

NAVY DEPARTMENT  
Office of the Chief of Naval Operations  
OFFICE OF NAVAL INTELLIGENCE  
Washington

Op-16-A-5  
S79-4/EN3-10  
A2-11/EN3-10  
Serial No. 0558916

July 2, 1941

CONFIDENTIAL.

NAVAL INTELLIGENCE DIVISION CIRCULAR LETTER DC(C) 17-41

SUBJECT: Authority of Naval Intelligence Service Operatives  
to Make Arrests, Conduct Searches and Seizures;  
Carry Firearms.

Reference: (a) J.A.G. Conf. Ltr. to Acting Secretary of the  
Navy, dated September 29, 1939, (SC)A17-10, J:fmh.  
(b) J.A.G. Conf. Ltr. to Secretary of the Navy, dated  
June 5, 1941, ND1/S79-4(410423), J.

1. Numerous inquiries have come to this Office recently regarding the use of firearms by Naval Intelligence Service Operatives, whether officers, on active duty or inactive duty, or civilian agents. To this end, the Judge Advocate General rendered a confidential opinion dated 5 June, 1941 and approved by Acting Secretary Forrestal, same day, which is summarized in paragraph 2 hereof.

2. A. Searches and Seizures, Arrest:

Operatives of the Naval Intelligence Service are not authorized by law, as such operatives, to make arrests for violations of the laws of the United States or to conduct searches and seizures. Said operatives have the same authority in this category as private citizens. (Note: In this connection it might be well to procure a good hand book on the law of arrest. "The Law of Arrest"—Voorhees, published by Bobbs-Merrill Co., is suggested.)

B. Firearms:

(1) Officers of the United States Navy and officers of the United States Naval Reserve, while on active duty, and while engaged in performing their official duty as Naval Intelligence Service Operatives, may legally carry firearms, at any place within the United States or its territorial jurisdiction.

Date: 16 Aug 58

Date: 16 Aug 58

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Op-16-A-5  
S79-14/EN3-10  
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(2) Officers of the Naval Reserve, who are on inactive status, and civilian agents, who are Naval Intelligence Service Operatives may not legally carry firearms while engaged in performing service as Naval Intelligence Service Operatives. (Exceptions - (a) where there is no State or territorial statute prohibiting the carrying of concealed weapons or possession of firearms; or (b) where the State or territorial statute makes such acts a criminal offense, but specifically exempts these classes of personnel.)

(Note: (a) District Intelligence Officers of all Naval Districts should have their legal sections investigate the laws of the jurisdictions concerned. (b) It is suggested that civilian agents required to carry firearms obtain permits under the law of their particular State or territory. (c) In obtaining such a permit said civilian agents must not reveal their identity with the United States Navy.)

3. Even though authority exists for the carrying of firearms under certain conditions as indicated above, and as a matter of policy, it should be definitely understood that the District Intelligence Officer is personally responsible for authorizing or permitting any officer or agent to carry firearms, under any circumstances, and then only when it has been definitely determined by the District Intelligence Officer (and he must do so in each particular instance that firearms are contemplated being carried) that the officer or agent concerned is thoroughly qualified from the standpoint of

- (1) thorough training in the mechanical operation (such as knowing how to load, unload, what to do if weapon jams or misfires, etc.) and scientific handling (quick and effective handling, shooting accurately, limits of range, etc.) of firearms.
- (2) actual previous comprehensive experience in carrying and handling firearms.

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- (3) maturity and judgment which will enable the officer or agent to determine intelligently how firearms are to be carried and the circumstances under which the actual use of firearms is justified.

4. Notwithstanding the fact that the District Intelligence Officer has personally satisfied himself that officers or agents are competent to carry firearms as set forth above, blanket authority should not be issued. A determination should be made by the District Intelligence Officer personally in each individual phase of a case or assignment as to whether the circumstances warrant or justify the District Intelligence Officer authorizing the carrying of firearms.

