confidential" memorandum to all Federal agencies signed by Brig. Gen. Alexander M. Haig, Jr., Deputy Assistant to the President for National Security Affairs, ordering each agency to submit lists of the Government employees, outside consultants, and private contractors who hold clearances for access to top secret and secret information.

<sup>70</sup> See U.S. Congress, Senate, Committee on Foreign Relations, Subcommittee on U.S. Security Agreements and Commitments Abroad, *U.S. Security Agreements and Commitments Abroad: Morocco and Libya (Part 9)*. Hearings, 91st Congress, 2d session. Washington, U.S. Govt. Print. Off., 1970, pp. 1974, 2008-2011.

<sup>71</sup> See U.S. Congress, House, Committee on Armed Services, Special Subcommittee on Intelligence, *Hearings on the Proper Classification and Handling of Government Information Involving the National Security and H.R. 9853, a related Bill*. Hearings 92nd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1972.

<sup>72</sup> For a view of how the press greeted and reacted to the possibility of publishing the papers see Sanford J. Unger, *The Papers and the Papers*. New York, E. P. Dutton Company, 1972.

<sup>73</sup> H. Rept. 93-221, *op. cit.*, p. 31.

Several days later, President Nixon then asked Congress to approve a \$636,000 supplemental appropriation for the General Services Administration to assist the National Archives in the declassification of World War II records, which he estimated to total "nearly 160 million pages of classified documents."<sup>74</sup>

Meeting through summer and autumn of 1971, the interagency committee under Rehnquist's leadership incorporated its recommendations into a draft revision of E.O. 10501. This document was then circulated in January, 1972, to key departments and agencies by the National Security Council. Ultimately, on March 8, 1972, President Nixon released what the Executive Branch felt was an improved instrument, complete with revisions offered during its circulation under NSC sponsorship, as E.O. 11652. For one thing, the new Executive Order reduced substantially the number of staff who reviewed government information for classification. For other justifications, see the Harvard Law Review discussion cited above.

Entitled "Classification and Declassification of National Security Information," certain substantive aspects of the directive have suggested shifts in policy. First, it was promulgated in consonance with the permissive exemption clause of the Freedom of Information Act (5 U.S.C. 552(b)(1)). The thrust of the statute is that all government information should be made available to the public and, with specified exception, nothing should be withheld. The order utilizes the statute's justification for the permissive withholding of records to suggest a more absolute basis for denying access to classified materials.

While E.O. 10501 used the referent "interests of national defense" to specify its policy sphere, the new order utilizes "interest of national defense or foreign relations" which collectively refer to "national security." Not only is this a broadening of the policy sphere, but the phrase in E.O. 11652 is not harmonious with the statutory provision upon which it is allegedly based. The Freedom of Information Act clause uses the term "interest of national defense or foreign *policy*."

In addition to putting the language of the new Executive order at variance with the language of the Freedom of Information Act on which it relies for application of the exemption, the semantic and legal differences between the terms "national defense" and "national security" and the terms "foreign policy" and "foreign relations" weaken the entire foundations of Executive Order 11652, while failing to correct a basic defect in Executive Order 10501—namely, its lack of a definition for the term "national defense." For example, "relations" is a much broader word than "policy" because it includes all operational matters, no matter how insignificant.<sup>75</sup>

Congress seems to have affirmed this view of the Foreign Operations and Government Information Subcommittee in adopting the 1974 amendments to the Freedom of Information Act (P.L. 93-502) which provide the courts with authority to examine classified documents *in*

<sup>74</sup> *Ibid.*

<sup>75</sup> *Ibid.*

*camera* to determine if the material is properly classified and, accordingly, properly withheld.

Other defects detected in the order which were duly noted by the Foreign Operations and Government Information Subcommittee included:

(1) Totally misconstrues the basic meaning of the Freedom of Information Act (5 U.S.C. 552);

(2) Confuses the sanctions of the Criminal Code that apply to the wrongful disclosure of classified information;

(3) Confuses the legal meaning of the terms "national defense" and "national security" and the terms "foreign policy" and "foreign relations" while failing to provide an adequate definition for any of the terms;

(4) Increases (not reduces) the limitation on the number of persons who can wield classification stamps and restricts public access to lists of persons having such authority;

(5) Provides no specific penalties for overclassification or misclassification of information or material;

(6) Permits executive departments to hide the identity of classifiers of specific documents;

(7) Contains no requirement to depart from the general declassification rules, even when classified information no longer requires protection;

(8) Permits full details of major defense or foreign policy errors of an administration to be cloaked for a minimum of three 4-year Presidential terms, but loopholes could extend this secrecy for 30 years or longer;

(9) Provides no public accountability to Congress for the actions of the newly created Interagency Classification Review Committee.

(10) Legitimizes and broadens authority for the use of special categories of "classification" governing access and distribution of classified information and material beyond the three specified categories—top secret, secret, and confidential; and

(11) Creates a "special privilege" for former Presidential appointees for access to certain papers that could serve as the basis for their private profit through the sale of articles, books, memoirs to publishing houses.<sup>76</sup>

Turning to actual operations under E.O. 11652, the Subcommittee (1) reiterated certain defects within the directive which its analysis of the instrument had revealed, (2) lamented that "appropriate committees of the Congress having extensive experience and expertise in the oversight of the security classification system were not given the opportunity by the Executive Branch to comment on the design of the new Executive order;" (3) chastised the Executive for releasing the new classification order without giving the agencies ample oppor-

<sup>76</sup> *Ibid.*, pp. 58-59; for a detailed section-by-section analysis of E.O. 11652 see U.S. Congress, House, Committee on Government Operations, *U.S. Government Information Policies and Practices—Security Classification Problems Involving Subsection (b) (1) of the Freedom of Information Act (Part 7)*, *op. cit.*, pp. 2849-2883.

tunity to prepare implementing regulations and otherwise "provide for the orderly transition from the old system to the new;" (4) criticized the conflicting statements by Executive Branch witnesses and demonstrated lack of clarity regarding "the extent to which 'domestic surveillance' activities by Federal agencies involving American citizens are subject to classification under the new Executive order;" (5) disapproved of the limitations the new order placed on classified data of the World War II era which "fall far short of the policies necessary to permit the Congress or the public to benefit from historical insights into defense and foreign policy decisions of this crucial period of U.S. involvement in global crises;" and (6) praised the statutorily based information administration program of the Atomic Energy Commission.<sup>77</sup>

The committee therefore strongly recommends that legislation providing for a statutory security classification system should be considered and enacted by the Congress. It should apply to all executive departments and agencies responsible for the classification, protection, and ultimate declassification of sensitive information vital to our Nation's defense and foreign policy interests. Such a law should clearly reaffirm the right of committees of Congress to obtain all classified information held by the executive branch when, in the judgment of the committee, such information is relevant to its legislative or investigative jurisdiction. The law should also make certain that committees of Congress will not be impeded in the full exercise of their oversight responsibilities over the administration and operation of the classification system.<sup>78</sup>

Hearings on such a statutorily based classification arrangement were held during the 93rd Congress and the matter remains one of high interest on Capitol Hill.<sup>79</sup>

Of relevance as well is the mandate of the Energy Research and Development Administration derived from the now defunct Atomic Energy Commission, which conveys a statutory (42 U.S.C. 2161-2166) responsibility for protecting so-called "Restricted data" pertaining to atomic energy production and use, and that of the Director of the Central Intelligence Agency who bears an obligation (50 U.S.C. 403(d) (3) "for protecting intelligence sources and methods from unauthorized disclosure." Both of these mandates have fostered information protection systems partially governed by E.O. 11652 but also constitute authority for the maintenance of official secrets by these agencies in their own right.

### *IX. Overview*

The continuing debate and unresolved issues of government information security classification policy serve to indicate that this is a

<sup>77</sup> H. Rept. 93-221, *op. cit.*, pp. 102-103.

<sup>78</sup> *Ibid.*, p. 104.

<sup>79</sup> See: U.S. Congress, House, Committee on Government Operations, *Security Classification Reform*, Hearings, 93rd Congress, 2d session, Washington, U.S. Govt. Print. Off., 1974: ———, Senate, Committee on Government Operations, *Government Secrecy*, Hearings, 93rd Congress, 2d session, Washington, U.S. Govt. Print. Off., 1974.

subject whose controversial nature transcends partisanship, ideology, and public profession. How is sensitive information to be defined, identified, isolated, maintained, utilized, and evaluated for possible release? Should Congress have access to such restricted material? Should accessibility be general or selective? Might judges examine classified documents where their releasability is in question? To what extent is secret information admissible as evidence in a trial? Who is to be punished for the unauthorized release of such data? Is espionage the only charge which might be brought against offenders?

All of these questions were recently much under public discussion due to the proposed recodification of Title 18, the criminal law portion, of the U.S. Code. In 1966 legislation was enacted (80 Stat. 1516) establishing a National Commission on Reform of Federal Criminal Law. Operating under the leadership of former California Governor Edmund G. Brown, the panel made its final report on January 7, 1971.<sup>80</sup> All aspects of the criminal law were considered and evaluated. Segments regarding espionage, management of classified information, and trafficking in restricted data constituted only a small portion of the total product. With the convening of the 93rd Congress, modified versions of the Commission's recommended model criminal code were offered by the Senate Judiciary Subcommittee on Criminal Laws and Procedures (S. 1) and by the Justice Department for the Administration (S. 1400, H.R. 6046).<sup>81</sup> Hearings were held on the measures and consideration is still being given to a revised version of the recodification bills in the present Congress. Efforts are currently underway to delete certain objectionable portions from the bill, including the so-called "official secrets act" section, to enable adoption of the revised criminal code.

The current government information classification program owes its origins to armed services regulations, promulgated prior to the turn of the century regarding the protection of national defense documents. The criminal enforcement authority of the Espionage Act of 1917 colors the management directives of the order with sanctions against the unauthorized disclosure of restricted documents. As a dynamic area of public policy, the classification program continues to receive attention within various arenas of the governmental system. To the extent that official secrecy is of vital concern to any functioning democracy, these matters will undoubtedly continue to be discussed by policymakers.

<sup>80</sup> See U.S. National Commission on Reform of Federal Criminal Laws. *Final Report of the National Commission on Reform of Federal Criminal Laws*. Washington, U.S. Govt. Print. Off., 1971; see especially pp. 86-94.

<sup>81</sup> Certain differences between the Subcommittee and Administration proposals were explained by Sen. Roman L. Hruska (R.-Neb.) in *Congressional Record*, v. 119, March 27, 1973: S5777-S5791.

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## EXECUTIVE AGREEMENTS: A SURVEY OF RECENT CONGRESSIONAL INTEREST AND ACTION<sup>1</sup>

During the past five years the Congress has become more and more concerned about the increasing number of significant commitments entered into by the executive branch through executive agreements. Three resolutions have been passed by the Senate expressing its sense that agreements which provide for the commitment of U.S. forces and of financial resources should be approved by the Senate as treaties or otherwise submitted to the Congress for its approval before entering into force. In addition, the Congress, in 1972, enacted a law requiring the Secretary of State to transmit to it the text of all international agreements other than treaties as they enter into force.

Moreover, between 1972 and 1974, several attempts have been made to limit the spending authority for implementation of executive agreements relative to military bases. During this time, the focus of congressional action has shifted from the cutting off of funds for the implementation of agreements already concluded to the setting up of a procedure to be followed for future agreements which relate to military bases and national commitments. In 1973 House and Senate conferees agreed to work together toward a "legislative remedy" for the executive branch practice of making commitments through executive agreements without congressional consideration and approval.

This paper examines the extent of congressional concern over executive agreements and identifies recent congressional actions aimed at clarifying or limiting the making of executive agreements without adequate congressional participation. While a certain amount of background information is included, this paper is not intended as an in-depth study on executive agreements.<sup>1a</sup>

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<sup>1</sup>This study was prepared by Marjorie Ann Brown of the Library of Congress, Congressional Research Service, Foreign Affairs Division.

<sup>1a</sup>For information on executive agreements see Byrd, Elbert M., Jr. *Treaties and Executive Agreements in the United States: their Separate Roles and Limitations*. The Hague, Martinus Nijhoff, 1960. 276 p. [Bibliography, p. 254-267]; Henkin, Louis. *Foreign Affairs and the Constitution*. Mineola, New York, Foundation Press, 1972. 553 p. See chapters 5 and 6, p. 129-188, notes on p. 372-434; McClure, Wallace M. *International Executive Agreements; Democratic Procedure under the Constitution of the United States*. New York, Columbia University Press, 1941. 449 p. [Bibliography, p. 409-423]; Plischke, Elmer. *Conduct of American Diplomacy*. 3d ed. Princeton, New Jersey, D. Van Nostrand, 1967. 677 p. See p. 370-468; U.S. Congress, Senate, Committee on the Judiciary, Subcommittee on Separation of Powers. *Congressional Oversight of Executive Agreements*. Hearings, 92d Congress, 2d session, on S. 3475, April 24 and 25; May 12, 18, and 19, 1972. Washington, U.S. Govt. Printing Off., 1972, 668 p.; White-man, Marjorie M., *Digest of International Law*, v. 14. Washington, U.S. Govt. Print. Off., 1970. See p. 193-255.

## I. THE MAKING OF EXECUTIVE AGREEMENTS

Executive agreements, like treaties, are international agreements. Most authorities agree that these two forms of international agreement have no differences which would make them unequal under international law.<sup>2</sup>

The Vienna Convention on the Law of Treaties, adopted by the U.N. Conference on the Law of Treaties in 1969, defines "treaty" in such a way as to include agreements of even the simplest form. This Convention, signed by the United States in 1970, is not in force and is currently pending before the Senate Foreign Relations Committee.<sup>3</sup>

The distinguishing feature of executive agreements occurs, as reflected by U.S. practice, in their enactment. Under Article 2, section 2, paragraph 2, of the Constitution, the President has the "Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; . . ." The Constitution does not formally and specifically refer to executive agreements, and the practice has developed that the President may enter into these agreements, which often go into force upon signature and which of course are not submitted to the Senate under the treaty clause.

A treaty and an executive agreement have identical effect in U.S. domestic law in a number of ways: they can overrule conflicting state law; they can be superseded by a more recent Act of Congress. There is disagreement, however, on whether an executive agreement can, like a treaty, supersede a prior statutory act. Certainly the nature of the agreement and of its originating authority plays a part in its effect in U.S. internal law.<sup>4</sup>

However, the President does not always enter into these agreements on his own authority. According to Department of State tabulations of international agreements other than treaties entered into by the United States between 1946 and April 1972, only 64 of the 5,589 agreements were entered into solely on the President's constitutional authority under Article 2, section 1 ("Executive Power") and section 2 ("Commander in Chief").<sup>5</sup> In many instances executive agreements (called legislative-executive agreements by some authorities)<sup>6</sup> are entered into

<sup>2</sup> See Whiteman, v. 14, p. 211 which quotes from Harvard Research in International Law, Draft Convention on the Law of Treaties, Comment, American Journal of International Law Supplement v. 29, 1935: 653, 697; and Sayre. The Constitutionality of the Trade Agreements Act. Columbia Law Review v. 39, 1939: 751, 755. See also Whiteman, v. 14, p. 212.

<sup>3</sup> According to this Convention, and for the purposes of the Convention, "treaty" means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation" (Article 2).

<sup>4</sup> See American Law Institute. Restatement of the Law, Second; Foreign Relations Law of the United States. St. Paul, Minnesota, American Law Institute Publishers, 1965. p. 440-446; Henkin, p. 184-187, p. 432-433; Plischke, p. 421-422; Whiteman, v. 14, p. 253-254.

<sup>5</sup> U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on Separation of Powers. Congressional Oversight of Executive Agreements. Hearing . . . 92d Congress, 2d Session, on S. 3475 . . ., April 24 and 25; May 12, 18, and 19, 1972. Washington, U.S. Govt. Print. Off., 1972. p. 409. Hereafter cited as Separation of Powers Subcommittee hearings.

<sup>6</sup> Whiteman, v. 14, p. 210-211

pursuant to legislation enacted by the Congress or to treaties approved by the Senate. In other instances the agreement is authorized and/or implemented in subsequent legislation. Frequently the executive agreement is entered into pursuant to a combination of these authorities. The Secretary of State has set forth guidelines and procedures to be followed in determining whether an international agreement should lead to an executive agreement or to a treaty (Circular 175 Procedure-11 Foreign Affairs Manual 700). These guidelines are currently being revised (See Federal Register in Appendix B, below).<sup>7</sup>

A comparison of statistics on the numbers of executive agreements and of treaties entered into by the United States at different times illustrates the overwhelming use now being made of executive agreements. In 1930, 25 treaties and nine executive agreements were concluded by the United States. In 1968 more than 200 executive agreements were made and only 16 treaties.<sup>8</sup> A table at the end of this report provides statistics on the number of treaties and executive agreements entered into annually between 1930 and 1973.

## II. CONGRESSIONAL INTEREST AND ACTIONS BEFORE 1967

The Bricker Amendment initiative in the 1950's represents the major period of congressional debate and action on the making of executive agreements prior to 1967.<sup>9</sup> However, the debate—which opened with the introduction in September 1951 of a Constitutional amendment by Senator John W. Bricker and developed into an extensive controversy by 1953 and 1954, when hearings were held and the resolution voted on in the Senate—did not focus exclusively on the use of executive agreements. Legislative interest and concern encompassed both treaties and executive agreements. The Bricker-Judiciary Committee amendment, which resulted from the hearings, contained two paragraphs on treaties and a third paragraph on executive agreements which gave Congress the “power to regulate all executive and other agreements with any foreign power or international organization” and subjected all such agreements to the same limitations imposed on treaties in the amendment. By these limitations executive agreements would not be valid if they conflicted with the Constitution. In addition, an executive agreement would be effective in internal law only through legislation enacted by Congress.

Two other significant amendments were offered during this period. In January 1954, Senator Walter George introduced an amendment which, provided that no treaty or executive agreement could contravene the Constitution and required that an international agreement other than a treaty should become effective as internal law only

<sup>7</sup> These guidelines were originally based on a policy statement made by Secretary of State John Foster Dulles before the Senate Committee on the Judiciary in April 1953. The first form was set down on December 13, 1955; the procedures were revised on June 6, 1969. See Separation of Powers Subcommittee Hearings, p. 289-306, for texts of the 1955 and 1969 circulars.

<sup>8</sup> U.S. Congress, Senate, Committee on Foreign Relations, Transmittal of Executive Agreements to Congress, Hearings . . . , 92d Congress, 1st session on S. 596 . . . , October 20 and 21, 1971. Washington, U.S. Govt. Print. Off., 1971, p. 16.

<sup>9</sup> For discussion of earlier Senate debates over excessive use of executive agreements instead of treaties, see: Henkin, p. 426 footnote 16.

by Act of Congress. On February 2, 1954, Senators William Knowland and Homer Ferguson introduced an amendment which declared only that no treaty or other international agreement could violate the Constitution. There was no mention of congressional control of executive agreements.

After the Judiciary Committee-Bricker Amendment failed by one vote to pass the Senate on February 25, 1954, the major thrust of support for the Bricker Amendment movement disappeared. Several versions of Senator Bricker's amendment were introduced by him through 1957, but no floor action was taken on them. Bills of similar import have continued to be introduced up until the present day.<sup>10</sup>

### III. SENATE RESOLUTIONS: 1969, 1970, AND 1972

#### *A. National Commitment Resolution, 1969*

In 1969, after two years of hearings, reports, and debates, the Senate passed S. Res. 85, which defined national commitments and indicated that a U.S. national commitment should result "only from affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment." According to the resolution, which was passed on June 25, 1969, a national commitment was "the use of U.S. armed forces on foreign territory or a promise to assist a foreign country, government, or people by the use of U.S. armed forces or financial resources."

Concern over excessive use of executive agreements had been expressed in the 1969 report of the Senate Committee on Foreign Relations on the national commitments resolution:

The traditional distinction between the treaty as the appropriate means of making significant political commitments and the executive agreement as the appropriate instrument for routine, nonpolitical arrangements has substantially broken down.<sup>11</sup>

#### *B. Resolution on Spanish Bases Agreement*

During 1970 this concern was crystalized within the Senate when the Administration entered into an executive agreement with Spain extending the original 1953 agreement covering American use of bases in Spain (the agreement had already been extended in 1963). Despite some Senatorial expressions that the agreement be submitted as a treaty, it was concluded as an executive agreement.<sup>12</sup> In December

<sup>10</sup> For additional information on the Bricker amendment, see Price, Hugh P. *The Bricker Amendment and Similar Proposals for Amending the Treaty Provisions of the Constitution*, including a Selected Bibliography. December 2, 1964. 34 p. (Congressional Research Service. American Law Division. Multilith, JX235A); Garrett, Stephen A. *Foreign Policy and the American Constitution: the Bricker Amendment in Contemporary Perspective*. *International Studies Quarterly* v. 16, no. 2, June 1972: 187-220.

<sup>11</sup> U.S. Congress. Senate. Committee on Foreign Relations. *National Commitments. Report . . . to Accompany S. Res. 83* Washington, U.S. Govt. Print. Off. 1969. (91st Congress, 1st Session. Senate. Report No. 91-129) p. 26.

<sup>12</sup> T.I.A.S. [Treaties and Other International Acts Series] 6924; 21 UST [U.S. Treaties and Other International Agreements] 1677.

1970 the Senate adopted S. Res. 469, expressing the sense of the Senate that nothing in the agreement with Spain should be deemed to be a national commitment by the United States. According to the Foreign Relations Committee report on this resolution, "the majority of committee members still adhere to the opinion that the administration should have submitted the agreement as a treaty."<sup>13</sup>

*C. Symington Subcommittee Hearings and Report*

On December 21, 1970, a Senate Foreign Relations Committee special Subcommittee on Security Agreements and Commitments Abroad issued a report following two years of investigations and hearings. The Subcommittee had been created January 23, 1969, under the chairmanship of Senator Stuart Symington. As a result of the hearings, a great deal of information was disclosed for the public record on U.S. military forces, facilities, and security programs in 13 countries, plus NATO (North Atlantic Treaty Organization).

The Subcommittee recommended that committees of Congress request and receive full information on "all understandings and agreements of a security nature" between the United States and other countries. In addition:

Congress should take a realistic look at the authority of the President to station troops abroad and establish bases in foreign countries. Notwithstanding the general authority which is contained in treaties and in Congressionally authorized programs, no U.S. forces should be stationed abroad or bases established abroad without specific prior authority of the Congress in each case.<sup>14</sup>

This recommendation flowed naturally from the subcommittee's observation that:

Overseas bases, the presence of elements of United States armed forces, joint planning, joint exercises, or extensive military assistance programs represent to host governments more valid assurances of United States commitment than any treaty or agreement.<sup>15</sup>

These hearings and report did not result in any specific legislation, but have formed the general framework within which continuing concern and legislative proposals have been formulated.

*D. Resolution on Agreements with Portugal and Bahrain*

In March 1972 the Senate, by a vote of 50 to 6, passed S. Res. 214, resolving that "any agreement with Portugal or Bahrain for military bases or foreign assistance should be submitted as a treaty to the Senate for advice and consent." The previous month, the Senate Foreign Relations Committee in reporting out this resolution recalled

<sup>13</sup> U.S. Congress. Senate. Committee on Foreign Relations. Agreement Between the United States and Spain. Report to Accompany S. Res. 469. Washington, U.S. Govt. Print. Off., 1970. (91st Congress, 2d Session. Senate. Report No. 91-1425) p. 4.

<sup>14</sup> U.S. Congress. Senate. Committee on Foreign Relations. Subcommittee on U.S. Security Agreements and Commitments Abroad. Security Agreements and Commitments Abroad, Report. . . December 21, 1970. Washington, U.S. Govt. Print. Off., 1970 (91st Congress, 2d Session Committee Print) p. 28.

<sup>15</sup> *Ibid.*, p. 20.

that "no lesson" had been learned from the experience with the Spanish base agreement. The Committee stated that these two executive agreements raised "important foreign policy questions" and that the "submission of these agreements as treaties . . . is the best and most appropriate way" of scrutinizing these questions.<sup>16</sup>

#### IV. THE CASE ACT, PUBLIC LAW 92-403

During 1972 the Senate also had before it S. 596, introduced by Senator Clifford Case the preceding year. This bill provided for the transmittal by the Secretary of State to the Congress of the text of any international agreement other than a treaty no later than 60 days *after* that agreement entered into force. The Act did not provide for congressional action on the agreements but simply established a mechanism for the transmittal of such information to Congress. Special procedures were outlined for agreements which were not intended to be made public. S. 596 was approved on August 22, 1972, becoming Public Law 92-403. The White House issued a notice for the press shortly after the signing of the bill quoting the report of the House Foreign Affairs Committee that:

the right of the President to conclude executive agreements is not in question here, or in any way affected by S. 596. Thus the bill in no way transgresses on the independent authority of the Executive in the area of foreign affairs.<sup>17</sup>

This law is being implemented, and the agreements are monitored within the Senate Foreign Relations Committee.<sup>18</sup>

#### V. ATTEMPTS TO LIMIT SPENDING REQUIRED BY EXECUTIVE AGREEMENTS

##### A. *Naval Vessel Loans*

In another initiative taken during 1972, the Senate and House attempted to restrict the spending authority required to implement the agreements with Spain, Portugal, and Bahrain. The Senate Armed Services Committee, in reporting out legislation authorizing certain naval vessel loans, including loans implementing the Spanish Base Rights Agreement, pointed out that "in the future the Congress will not be bound by any commitment entered into by Executive Agreement in advance of Congressional approval." The Committee also agreed with its House counterpart that "Congressional approval should be obtained for the retention of loaned vessels beyond the loan period."<sup>19</sup> As finally enacted and approved in April 1972, the legislation also included a stipulation that: "Any loan made to a country

<sup>16</sup> U.S. Congress. Senate. Committee on Foreign Relations. Agreements with Portugal and Bahrain. Report to Accompany S. Res. 214. Washington, U.S. Govt. Print. Off., 1972 (92d Congress, 2d Session. Senate. Report No. 92-632) p. 5, 8. The agreement with Portugal relates to base rights in the Azores.

<sup>17</sup> President Signs Bill on Transmittal to Congress of Executive Agreements. Department of State Bulletin v. 67, October 23, 1972: 480-481.

<sup>18</sup> Case, Clifford P. Cooperation of Department of State under Public Law 92-403. Congressional Record [daily ed.] v. 119, June 18, 1973: S11315-S11316.

<sup>19</sup> U.S. Congress. Senate. Committee on Armed Services. Authorizing Certain Naval Vessel Loans. Report to Accompany H.R. 9526. Washington, U.S. Govt. Print. Off., 1972. (92d Congress, 2d Session. Senate. Report No. 92-644) p. 3.

under this Act shall not be construed as a commitment by the United States to the defense of that country.”<sup>20</sup>

*B. Portugal and Bahrain: Foreign Assistance Act*

The Senate Foreign Relations and House Foreign Affairs Committees in 1972 both addressed the spending issue in their reports on the Foreign Assistance Act authorization. In reporting S. 3390 in May, the Senate Foreign Relations Committee included a section, initiated by Senator Case, providing that “no funds shall be obligated or expended to carry out the agreements with Portugal and Bahrain . . . until the agreements have been submitted to the Senate as treaties for its advice and consent.”<sup>21</sup> The next section of the bill, also initiated by Senator Case, applied this principle in a general way to all future executive agreements relating to military bases. The specific nature of the agreements to be included is set forth in the legislation.<sup>22</sup> On the Senate floor Bahrain was deleted from the first section; otherwise the committee bill on this issue was retained. However, the entire Foreign Assistance bill was defeated in the Senate.<sup>23</sup>

The House Foreign Affairs Committee, reporting out H.R. 16029, included a section providing “that no funds shall be obligated or expended to carry out the agreement with Portugal . . . until the agreement either (1) has been submitted to the Senate as a treaty . . . , or (2) has been submitted to both Houses of Congress for their approval through a resolution.”<sup>24</sup> The Committee declared: “When Congress is asked to provide foreign assistance under an executive agreement, it should have the right to approve the agreement itself.”<sup>25</sup> This provision was stricken from the bill on the House floor.<sup>26</sup> The Senate Foreign Relations Committee, reporting on this bill, put back the two sections recommended in its earlier bill as amended by the Senate (in which the Bahrain agreement was deleted),<sup>27</sup> but the 92d Congress adjourned without a final Foreign Assistance Act. After the 93rd Congress convened, the Foreign Relations Committee again reported a bill with these two sections intact.<sup>28</sup> The bill was not acted upon and for-

<sup>20</sup> Public Law 92-270; 86 Stat. 118.

<sup>21</sup> U.S. Congress. Senate. Committee on Foreign Relations. Foreign Assistance Act of 1972. Report . . . to Accompany S. 3390. Washington, U.S. Govt. Print. Off., 1972. (92d Congress, 2d Session. Senate. Report No. 92-823); p. 24. The agreement with Portugal relates to U.S. base rights in the Azores.

<sup>22</sup> *Ibid.*, p. 29-31.

<sup>23</sup> On June 19, 1972, the Senate agreed to the retention of the first section, by a vote of 36 yeas, 41 nays (Congressional Record [daily ed.] v. 118, June 19, 1972: S9653). On June 28, 1972, the Senate agreed to deletion of the Bahrain agreement from the first section (Congressional Record [daily ed.] v. 118, June 28, 1972: S10599). S. 3390 was rejected in the Senate on July 24, 1972.

<sup>24</sup> U.S. Congress. House. Committee on Foreign Affairs. Foreign Assistance Act of 1972. Report . . . on H.R. 16029 . . . Washington, U.S. Govt. Print. Off., 1972. (92d Congress, 2d Session. House. Report No. 92-1273) p. 8-9.

<sup>25</sup> *Ibid.*

<sup>26</sup> Congressional Record [daily ed.] v. 118, August 9, 1972: H7440.

<sup>27</sup> U.S. Congress. Senate. Committee on Foreign Relations. Foreign Assistance Act of 1972. Report to Accompany H.R. 16029. Washington, U.S. Govt. Print. Off., 1972. (92d Congress, 2d Session. Report No. 92-1182) p. 23-29.

<sup>28</sup> U.S. Congress. Senate. Committee on Foreign Relations. Foreign Assistance Act of 1973. Report . . . to Accompany S. 837. Washington, U.S. Govt. Print. Off., 1973. (93d Congress, 1st Session. Senate. Report No. 93-62) p. 23-27.

eign assistance funds were authorized through the end of the fiscal year by a continuing resolution.<sup>29</sup>

*C. Portugal and Future Base Agreements: State Department Authorization*

In 1973 the Senate Foreign Relations Committee also included in the Department of State Authorization Act of 1973 the two sections previously agreed to by the Senate in the Foreign Assistance Act authorization bills.<sup>30</sup> The two sections were retained by the Senate in floor action as part of the State Department authorization bill.<sup>31</sup> In the conference report, which was filed in the House in July, the Senate receded on the section prohibiting the obligation or expenditure of funds to carry out the agreement with Portugal on bases in the Azores until the agreement was submitted to the Senate as a treaty for its advice and consent. The House conferees receded on the second section, with an amendment under which foreign military base agreements must be approved either by passage of a concurrent resolution by both Houses or by the Senate giving its advice and consent to a treaty.<sup>32</sup> This amendment was similar to the amendment to the Foreign Assistance Act adopted by the House Foreign Affairs Committee in 1972.<sup>33</sup>

Two sections of the conference report, including this one, were rejected by the House as being non-germane.<sup>34</sup> After further consideration in both Houses another Conference was agreed to.<sup>35</sup> In the second conference report the Senate receded on the remaining provisions relating to executive agreements, the report was agreed to by both Houses, and the bill was approved by the President on October 18, 1973. According to the report:

The managers of both the Senate and the House are concerned with the problem sought to be corrected by the Senate provisions and strongly support the principle at stake. Both agree to pursue a legislative remedy to the problem in the next session.<sup>36</sup>

*D. State Department Authorization Act, 1974*

On May 20, 1974, the Senate passed, without debate, the Department of State/USIA Authorization Act, Fiscal Year 1975 (S. 3473).

<sup>29</sup> H.J. Res. 345 was passed by the House and Senate on February 28, 1973, and approved by the President on May 8, 1973 (Public Law 92-9).

<sup>30</sup> U.S. Congress. Senate. Committee on Foreign Relations. Department of State Authorization Act of 1973. Report . . . on S. 1248 . . . Washington, U.S. Govt. Print. Off., 1973. (93d Congress, 1st Session. Senate. Report No. 93-176) p. 32-35.

<sup>31</sup> An amendment to strike the first section from the bill was rejected on June 12, 1973 (Congressional Record [daily ed.] v. 119, June 12, 1973: S10988). An amendment to strike the second section from the bill was rejected on June 14, 1973 (Congressional Record [daily ed.] v. 119, June 14, 1973: S11182-S11183).

<sup>32</sup> Congressional Record [daily ed.] v. 119, July 10, 1973: H5818, H5820-H5821 (93d Congress, 1st Session. House. Report No. 93-367).

<sup>33</sup> See page 361.

<sup>34</sup> Congressional Record [daily ed.] v. 119, September 11, 1973: H7726, H7727.

<sup>35</sup> Congressional Record [daily ed.] v. 119, September 26, 1973: S17689. The Senate amended the House amendment of the conference report, reinserting the deleted sections and insisting on its amendments.

<sup>36</sup> Congressional Record [daily ed.] v. 119, October 9, 1973: H8762 (93d Congress, 1st Session. House. Report 93-563).

This bill carried two sections which had been initiated by Senator Case and approved by the Senate Foreign Relations Committee: section 10, on military base agreements, and section 11, on the Diego Garcia agreement.

According to section 10, no funds may be obligated or expended to carry out specified types of agreements unless the Congress approves the agreement by law or the Senate exercises its advice and consent prerogative with respect to such a treaty. Section 10 identifies the agreement as one which (1) provides for the establishment of a military installation with an assigned, authorized, or detailed personnel strength of more than 500, at which U.S. armed forces units are to be assigned; (2) renews or extends the duration of any such agreement; or (3) makes changes which "significantly" alter the terms of such an agreement. According to its report, the Foreign Relations Committee rejects the argument that the appropriations bills are the proper mechanism for congressional consideration of such foreign policy questions. In the Committee's view, these issues must be addressed explicitly by the Foreign Affairs and Foreign Relations Committees.

Section 11 of the Senate-passed legislation requires that no steps be taken to implement any agreement signed on or after January 1, 1974, by the United States and the United Kingdom relating to the establishment or maintenance by the United States of any military base on Diego Garcia until the agreement is submitted to Congress and approved by law. The report notes that the Senate Foreign Relations Committee is "united in the view that Congress should approve whatever policy is to be pursued." Furthermore, "Congress should be integrally involved in the process by which U.S. policy is established in this important area of the world."<sup>37</sup>

#### VI. DISAPPROVAL PROCEDURE FOR EXECUTIVE AGREEMENTS

In April 1972 Senator Ervin had introduced S. 3475, a bill providing for the transmittal to the Congress by the Secretary of State of all executive agreements—international agreements other than treaties. Any such agreement would come into force at the end of 60 days unless both Houses passed a concurrent resolution stating in substance that both Houses did not approve the executive agreement. The Separation of Powers Subcommittee of the Senate Judiciary Committee held extensive hearings in April and May 1972, but no action was taken in the 92nd Congress.<sup>38</sup> The bill was re-introduced in the 93rd Congress (S. 1472) and is pending before the Judiciary Committee as S. 3830 (it was amended by the subcommittee). This bill would take the Public Law 92-403 procedure one step further, invoking a disapproval procedure similar to that provided in the Atomic Energy Act (as amended in 1958 by Public Law 83-479) for

<sup>37</sup> U.S. Congress, Senate, Committee on Foreign Relations, Department of State/USIA Authorization Act, Fiscal Year 1975. Report . . . together with Supplemental Views on S. 3473 . . . , May 9, 1974. Washington, U.S. Govt. Print. Off., 1974, (93d Congress, 2d Session, Senate Report No. 93-838) p. 19.

<sup>38</sup> See above page 2, footnote 1 for full citation to these hearings which total 668 pages.

disapproval of agreements of cooperation relative to military application of atomic energy material or information.<sup>39</sup>

This report has not discussed any of the legislation introduced but not in some way acted upon by Congress. A listing of legislation pending in the 93rd Congress as of August 23, 1974 on the making of international agreements other than treaties is contained in Appendix C.

#### VII. FUTURE CONGRESSIONAL CONCERNS

The debate within the legislative branch over the proper role of the Congress in the making of international agreements is but one phase of Congress' activities as it seeks to restore a better balance of powers between the legislative and executive branches of government as envisioned by the Constitutional framers. The current level of congressional participation in the making of executive agreements occurs primarily after the agreement enters into force, with the receipt of the texts of all international agreements other than treaties within 60 days after they enter into force. Expanded procedures may be devised, such as those envisioned in the Senate version of the State Department Authorization Act of 1974 for agreements dealing with military installations abroad or in the Ervin bill mechanism for disapproval of executive agreements before they enter into force. Nonetheless, the committees of Congress may, as the Symington Subcommittee recommended, want to remain vigilant as well as persistent in their pursuit of information and in their oversight of the executive branch in the broad field of foreign policy and international relations.

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<sup>39</sup> Section 123d of Atomic Energy Act as amended (42 USC 2153d): The proposed agreement for cooperation, together with the approval and determination of the President, if arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title, has been submitted to the Congress and referred to the Joint Committee and a period of sixty days has elapsed while Congress is in session, but any such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed agreement for cooperation. . . .

Pending in Congress, as of August 23, 1974, is legislation which would institute a similar procedure for certain international agreements for civil uses of nuclear energy (S. 3698, Conference report: H. Rept. 93-1299).

## APPENDIX A

STATISTICS ON EXECUTIVE AGREEMENTS AND TREATIES  
ENTERED INTO BY THE UNITED STATES, 1930-1945; 1946-  
1973

Year of Official Printing	1930-1945		1946-1973		
	Treaties	Executive Agreements	Year Concluded	Treaties	Executive Agreements
1930	25	11	1946	19	139
1931	13	14	1947	15	144
1932	11	16	1948	16	178
1933	9	11	1949	22	148
1934	14	16	1950	11	157
1935	25	10	1951	21	213
1936	8	16	1952	22	291
1937	15	10	1953	14	163
1938	12	24	1954	17	206
1939	10	26	1955	7	297
1940	12	20	1956	15	233
1941	15	39	1957	9	222
1942	6	52	1958	10	197
1943	4	71	1959	12	250
1944	1	74	1960	5	266
1945	6*	54	1961	9	260
			1962	10	319
			1963	17	234
			1964	3	222
			1965	14	204
			1966	14	237
			1967	18	223
			1968	18	197
			1969	6	162
			1970	20	183
			1971	17	214
			1972	20	287
			1973	17	241

\*This includes the still unpublished water treaty with Mexico, in force since November 8, 1945. Dept. of State Bull., Dec. 2, 1945, p. 901.

Source: Borchard, Edwin M. Treaties and executive agreements. American political science review v. 40, no. 4, August 1946: 735.

Source: Department of State, Office of the Assistant Legal Adviser for Treaty Affairs. August 1974.



## APPENDIX B

## DEPARTMENT OF STATE REVISION OF CIRCULAR 175 PROCEDURE

## DEPARTMENT OF STATE

[Public Notice 396]

## TREATIES AND OTHER INTERNATIONAL AGREEMENTS

## Notice of Proposed Rulemaking

Consideration is being given by the Department of State to the revision of Chapter 700 of Volume 11 of the Foreign Affairs Manual.

The proposed revision is a codification of Department of State Circular 175 dated December 22, 1955, as amended and issued in Chapter 700 of Volume 11 of the Foreign Affairs Manual. The Foreign Affairs Manual (FAM) is the internal instruction for Department of State personnel. Chapter 700 of Volume 11 has heretofore been available for public inspection and copying in accordance with 5 U.S.C. 552(a) (2). However, revisions thereto have not previously been published for the information of the public and with an opportunity for public comment thereon. The proposed revision is being published because of the public interest in the matter in which treaties and other international agreements are entered into by the United States.

The current revision is a substantive one with respect to the sections regarding the constitutional bases on which treaties and other international agreements are entered into by the United States, the sections regarding consultation with the Congress, and with respect to sections calling upon all officers to cooperate in the application of the Case Act (1 U.S.C. 112(b)) which requires that all international agreements other than treaties be transmitted to the Congress within 60 days after they enter into force. Otherwise, the revision is merely a rearrangement of other existing sections with some editorial improvement.

The purpose of the revised procedures is to ensure (1) that orderly and uniform procedures are followed in the negotiation and signature of treaties and other international agreements; (2) that constitutional bases of authority are followed in the making of treaties and other international agreements by the United States; (3) that timely and otherwise appropriate consultation with the Congress is had with respect to the negotiation of international agreements and the procedure by which they are brought into force; and (4) that the laws regarding the transmission of international agreements other than treaties to the Congress and the publication of treaties and other international agreements are faithfully observed.

Interested persons are invited to submit written comments, or suggestions regarding the proposed revision to the Assistant Legal Adviser for Treaty Affairs, Office of the Legal Adviser, Room 5420, Department of State, Washington, D.C., 20520, not later than September 21, 1973.

## 700—TREATIES AND OTHER INTERNATIONAL AGREEMENTS

**710 Purpose.** a. The purpose of this chapter is to ensure that orderly and uniform procedures are followed in the negotiation, signature, publication and registration of treaties and other international agreements of the United States. It is also designed to ensure the maintenance of complete and accurate records on treaties and agreements and the publication of authoritative information concerning them.

b. The chapter is not a catalog of all the essential rules or information pertaining to the making and application of international agreements. It is limited to regulations necessary for general guidance.

## 720 NEGOTIATION AND SIGNATURE

**720.1 Circular 175 Procedure.** This subchapter is a codification of the substance of Department Circular No. 175, December 13, 1955, as amended, on the negotiation and signature of treaties and executive agreements. It may be referred to for convenience and continually as the "Circular 175 Procedure."

**720.2 General Objectives.** The objectives are to ensure:

a. That the making of treaties and other international agreements for the United States is carried out within constitutional and other appropriate limits;

b. That the objectives to be sought in the negotiation of particular treaties and other international agreements are approved by the Secretary or an officer specifically authorized by him for that purpose;

c. That timely and appropriate consultation is had with congressional leaders and Committees on treaties and other international agreements;

d. That firm positions departing from authorized positions are not undertaken in negotiations without the approval of the Legal Adviser and the interested assistant secretaries or their deputies;

e. That the final texts developed are approved by the Legal Adviser and the interested assistant secretaries or their deputies and, when required, brought a reasonable time before signature to the attention of the Secretary or an officer specifically designated by him for that purpose;

f. That authorization to sign the final text is obtained and appropriate arrangements for signature are made;

g. That there is compliance with the requirements of the Case Act on the transmission of the texts of international agreements other than treaties to the Congress (see section 724); the law on the publication of treaties and other international agreements (see section 725) and treaty provisions on registration (see section 750.2-3).

## 721 EXERCISE OF THE INTERNATIONAL AGREEMENT POWER

**721.1 Determination of Type of Agreement.** The following principles, considerations, and procedures will be observed in determining whether an international agreement shall be dealt with by the United States as a treaty to be brought into force with the advice and consent of the Senate, or as an executive agreement to be brought into force on some other constitutional basis.

**721.2 Constitutional Requirements.** There are two procedures under the Constitution through which the United States becomes a party to international agreements. Those procedures and the constitutional parameters of each are:

(a) *Treaties:* International agreements (regardless of their title, designation or form) whose entry into force with respect to the United States takes place only after the Senate has given its advice and consent are "treaties". The President, with the advice and consent of two-thirds of the Senators present, may enter into an international agreement on any subject genuinely of concern in foreign relations so long as the agreement does not contravene the United States Constitution; and

(b) *Executive agreements:* International agreements brought into force with respect to the United States on a constitutional basis other than with the advice and consent of the Senate are "executive agreements" (international agreements other than treaties). There

are three constitutional bases for executive agreements as set forth below. An international agreement may be concluded pursuant to one or more of these constitutional bases:

(i) *Executive agreements pursuant to treaty:* The President may conclude an international agreement pursuant to a treaty brought into force with the advice and consent of the Senate, whose provisions constitute authorization for the agreement by the Executive without subsequent action by the Congress;

(ii) *Executive agreements pursuant to legislation:* The President may conclude an international agreement on the basis of existing legislation or subject to legislation to be enacted by the Congress; and

(iii) *Executive agreements pursuant to the constitutional authority of the President:* The President may conclude an international agreement on any subject within his constitutional authority so long as the agreement is not inconsistent with legislation enacted by the Congress in the exercise of its constitutional authority. The constitutional sources of authority for the President to conclude international agreements include:

(1) The President's authority as Chief Executive to represent the nation in foreign affairs;

(2) The President's authority to receive Ambassadors and other public ministers;

(3) The President's authority as "Commander-in-Chief";

(4) The President's authority to "take care that the laws be faithfully executed".

**721.3 Criteria for Selecting Among Constitutionally Authorized Procedures.** In determining a question as to the procedure which should be followed for any particular international agreement due consideration is given to the following factors along with those in section 721.2.

(a) *Domestic factors:* (i) Whether the agreement involves important interests, commitments or risks affecting the nation as a whole;

(ii) Whether the agreement would affect State laws or the powers reserved to the States under the Constitution;

(iii) Whether the agreement can be given effect without the enactment of subsequent legislation by the Congress;

(iv) Past United States practice with respect to similar agreements;

(v) The preference of the Congress with respect to a particular type of agreement.

(b) *International factors:* (i) The degree of formality desired for an agreement;

(ii) The proposed duration of the agreement, the need for prompt conclusion of an agreement and the desirability of concluding a routine or short term agreement;

(iii) The general international practice with respect to similar agreements.

In determining whether any international agreement should be brought into force as a treaty or as an executive agreement the utmost care shall be exercised to avoid any invasion or compromise of

the constitutional powers of the Senate, the Congress as a whole, or the President.

**721.4 Questions as to Type of Agreement to be Used: Consultation with Congress.** (a) All legal memorandums accompanying Circular 175 requests (see section 722.3(c)(iii)) will discuss thoroughly the bases for the type of agreement recommended.

(b) Where there is any question whether an international agreement should be concluded as a treaty or as an executive agreement, the matter is brought to the attention of the Legal Adviser of the Department. If the Legal Adviser considers the question to be a serious one, he will transmit a memorandum thereon to the Assistant Secretary for Congressional Relations and other officers concerned. Upon receiving their views on the subject he shall, if the matter has not been resolved, transmit a memorandum thereon to the Secretary for his decision. Every practicable effort will be made to identify such questions at the earliest possible date so that consultations may be completed in sufficient time to avoid last-minute consideration.

(c) Consultations on such questions will be held with congressional leaders and committees as may be appropriate. Arrangements for such consultations shall be made by the Assistant Secretary for Congressional Relations and shall be held with the assistance of the Office of the Legal Adviser and such other offices as may be determined. Nothing in this section shall be taken as derogating from the requirement of appropriate consultations with the Congress in accordance with section 723.1e in connection with the initiation of, and developments during, negotiations for international agreements, particularly where the agreements are of special interest to the Congress.

#### 722 ACTION REQUIRED IN NEGOTIATION AND OR SIGNATURE OF TREATIES AND AGREEMENTS

**722.1 Authorization Required to Undertake Negotiations.** Negotiations of treaties, or executive agreements, or for their extension or revision are not to be undertaken, nor any exploratory discussions undertaken with representatives of another government, until authorized in writing by the Secretary or an officer specifically authorized by him for that purpose. Notification of termination of any treaty or executive agreement requires similar authorization.

**722.2 Scope of Authorization.** Approval of a request for authorization to negotiate a treaty or other international agreement does not constitute advance approval of the text nor authorization to agree upon a date for signature or to sign the treaty or agreement. Authorization to agree upon a given date for, and to proceed with, signature must be specifically requested in writing, as provided in section 722.3. This applies to treaties and other agreements to be signed abroad as well as those to be signed at Washington. Special instructions may be required, because of the special circumstances involved, with respect to multilateral conventions or agreements to be signed at international conferences.

**722.3 Request for Authorization to Negotiate and/or Sign: Action Memorandum.** (a) A request for authorization to negotiate and/or sign a treaty or other international agreement takes the form of an Action Memorandum addressed to the Secretary and cleared with the Office of the Legal Adviser, the Office of the Assistant Secretary for Congressional Relations, and any appropriate bureaus, and any other agency (such as Defense, Commerce, etc.) which has primary responsibility or a substantial interest in the subject matter. It is submitted through the Executive Secretariat.

(b) The Action Memorandum may request one of the following: (i) authority to negotiate, (ii) authority to sign, or (iii) authority to negotiate and sign. The request in each instance states that any substantive changes in the draft text will be cleared with the Office of the Legal Adviser and other specified regional and/or functional bureaus before definitive agreement is reached. Drafting offices consult closely with the Office of the Legal Adviser to ensure that all legal requirements are met.

(c) The Action Memorandum is accompanied by (i) the draft, if available, of any agreement or other instrument intended to be negotiated, (ii) the text of any agreement and related exchange of notes, agreed minutes or other document to be signed, and (iii) a memorandum of law prepared in the Office of the Legal Adviser.

(d) Where it appears that there may be obstacles to the immediate public disclosure of the text upon its entry into force, the Action Memorandum shall include an explanation thereof (see sections 723.2 and 723.3).

**722.4 Separate Authorizations.** When authorization is sought with respect to a particular treaty or other agreement, either multilateral or bilateral, the Action Memorandum for this purpose outlines briefly and clearly the principal features of the proposed treaty or other agreement, indicates any special problems which may be encountered, and, if possible, the contemplated solutions of those problems.

**722.5 Blanket Authorizations.** In general, blanket authorizations are appropriate only in those instances where, in carrying out or giving effect to provisions of law or policy decisions, a series of agreements of the same general type is contemplated; that is, a number of agreements to be negotiated according to a more or less standard formula (e.g., P.L. 480 Agricultural Commodities Agreements; Educational Exchange Agreements; Investment Guaranty Agreements; Weather Station Agreements, etc.) or a number of treaties to be negotiated according to a more or less standard formula (e.g., consular conventions; extradition treaties, etc.). Each request for blanket authorization shall specify the officer or officers to whom the authority is to be delegated. The basic precepts under section 722.3 apply equally to requests for blanket authorizations.

**722.6 Certificate on Foreign-Language Text.** (a) Before any treaty or other

agreement containing a foreign language text is laid before the Secretary (or any person authorized by him) for signature, either in the Department or at a post, a signed memorandum must be obtained from a responsible language officer of the Department certifying that the foreign language text and the English language text are in conformity with each other and that both texts have the same meaning in all substantive respects. A similar certification must be obtained for exchanges of notes that set forth the terms of an agreement in two languages.

(b) In exceptional circumstances the Department can authorize the certification to be made at a post.

**722.7 Transmission of Texts to Secretary.** The texts of treaties and other international agreements must be completed and approved in writing by all responsible officers concerned sufficiently in advance to give the Secretary, or the person to whom authority to approve the text has been delegated, adequate time before the date of signing to examine the text and dispose of any questions that arise. Posts must transmit the texts to the Department as expeditiously as feasible to assure adequate time for such consideration. Except as otherwise specifically authorized by the Secretary, a complete text of a treaty or other international agreement must be delivered to the Secretary or the Acting Secretary, or other person authorized to approve the text, before any such text is agreed upon as final or any date is agreed upon for its signature.

**723 RESPONSIBILITY OF OFFICE OR OFFICER CONDUCTING NEGOTIATIONS**

**723.1 Conduct of Negotiations.** The office or officer responsible for any negotiations must ensure:

a. That during the negotiations no position is communicated to a foreign government or to an international organization as a United States position that goes beyond any existing authorization or instructions;

b. That no proposal is made or position is agreed to beyond the original authorization without approval by the appropriate assistant secretaries or their deputies, the Legal Adviser's Office, and also, in the case of the treaties or other international agreements which concern responsibilities of AID, the Director of AID, or his Deputy;

c. That all significant policy-determining memorandums and instructions to the field on the subject of the negotiations are submitted to and cleared by the Office of the Legal Adviser, all assistant secretaries concerned or their deputies, and also, in the case of treaties or other international agreements which concern responsibilities of AID, the Director of AID, or his Deputy;

d. That the Secretary is kept informed in writing of important policy decisions and developments, including any particularly significant departures from substantially standard drafts that have been evolved;

e. That with the advice and assistance of the Assistant Secretary for Congressional Relations, the appropriate congressional leaders and committees are advised of the intention to negotiate significant new international agreements, consulted concerning such agreements, and kept informed of developments affecting them, including especially whether any legislation is considered necessary or desirable for the implementation of the new treaty or agreement. Where the proposal for any especially important treaty or other international agreement is contemplated, the Office of the Assistant Secretary for Congressional Relations will be informed as early as possible by the office responsible for the subject;

f. That in no case, after accord has been reached on the substance and wording of the texts to be signed, do the negotiators sign an agreement or exchange notes constituting an agreement until a request under section 723.3 for authorization to sign has been approved and, if at a post abroad, until finally instructed by the Department to do so as stated in section 730.3. If an agreement is to be signed in two languages, each language text must be cleared in full with the Language Services Division or, if at a post abroad, with the Department before signature, as required by section 722.6;

g. That due consideration is given also to the provisions of sections 723.2-723.9, 730.3, and 731 of this Chapter; and

h. That, in any case where any other department or agency is to play a primary or significant role or has a major interest in negotiation of an international agreement, the appropriate official or officials in such department or agency are informed of the necessity of complying with the requirements of this subchapter.

**723.2 Avoiding Obstacles to Publication and Registration.** The necessity of avoiding any commitment incompatible with the law requiring publication (see section 725) and with the treaty provisions requiring registration (see section 750.2-3) should be borne in mind by U.S. negotiators. Although negotiations may be conducted on a confidential basis, every practicable effort must be made to assure that any definitive agreement or commitment entered into will be devoid of any aspect which would prevent the publication and registration of the agreement.

**723.3 Questions on Immediate Public Disclosure.** In any instance where it appears to the U.S. representatives that the immediate public disclosure upon its entry into force of an agreement under negotiation would be prejudicial to the national security of the United States, the pertinent circumstances shall be reported to the Secretary of State and his decision awaited before any further action is taken. Where such circumstances are known before authorization to negotiate or to sign is requested, they shall be included in the request for authorization. All such reports and requests are to be

cleared with the Office of the Legal Adviser.

**723.4 Public Statements.** No public statement is to be made indicating that agreement on a text has been reached, or that negotiations have been successfully completed, before authorization is granted to sign the treaty or other agreement. If such authorization has been granted subject to a condition that no substantive change in the proposed text is made without concurrence of the Office of the Legal Adviser and other specified offices, no such public statement is to be made until definitive agreement on the text has been reached with the concurrence of the Office of the Legal Adviser and the other specified offices. Normally, such a public statement is made only at the time a treaty or other agreement is actually signed, inasmuch as it remains possible that last-minute changes will be made in the text. Any such statement prior to that time must have the concurrence of the Office of the Legal Adviser, the Office of the Assistant Secretary for Congressional Relations, and the other specified offices, and the approval of the Secretary or the Department principal who originally approved the Action Memorandum request under "Circular 175 Procedure."

**723.5 English-Language Text.** Negotiators will assure that every bilateral treaty or other international agreement to be signed for the United States contains an English-language text. If the language of the other country concerned is one other than English the text shall be done in English and, if desired by the other country, in the language of that country. A United States note that constitutes part of an international agreement effected by exchange of notes shall always be in the English language. If it quotes in full a foreign office note the quotation shall be rendered in English translation. A U.S. note shall not be in any language in addition to English unless specifically authorized. The note of the other government concerned may be in whatever language that government desires.

**723.6 Transmission of Signed Texts to Assistant Legal Adviser for Treaty Affairs.** a. The officer responsible for the negotiation of a treaty or other agreement at any post is responsible for ensuring the most expeditious transmission of the signed original text, together with all accompanying papers such as agreed minutes, exchanges of notes, agreed interpretations, plans, etc., to the Department for the attention of the Assistant Legal Adviser for Treaty Affairs: *Provided*, that where originals are not available accurate certified copies are obtained and transmitted as in the case of the original. (See sections 723.7, 723.8 and 723.9). The transmittal is by airmail, not by transmittal slip or Operations Memorandum.

b. Any officer in the Department having in his possession or receiving from any source a signed original or certified copy of a treaty or agreement or of a note or other document constituting a part of

a treaty or agreement must forward such documents immediately to the Assistant Legal Adviser for Treaty Affairs.

**723.1 Transmission of Certified Copies to the Department.** When an exchange of diplomatic notes between the mission and a foreign government constitutes an agreement or has the effect of extending, modifying, or terminating an agreement to which the United States is a party, a properly certified copy of the note from the mission to the foreign government and the signed original of the note from the foreign government, are sent, as soon as practicable, to the Department for the attention of the Assistant Legal Adviser for Treaty Affairs. The transmittal is by airmail, not by transmittal slip or Operations Memorandum.

Likewise, if, in addition to the treaty or other agreement signed, notes related thereto are exchanged (either at the same time, before hand or thereafter), a properly certified copy (copies) of the note(s) from the mission to the foreign government are transmitted with the signed original(s) of the note(s) from the foreign government.

In each instance, the mission retains for its files certified copies of the note exchanged. The United States note is prepared in accordance with the rules prescribed in the Correspondence Handbook. The note of the foreign government is prepared in accordance with the style of the foreign office and usually in the language of that country. Whenever practicable, arrangements are made for the notes to bear the same date.

**723.2 Certification of Copies.** If a copy of a note is a part of an international agreement, such copy is certified by a duly commissioned and qualified Foreign Service officer either (a) by a certification on the document itself, or (b) by a separate certification attached to the document. A certification on the document itself is placed at the end of the document. It indicates, either typed or rubber stamped, that the document is a true copy of the original signed (or initialed) by (insert full name of signing officer), and it is signed by the certifying officer. If a certification is typed on a separate sheet of paper, it briefly describes the document certified and states that it is a true copy of the original signed (or initialed by) (full name) and it is signed by the certifying officer. The certification may be stapled to the copy of the note.

**723.3 Preparation of Copies for Certification.** For purposes of accuracy of the Department's records and publication and registration, a certified copy must be an exact copy of the signed original. It must be made either by typewriter (ribbon or carbon copy) or by facsimile reproduction on white durable paper (not by the dupli-mat method) and must be clearly legible. In the case of notes, the copy shows the letterhead, the date and, if signed, an indication of the signature or, if merely initialed, the initials which appear on the original. It is suggested that, in the case of a note from the mission to the foreign government, the copy for certification and transmission to the

Department be made at the same time the original is prepared. If the copy is made at the same time, the certificate prescribed in section 723.3 may state that the document is a true and correct copy of the signed original. If it is not possible to make a copy at the same time, the original is prepared, the certificate indicates that the document is a true and correct copy of the copy on file in the mission. The word "Copy" is not placed on the document which is being certified; the word "(Signed)" is not placed before the indication of signatures. Moreover, a reference to the transmitting airmail, such as "Enclosure 1 to Airmail No. 18 (etc.)", is not placed on the certified document. The certification of such a document as an enclosure to an airmail may be typed on a separate slip of paper and attached to the document, but in such a manner that it may be easily removed without defacing the document.

**724 TRANSMISSION OF INTERNATIONAL AGREEMENTS OTHER THAN TREATIES TO THE CONGRESS; COMPLIANCE WITH THE CASE ACT.**

All officers will be especially diligent in cooperating to assure compliance with the Case Act. "An Act To require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within sixty days after the execution thereof." That Act, approved August 22, 1972 (86 Stat. 619; 1 U.S.C. 112b), provides as follows:

"The Secretary of State shall transmit to the Congress the text of any international agreement other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President."

**725 PUBLICATION OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS OF THE UNITED STATES**

The attention of all officers is directed to the requirements of the Act of September 23, 1950 (64 Stat. 979; 1 U.S.C. 112(a)) which provides as follows:

The Secretary of State shall cause to be compiled, edited, indexed, and published, beginning as of January 1, 1950, a compilation entitled "United States Treaties and Other International Agreements", which shall contain all treaties to which the United States is a party that have been proclaimed during each calendar year, and all international agreements other than treaties to which the United States is a party that have been signed, proclaimed, or with reference to

which any other final formality has been executed, during each calendar year. The said United States Treaties and Other International Agreements shall be legal evidence of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and agreements, therein contained, in all the courts of the United States, the several States, and the Territories and Insular possessions of the United States.

**730 PROCEDURES FOR CONCLUDING INTERNATIONAL AGREEMENTS**

**730.1 Method of Concluding Bilateral and Multilateral Agreements.** An agreement may be concluded (entered into) by the process of bilateral negotiations which result either in the signing of a single instrument in duplicate or in exchange of diplomatic notes, or by the process of multilateral negotiation, usually at an international conference to which the governments concerned send official delegations for the purpose of formulating and signing an agreement.

**730.2 Bilateral Treaties and Agreements.** **730.2-1 Negotiation and Background Assistance.** Whenever the negotiation of a new international agreement is under consideration, the post or the Department office having primary responsibility informs the Legal Adviser and may, if considered necessary, request background material and advice regarding relevant provisions in existing treaties and agreements, the general treaty relations of this Government with the government or governments concerned, and other pertinent information.

**730.2-2 Role of Office of the Legal Adviser.** **a. Legal Review of Draft Agreements.** As soon as tentative provisions for a new international agreement are considered or drafted, the Office of the Legal Adviser is requested to make available the services of an attorney-adviser to ensure that the agreement is properly drafted and agreed policy is expressed clearly and fully. The Office of the Legal Adviser prepares a draft in the first instance upon the request of another office.

**b. Legal Clearance Required.** Any draft of a proposed treaty or agreement, or any outgoing correspondence regarding the negotiation, signature, and ratification or approval, as well as the existence, status, and application, of any international agreement to which the United States is or may become a party, is cleared with the Office of the Legal Adviser and with other appropriate bureaus or offices.

**730.3 Instructions to Negotiators.** When an agreement is to be concluded at a foreign capital, the Department designates the American negotiator or negotiators, and he or they are given appropriate instructions. If the agreement to be negotiated is a treaty which will be referred to the Senate, the Secretary of State may at some time prior to or during the negotiations, issue a request the President to issue a "full power" (see section 732) constituting formal authorization for the American negotiators to sign the agreement. Such

a "full power" is not customary with respect to an executive agreement. The receipt or possession of a "full power" is never to be considered as a final authorization to sign. That authorization is given by the Department by a written or telegraphic instruction, and no signature is affixed in the absence of such instruction. If the proposal for an agreement originates with the United States, the American negotiators as a rule furnish a tentative draft of the proposed agreement for submission to the other government for its consideration. The negotiators submit to the Department any modification of the draft or any counter-proposal made by the other government and await instructions from the Department. If the original proposal emanates from a foreign government, the mission forwards the proposal to the Department and awaits its instructions.

**730.47 Preparation of Texts for Signature.** If an agreement is to be signed at a post abroad as a single instrument (in duplicate), the engrossing is customarily done in the foreign office on paper supplied by it, along with a binding and ribbons to tie the pages in place. However, the mission may lend assistance if the foreign office so desires. There is no universal standard as to the kind or size of paper which must be used (each foreign office has its own "treaty paper"), and the texts may be engrossed either by typing or by printing. For every bilateral agreement there must be two originals, one for each government. Each original must embody the full text of the agreement in all the languages in which the agreement is to be signed, subject only to the principle of the "alternate."

In the case of an agreement effected by exchange of notes, the United States note is prepared in accordance with 5 FAM 220-224 and the rules prescribed in the Correspondence Handbook. The note of the foreign government is prepared in accordance with the style of the foreign office and usually in the language of that country. Whenever practicable, arrangements are made for the notes to bear the same date.

**730.5 Principle of the Alternate.** 730.5-1 *Arrangement of Texts.* When English and a language other than English are both used, the texts in the two languages are placed (a) in parallel, vertical columns on the same page, the columns being approximately of equal width, or (b) on opposite facing pages of the document the entire width of the typed or printed space on the page, or (c) in "tandem" fashion, that is, with one text following the other. The tandem procedure is the most widely used as it is the most expeditious.

If the first-mentioned style is used, the English text is placed in the left column of each page in the original to be retained by the United States, and the foreign text appears in the right column. In the other original, to be retained by the foreign government, the foreign text appears in the left column, and the English text in the right column.

If the two languages are placed on opposite facing pages of the document, the English text occupies the left-hand page and the foreign text the right-hand page in the United States original, and conversely in the foreign government's original.

If the two languages are placed "tandem" fashion, the English text is placed first in the United States original, and conversely in the foreign government's original.

If the parallel column style is used, each representative will sign once in the center of the page of each of two originals. If either the "opposite facing page" or "tandem" style is used, the concluding part (usually beginning "In Faith Whereof," "In Witness Whereof," etc.) should appear engrossed in parallel columns on the page on which the signature will appear, so that only one set of signatures is required for each separately bound document. If parallel columns are not feasible, the concluding paragraphs can be placed "tandem" fashion on the page on which the signatures appear.

If an oriental text is one which, from the occidental viewpoint, reads from back to front, it may be possible to join the two texts in a single document so that the signatures appear, roughly speaking, in the center of the document. Separate documents for the two languages are not desirable if any of the methods first mentioned is feasible, although extraordinary circumstances may justify exceptions. In the event of exceptional circumstances affecting the engrossing, it would be well for the negotiators to seek instructions from the Department.

**730.5-2 Arrangement of Names and Signatures; Use of Titles.** In the original to be retained by the United States, the United States and the plenipotentiary of the United States are named first in both the English and foreign texts, wherever the names of the countries or of the plenipotentiaries occur together conjunctively or disjunctively; and the signature of the plenipotentiary of the United States appears above the signature of the foreign plenipotentiary. Conversely, throughout both of the language texts of the original to be retained by the foreign government, that government and its plenipotentiary are named first and his signature appears above the signature of the U.S. plenipotentiary. Some countries prefer that the signatures be side by side. Where that procedure is followed, the signature of the United States plenipotentiary appears on the left and that of the foreign plenipotentiary on the right of the original to be retained by the United States; on the original to be retained by the foreign government the signature of the foreign plenipotentiary will appear on the left and the signature of the United States plenipotentiary on the right. The position of full sentences or paragraphs in the text is never transposed in the alternate procedure.

The general practice and preference of the Department of State is not to use

titles along with signatures, especially where the President or the Secretary of State signs. However, if preferred by the other party or parties concerned, titles may be typed below the place where each signer will affix his signature.

#### 731 CONFORMITY OF TEXTS

After the documents have been engrossed on the basis of agreed texts, and before the signing of the agreement, the negotiators or other responsible officers on each side make sure that the texts in both originals of the engrossed agreement are in exact conformity with the texts in the drafts agreed to, and especially that where a foreign language text is included it is in conformity in all substantive respects with the English text. Prior to engrossing it should have been determined that the foreign-language text is essentially (i.e., as a matter of substance) in accord with the English text, and that it has received the clearance of the Department as required in section 722.6.

#### 732 EXCHANGE OR EXHIBITION OF FULL POWERS

Each representative who is to sign a treaty is furnished a full power signed by the Head of State, Head of Government, or Minister for Foreign Affairs. More than one representative may be named in a single full power. Formal full powers may be (but customarily are not) issued also for the signing of certain executive agreements. When issued, the full power is formal evidence of the authority of the representative to sign on behalf of his government. It names the representative and shows his title and a clear indication of the particular agreement which he is entitled to sign. If the agreement itself requires the exchange of full powers, they are exchanged if not, they may be either exchanged or exhibited by the representatives on the occasion of signing the agreement, as may be preferred by the foreign representative. If exchanged, the original full power of the foreign representative is forwarded to the Department with the United States original of the signed agreement. If the representatives retain the original of their respective full powers, the foreign representative is requested to furnish a xerox, other offset copy or a certified copy of his full power.

#### 733 SIGNATURE AND SEALING

When the engrossing of a treaty or other international agreement which is to be signed as a single instrument has been completed, mutually convenient arrangements for its signature are made by the host government. In the case of treaties, the signatures of the representatives may be accompanied by their respective seals, ribbons being fastened in the seals and binding the document. The same procedure may be followed for other agreements signed as single instruments. It is not essential that seals be affixed unless the agreement specifically so requires. The representative's personal seal, if available, is used when seals ac-

company the signatures, except that if the other government concerned prefers official seals, the seal of the mission may be used.

(NOTE: A personal seal may consist of a signet ring with initial(s) or family crest, written initials, etc.)

**734 Exchange of Ratifications.** 734.1 *Time and Place for Exchange.* It is customary for a treaty to contain a simple provision to the effect that the instruments of ratification shall be exchanged at a designated capital, and that the treaty shall enter into force on the date of such exchange or at the expiration of a specified number of days or months following the date of exchange. As all treaties signed on the part of the United States are subject to ratification by and with the advice and consent of the Senate, and as the time required for action on any particular treaty cannot be foreseen, it is preferable that provision is made in the treaty that the instruments of ratification are to be exchanged "as soon as possible" rather than within a specified period.

**734.2 Effecting and Exchange.** In exchanging instruments of ratification the representative of the United States hands to the representative of the foreign government a duplicate original of the President's instrument of ratification. In return, the representative of the foreign government hands to the representative of the United States the instrument of ratification executed by the head or the chief executive of the foreign government. A protocol, sometimes called *proces-verbal* or "Protocol of Exchange of Ratifications" attesting the exchange is signed by the two representatives when the exchange is made. No full power is required for this purpose. The protocol of exchange is signed in duplicate originals, one for each government, and the principle of the alternate is observed as in the treaty. Before making the exchange and signing the protocol of exchange, the diplomatic representative of the United States satisfies himself that the ratification of the foreign government is an unqualified ratification, or subject only to such reservations or understandings as have been agreed to by the two governments.

**734.3 Notification of Date of Exchange.** In all cases, but particularly in those in which the treaty enters into force on the day of the exchange, it is essential that the mission notify the Department by telegram when arrangements have been completed for the exchange, and also when the exchange actually takes place. By the first pouch after the exchange takes place, if possible, the mission forwards to the Department the instrument of ratification of the foreign government and the United States Government's original of the signed protocol of exchange. The Department then will take such steps as may be necessary to have the proclamation of the treaty executed by the President.

#### 740 MULTILATERAL TREATIES AND AGREEMENTS

**740.1 General.** The procedures for the making of multilateral agreements are in

many respects the same as those for the making of bilateral agreements, e.g., the general requirements in regard to full powers, ratification, proclamation and publication. This subchapter covers those procedures which are at variance with bilateral procedures.

**740.2 Negotiation.** 740.2-1 *Function of International Conference.* The international conference is the device usually employed for the negotiation of multilateral agreements. The greater the number of countries involved, the greater the necessity for such a conference. If only three or four countries are involved, it may be convenient to carry on the preliminary negotiations through correspondence and have a joint meeting of plenipotentiaries to complete the negotiations and to sign the document.

**740.2-2 Invitation.** Traditionally, the international conference was convened by one government extending to other interested governments an invitation (acceptance usually assured beforehand) to participate, the host government bearing most, if not all, of the expense incident to the physical aspects of the conference. This is still often the practice, but increasing numbers of conferences have been convened under the auspices, and at the call, of international organizations.

**740.2-3 Statement of Purpose.** When a call is made or invitations are extended for a conference for the formulation of a multilateral agreement, it is customary for a precise statement of purpose to accompany the call or the invitations. Sometimes, the invitation is also accompanied by a draft agreement to be used as a basis for negotiations. If the conference is called under the auspices of an international organization, the precise statement of purpose or the draft agreement may be prepared in preliminary sessions of the organization or by the secretariat of the organization.

**740.2-4 Instructions to Negotiators.** The U.S. delegation to a conference may be comprised of one or more representatives. As a rule, the U.S. delegation is furnished written instructions by the Department prior to the conference in the form of a position paper for the U.S. delegation cleared with the Secretary or an officer specifically authorized by him and with other appropriate Department officers, under the procedures described in section 722.3. The Office of the Legal Adviser in all instances reviews drafts of international conventions to be considered in meetings of an international organization of which the United States is a member; when necessary, it also provides legal assistance at international conferences and meetings.

**740.2-5 Final Acts of Conference.** The "Final Act" of a conference must not contain international commitments. A Final Act must be limited to such matters as a statement or summary of the proceedings of the conference, the names of the states that participated, the organization of the conference and the committees established, resolutions adopted, the drafts of international agreements formulated for consideration by governments concerned, and the like.

If an international agreement is to be opened for signature at the close of the conference, a text thereof may be annexed to the Final Act but must not be incorporated in the body thereof; the text to be signed must be prepared and bound separately for that purpose. Where a Final Act appears to embody international commitments, the United States representative reports the same to the Department and awaits specific instructions before taking any further action.

**741 Official and Working Languages.** a. *General.* The working languages of the conference and the official languages of the conference documents are determined by the conference. A conference does not necessarily adopt all of the same languages for both purposes. It is customary and preferable for all the official languages in which the final document is prepared for signature to be designated as having equal authenticity. It is possible, however, for the conference to determine, because of special circumstances, that in the event of dispute one of the languages is to prevail and to include in the text of the agreement a provision to that effect. Before a United States delegation concurs in any such proposal, it must request instructions from the Department.

b. *English-Language Text.* Negotiators will use every practicable effort to assure that an English-language text is part of the authentic text of any multilateral treaty negotiated for the United States. Where any question exists on this subject the negotiators should seek further instructions.

#### 742 ENROSSING

**742.1 Language or Languages Used in Texts.** The multilateral agreement drawn up at an international conference is engrossed for signature in the official language or languages adopted by the conference. (See section 741.) The engrossing ordinarily will be done by the conference secretariat.

**742.2 The Principle of the Alternate.** The principle of the alternate (see section 730.5) does not apply in the case of a multilateral agreement, except in the remote case when an agreement between three or four governments is prepared for signature in the language of all the signatories and each of those governments is to receive a signed original of the agreement. Customarily, a multilateral agreement is prepared for signature in a single original, comprising all the official languages. That original is placed in the custody of a depositary (either a government or an international organization) which furnishes certified copies to all governments concerned.

**742.2-1 Arrangement of Texts.** The arrangement of multilateral agreement texts varies, depending largely on the number of languages used. As in the case of bilateral agreements, however, the basic alternatives in the case of multilateral agreements are parallel-columns, facing-pages, or "tandem," as follows: a. *Parallel Columns.* If an agreement is to be signed in only two languages, the preferred method of arrangement of the texts is in parallel, vertical columns. This

method may be used also if only three languages are used, but the three columns are necessarily so narrow that the method has been rarely used in such cases. When there are four official languages, however, it is possible to use the parallel-column method by placing two of the language texts on a left-hand page and the other two language texts on the facing right-hand page; this method has been used often and to good advantage in various inter-American agreements with English, Spanish, French, and Portuguese. If any of the languages is oriental, the parallel-column method may be inexpedient and one of the other methods may be necessary.

b. *Facing Pages.* If an agreement is to be signed in only two languages, and circumstances make it necessary or desirable, the facing-page method may be used for engraving the texts for signature, so that one of the language texts will be on a left-hand page and the other will be on the facing right-hand page. When this method is used, it is desirable that at least the concluding part (usually beginning "In Faith Whereof," "In Witness Whereof," "Done," etc.) be engraved in parallel columns on the page at the end of the texts in both languages so that only one set of signatures is required. If parallel columns are not feasible, the concluding paragraphs can be placed tandem-fashion on one language text after another) on the page at the end of the texts in both languages.

c. *Tandem.* If neither the parallel-column nor the facing-page arrangement is feasible for an agreement to be signed in two languages, and especially if signed in three or more languages, the texts may be arranged in tandem-style, i.e., one complete text following the other. This allows readily for any number of official texts; the tandem-style precedent of the Charter of the United Nations is followed for the preparation of agreements formulated under the auspices of the United Nations. It is desirable, whenever practicable, that the concluding part of each text be placed with the concluding part of each of the other texts in parallel columns on the page on which the first of the signatures appears, although the tandem arrangement described at the end of section 742.2-1b can be used.

742.2-2 *Arrangement of Names and Signatures.* The arrangement of names and signatures, although it may seem a minor matter, sometimes presents difficulties in the case of multilateral agreements. There may be variations of arrangements, depending on particular factors, but the arrangement most generally used is alphabetical according to the names of the countries concerned. An alphabetical listing, however, presents the further question, even when there are only two languages, of what language is to be used in determining the arrangement. It is a common practice to use the language of the host government or for an agreement formulated under the auspices of an international organization, to follow the precedents established by

that organization. If possible, in the event that agreement could not be reached regarding the arrangement of names of countries and signatures of plenipotentiaries, to have a drawing of lots, a device seldom used. In any event, the question is one to be determined by the conference.

742.3 *Conformity of Texts.* It is the primary responsibility of the delegations, acting in conference, to determine the conformity of the agreement texts which are to be signed. However, the conference secretariat has a responsibility for checking the texts carefully to ensure that, when put in final form for signature, the texts are in essential conformity.

#### 743 FULL POWERS

In the case of a multilateral agreement drawn up at an international conference, this Government customarily (almost invariably, in the case of a treaty) issues to one or more of its representatives at the conference an instrument of full power authorizing signatures of the agreement on behalf of the United States. In some instances, issuance of the full power is deferred until it is relatively certain that the agreement formulated is to be signed for the United States (see section 732). Ordinarily, that full power is presented by the representatives to the secretary general of the conference upon arrival of the delegation at the conference site. It may be submitted in advance of arrival, but usually that is not necessary. When the conference has formally convened, it usually appoints a credentials committee, to which all full powers and other evidence of authorization are submitted for examination. The full powers and related documents are retained by the credentials committee or the secretary general until the close of the conference. At the close of the conference, the full powers, related documents, and the signed original of the agreement are turned over to the government or the international organization designated in the agreement as the depositary authority, to be placed in its archives.

#### 744 SIGNATURE AND SEALING (SEE ALSO SECTION 733)

744.1 *Signature.* Most multilateral agreements are signed. Some, however, are adopted by a conference or organization after which governments become parties by adherence, accession, acceptance or some other method not requiring signature (e.g., conventions drawn up and adopted at sessions of the International Labor Organization). Procedures for the deposit of an instrument of adherence, accession, or acceptance are similar to procedures for the deposit of instruments of ratification. In some cases, accession or approval can be accomplished by formal notice through diplomatic channels.

744.2 *Seals.* Multilateral treaties do not usually provide for the use of seals along with the signatures of representatives. The large number of signatures would make the use of seals difficult and cumbersome.

#### 745 DISPOSITION OF FINAL DOCUMENTS OF CONFERENCE

At the close of a conference, the remaining supply of working documents (e.g., records of committee meetings, verbatim minutes, etc.) usually is placed in the custody of the host government or the organization which called the conference for appropriate disposition. It is not proper for definitive commitments constituting part of the agreement to be embodied in such working documents. Definitive commitments must be incorporated only in a final document to be signed or adopted as an international agreement. The final documents of the conference may include a Final Act (see section 740.2-5) and, separately the text(s) of agreement(s). The practice of signing a Final Act is still followed in many cases. In any event, any agreement formulated at the conference must be engraved as a separate document and signed or adopted. The signed or adopted originals of the final documents of the conference are turned over to the government or international organization designated in such documents as depositary. If the conference is not held under the auspices of an organization, it is customary for the host government to be designated depositary, but it might be appropriate, even in such case, to name an organization, such as the United Nations, as depositary. The decision is made by the conference, with the concurrence of the government or international organization concerned.

#### 746 PROCEDURE FOLLOWING SIGNATURE

746.1 *Understandings or Reservations.* If it is necessary to inform other governments concerned, and perhaps obtain their consent, with respect to an understanding or reservation imposed by the Senate in its advice and consent, this Government communicates with the depositary, which then carries on the necessary correspondence with the other governments concerned.

746.2 *Deposit of Ratification.* When the depositary for a multilateral agreement is a foreign government or an international organization, the United States instrument of ratification (or adherence, accession, acceptance, etc.) is sent by the Department to the appropriate Foreign Service mission or to the United States representative to the organization if there is a permanent representative. The mission or the representative deposits it with the depositary authority in accordance with the terms of the accompanying instruction from the Department concerning the time of deposit. When this Government is depositary for a multilateral agreement, posts are not authorized to accept instruments of ratification of foreign governments, i.e., the foreign government cannot deposit its instrument with the post. If a post is requested to transmit an instrument of ratification to the Department, it must make clear to the foreign government that the post is acting only as a transmitting agent and that the ratification

cannot be considered as accepted for deposit until received and examined by the Department.

**746.3 Registration** (See also section 750.2-3). It is generally recognized that the depositary for a multilateral agreement has a primary responsibility for such registration. Normally, the depositary has custody not only of the original document of agreement but also of instruments of ratification and other formal documents. Consequently, the depositary is the most authoritative source of information and documentation.

#### 750 PROCEDURAL RESPONSIBILITIES

Carrying out and providing advice and assistance respecting the provisions of this chapter are the responsibility of the Assistant Legal Adviser for Treaty Affairs, who:

a. Makes all arrangements and supervises ceremonies at Washington for the signature of treaties or other international agreements; and prepares or arranges for the preparation of texts of treaties and other agreements to be signed in Washington;

b. Prepares or arranges for preparation of the Secretary of State's reports to the President, and the President's messages to the Senate for transmission of treaties for advice and consent to ratification;

c. Prepares instruments of ratification or adherence, instruments or notifications of acceptance or approval, termination notices, and proclamations with respect to treaties or other international agreements;

d. Makes arrangements for the exchange or deposit of instruments of ratification, the deposit of instruments of adherence, the receipt or deposit of instruments or notifications of acceptance or approval, and termination notices, with respect to treaties or other international agreements;

e. Prepares instructions to posts abroad and notes to foreign diplomatic missions at Washington respecting matters in d;

f. Takes all measures required for the transmission to the Congress of all international agreements other than treaties, as required by the Case Act (see Section 724), and the publication and registration of treaties and other international agreements to which the United States is a party (see sections 725 and 750.2-3).

g. Reviews all drafts of international agreements, proposals by other Governments or international organizations, instructions and position papers, all Circular 175 requests and accompanying Memorandums of Law.

**750.1 Engrossing Documents for Signature.** After the text of a treaty or other agreement is approved in writing in accordance with section 722.7, the document is engrossed for signature in the Department.

Adequate time (normally 7 business days) is allowed for the engrossing (typing on treaty paper), comparing, etc., of the treaty or other agreement to be signed. In order to assure sufficient time for the preparation of accurate texts in duplicate for signature, including, in

the case of documents to be signed in a foreign language sufficient time for the Language Services Division to prepare any translations required, check any existing foreign-language draft, and check the engrossed foreign-language text. The determination of the amount of time required in each instance to complete the engrossing is the responsibility of the Assistant Legal Adviser for Treaty Affairs.

**750.2 Publication and Registration.**  
**750.2-1 Publication of Texts.** After the necessary action has been taken to bring into force the treaty or other international agreement concluded by the United States, it is published promptly in the *Treaties and Other International Act Series* issued by the Department. After publication in that series, the text of the treaty or other agreement is printed in the annual volume (which may consist of two or more bindings) of *United States Treaties and Other International Agreements* as required by law (see section 725). Treaties and other agreements concluded prior to January 1, 1950, were published in the *United States Statutes at Large*.

**750.2-2 Responsibility for Other Treaty Publications.** The Office of the Assistant Legal Adviser for Treaty Affairs prepares and maintains the annual publication *Treaties in Force*, an authoritative guide to the text and status of treaties and other international agreements currently in force for the United States. It also compiles and has published, in addition to the publication referred to in section 750.2-1, other volumes containing texts of treaties and other agreements as required or authorized by law. The "Treaty Information" part of the Department of State BULLETIN is compiled by that office.

**750.2-3 Registration.**  
 Article 102 of the United Nations Charter requires that every treaty and every international agreement entered into by a member of the United Nations be registered, as soon as possible, with the Secretariat and published by it. Article 83 of the Chicago Aviation Convention of 1944 requires registration of aviation agreements with the Council of the International Civil Aviation Organization.

**750.3 United States as Depositary.** a. Inquiries from foreign diplomatic missions at Washington and from American diplomatic missions abroad with respect to the preparation or deposit of instruments relating to any multilateral agreement of which the United States is depositary are referred to the Assistant Legal Adviser for Treaty Affairs. That officer is to be notified immediately of the receipt of any such document anywhere in the Department, inasmuch as a depositary is required to ascertain whether those documents are properly executed before accepting them for deposit, to keep accurate records regarding them, and to inform other governments concerned of the order and date of receipt of such documents.

b. Before any arrangements are proposed or agreed to for the United States to serve as depositary for any international agreement the views of the Assis-

tant Legal Adviser for Treaty Affairs will be obtained.

**750.4 Records and Correspondence Custody.** a. The Assistant Legal Adviser for Treaty Affairs compiles and maintains authoritative records regarding the negotiation, signature, transmission to the Senate, and ratification or approval, as well as the existence, status, and application, of all international agreements to which the United States is or may become a party and, so far as information is available, of agreements between other countries to which the United States is not a party. Inquiries on these subjects are addressed to, and outgoing communications cleared with, the Office of the Legal Adviser.

b. To ensure that the records regarding the matters described in this section are complete and up to date, it is important that all relevant papers be referred to the Office of the Legal Adviser.

c. The Assistant Legal Adviser for Treaty Affairs is responsible for the custody of originals of bilateral agreements and certified copies of multilateral agreements pending entry into force and completion of manuscripts for publication. Following publication, such originals and certified copies are transferred to the National Archives. The Assistant Legal Adviser for Treaty Affairs retains custody of signed originals of multilateral agreements for which the United States is depositary, together with relevant instruments of ratification, adherence, acceptance, or approval, as long as those agreements remain active.

[SEAL] CHARLES N. BROWER,  
 Acting Legal Adviser,  
 Department of State.

July 23, 1973.

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## APPENDIX C

LEGISLATION PENDING IN THE 93D CONGRESS RELATING TO  
THE MAKING OF INTERNATIONAL AGREEMENTSH. Con. Res. 426Mr. Aspin

DIGEST:

Expresses the sense of Congress concerning the President not signing any agreement with a foreign country or international organization during the period from his impeachment by the House of Representatives until the Senate votes on such impeachment.

4/4/74

Foreign Affairs

ACTIONS:

4/4/74 Referred to House Committee on Foreign Affairs

H. J. Res. 147Mr. Rarick

DIGEST:

Constitutional Amendment - Provides that the President shall have the power, by and with the advice and consent of the Senate and House of Representatives, to make treaties. Requires for approval that for each treaty two-thirds of the Senate and the House of Representatives must concur.

1/9/73

Judiciary

ACTIONS:

1/9/73 Referred to House Committee on Judiciary

H. J. Res. 455Mr. Bingham

DIGEST:

Requires any executive agreement made on or after the date of enactment of this joint resolution to be transmitted to the Secretary of State, who shall then transmit that agreement (bearing an identification number) to the Congress. Provides that any such agreement the immediate disclosure of which would, in the opinion of the President, be prejudicial to the security of the United States shall instead be transmitted by the Secretary to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate written injunction of secrecy to be removed only upon due notice from the President. Requires each committee to personally notify the Members of its House that the Secretary has transmitted such an agreement with an injunction of secrecy, and such agreement shall thereafter be available for inspection only by such Members.

3/22/73

Foreign Affairs

Provides that any such executive agreement shall come into force with respect to the United States at the end of the first period of sixty calendar days of continuous session of Congress after the date on which the executive agreement is transmitted to Congress or such committees, as the case may be, unless, between the date of transmittal and the end of the sixty-day period, both Houses pass a concurrent resolution stating in substance that both Houses do not approve the executive agreement.

ACTIONS:

3/22/73 Referred to House Committee on Foreign Affairs

H. J. Res. 584Mr. Ashbrook

DIGEST:

5/30/73

Judiciary

Constitutional Amendment - States that any provision of a foreign treaty which denies or abridges any right enumerated in this Constitution shall not be of any force or effect. Provides that no treaty shall authorize or permit any foreign power or any international organization to supervise, control, or adjudicate rights of citizens of the United States within the United States enumerated in this Constitution or any other matter essentially within the domestic jurisdiction of the United States. States that all executive or other agreements between the President or any international organization shall be made only in the manner prescribed by law, and shall be subject to the limitations imposed on treaties.

ACTIONS:

5/30/73 Referred to House Committee on the Judiciary

H. J. Res. 977Mr. Kemp

DIGEST:

4/10/74

Judiciary

Constitutional Amendment - States that any provision of a foreign treaty which denies or abridges any right enumerated in this Constitution shall not be of any force or effect. Provides that no treaty shall authorize or permit any foreign power or any international organization to supervise, control, or adjudicate rights of citizens of the United States within the United States enumerated in this Constitution or any other matter essentially within the domestic jurisdiction of the United States. States that all executive or other agreements between the President or any international organization shall be made only in the manner prescribed by law, and shall be subject to the limitations imposed on treaties.

ACTIONS:

4/10/74 Referred to House Committee on the Judiciary

H. J. Res. 1021Mr. Pepper

DIGEST:

5/20/74

Judiciary

Constitutional Amendment - Provides that the President shall have power, by and with the advice and consent of the Senate and the House of Representatives, to make treaties; provided a majority of the Members of each House present concur in giving such advice and consent, and provided that each House by a majority of its Members present shall determine the rules by which it shall be governed in giving its advice and consent to the making of treaties and executive agreements requiring the concurrence of the Congress.

ACTIONS:

5/20/74 Referred to House Committee on the Judiciary

S. 445

Mr. Case  
DIGEST:

1/18/73

Foreign Relations

Prohibits funds to be obligated for the implementation of the Azores base agreement with Portugal until that agreement is submitted to the Senate as a treaty for its advice and consent.

## ACTIONS:

1/18/73 Referred to Senate Committee on Foreign Relations

S. 446

Mr. Case  
DIGEST:

1/18/73

Foreign Relations

Prohibits any funds from being obligated or expended to carry out any agreement entered into between the United States Government and the government of any foreign country providing for the establishment of a military installation in that country at which units of the Armed Forces of the United States are to be assigned to duty, or revising or extending the provisions of any such agreement, unless such agreement is submitted to the Senate and receives its advice and consent.

## ACTIONS:

1/18/73 Referred to Senate Committee on Foreign Relations

S. 1472

Mr. Ervin  
DIGEST:

4/5/73

Judiciary

Provides that any executive agreement made on or after the date of enactment of this Act shall be transmitted to the Secretary of State who shall then transmit such agreement to the Congress. States that if, in the opinion of the President, the immediate disclosure of such an agreement would be prejudicial to the security of the United States the agreement shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House under an appropriate written injunction of secrecy to be removed only upon due notice from the President.

Provides that any such agreement shall come into force with respect to the United States at the end of the first period of 60 calendar days after the date on which the executive agreement is transmitted to the Congress or such committees, as the case may be, unless both Houses pass a concurrent resolution stating in substance that both Houses do not approve the executive agreement.

Sets forth the procedure to be followed by the Congress in the case of concurrent resolutions described above.

## ACTIONS:

4/5/73 Referred to Senate Committee on Judiciary, then to the Committee on Foreign Relations, if and when reported.  
 4/10, 11, 12/73 Public hearings by Judiciary. Printed.  
 6/13/73 Reported by Separation of Powers Subcommittee to the full committee. (See S. 3830.)

S. 3830Mr. Ervin

7/30/74

Foreign Relations

## DIGEST:

Requires that any international executive agreement made by the executive branch shall be transmitted to the Congress, which may act within 60 days to disapprove it.  
 Sets forth procedures for such consideration by the Congress.

## ACTIONS:

7/30/74 Referred to Senate Committee on Foreign Relations  
 8/19/74 Rereferred to Senate Committee on the Judiciary

S. J. Res. 106Mr. Hathaway

5/8/73

Judiciary

## DIGEST:

Constitutional Amendment - Requires the advice and consent of both Houses of Congress before any treaty or agreement providing for the commitment of United States armed forces to a foreign nation may be made.

## ACTIONS:

5/8/73 Referred to Senate Committee on Judiciary

S. Res. 99Mr. Hartke

4/12/73

Foreign Relations

## DIGEST:

Makes it the sense of the Senate that the President is required to consider the Senate as a Council of Advice with respect to the negotiation of treaties and other agreements with any foreign government.

Makes it the sense of the Senate that any persons appointed to represent the United States or the President in negotiations with foreign governments are "public ministers" of the United States within the language of the Constitution, and, therefore, no person may be constitutionally appointed to conduct such negotiations unless such person is first nominated to an office to conduct such negotiations, and the Senate advises and consents to his nomination.

Declares that the President should submit to the Senate, for its advice and consent all agreements of national importance previously concluded with foreign governments that have not been submitted to the Senate for its advice and consent and should submit a report on all negotiations presently being conducted with respect to possible agreements.

Enumerates those appointments and negotiations which are excluded from the provisions of this resolution.

## ACTIONS:

4/12/73 Referred to Senate Committee on Foreign Relations



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