/s/ A. G. Kirk

A. G. Kirk  
Captain, U. S. Navy  
Director of Naval Intelligence

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NAVAL INTELLIGENCE DIVISION CIRCULAR LETTER DC(C) 17-41

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5. (Note: In this good hand book on the rhees, published by

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2. A. Searches and Seizures, Arrest:

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Operatives of the Naval Intelligence Service Unit: 22  
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(1) Officers of the United States Navy and officers of the United States Naval Reserve, while on active duty, and while engaged in performing their official duty as Naval Intelligence Service Operatives, may legally carry firearms, at any place within the United States or its territorial jurisdiction.

(2) Officers of the Naval Reserve, who are on inactive status, and civilian agents, who are Naval Intelligence Service Operatives may not legally carry firearms while engaged in performing service as Naval Intelligence Service Operatives. (Exceptions - (a) where there is no State or territorial Statute prohibiting the carrying of concealed weapons or possession of firearms; or (b) where the State or territorial statute makes such acts a criminal offense, but specifically exempts these classes of personnel.)

(Note: (a) District Intelligence Officers of all Naval Districts should have their legal sections investigate the laws of the jurisdictions concerned. (b) It is suggested that civilian agents required to carry firearms obtain permits under the law of their particular State or territory. (c) In obtaining such a permit said civilian agents must not reveal their identity with the United States Navy.)

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Office of the Chief of Naval Operations

Op-16-B-3

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April 8, 1941

MEMORANDUM for Captain Phillips:

With reference to the attached letter prepared by Lieutenant Gunther regarding H.R. 3106, A Bill to Authorize Naval Agents to Assist Civil Authorities in the Enforcement of the Law:

It would appear that the Attorney General has now taken the definite position that the proposed legislation would serve no useful purpose at this time, and in view of the statement of the Secretary of the Navy "that no action should be taken on the matter referred to in the attached letter from the Attorney General", I am disposed to concur in Gunther's draft of the letter for the Director's signature unless you desire that the Office of Naval Intelligence -- in spite of the adverse position taken by the Secretary and the Attorney General -- continue its advocacy of the proposed legislation. This, of course, is a matter of policy for higher determination than the writer. I would recommend, however, that the second sentence of paragraph 4, which is a purely conjectural statement, be eliminated.

M. T. Little  
Lieutenant, USNR.

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Dictated by Lt. Little  
Dictated April 8, 1941  
Typed by M. Curran

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MEMORANDUM FOR CAPTAIN PHILLIPS

February 21, 1941

SUBJECT: Status of a person holding a commission in the  
Attached proposed Bill to be known as the same  
"The Firearms Registration Act," a foreign  
government.

PURPOSE: This Bill would require the owners of all firearms,

1. within six months after the effective date of the  
Act, to register such weapons with the Federal Bureau of Investi-  
gation. The United States is forbidden, without the consent of  
Congress, to accept any office or title of any kind whatsoever  
from a foreign government.

(a) The enactment of this proposed legislation  
would not duplicate the purpose of the

2. National Firearms Act of 1934, as it would give a  
commission in exempt from its provision those firearms, as a  
vice-consul for covered by such, i.e., machine guns, sawed  
to the accepting of shotguns, sawed off rifles, and silencers,  
within the meaning of the Constitution, while holding an office  
of trust in (b) The Department of Justice recommends favorable

action.

3. Should a Naval Reserve officer, while on active duty,  
DIGEST IN BRIEF: for a country, such as Japan, especially at  
this particular time. All firearms in the United States shall be registered,  
in accordance with provisions specifically set forth with the  
Federal Bureau of Investigation within six months after the effec-  
tive date of this Act, or within ten days after acquiring a firearm,  
whichever is the later date.

4. Violation of the Act would carry a penalty of im-  
prisonment for not more than one year and/or a fine of not more  
than \$500 taken up with that Bureau for proper disciplinary action.

5. Firearms covered by the provisions of the National  
Firearms Act of 1934 are excluded from this legislation.

Respectfully,

L. W. Gunther,  
Lieutenant (jg), U.S.N.R.

L. W. Gunther,  
Lieutenant (jg), U.S.N.R.

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Date: 60-12908

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See copies of memo written by Lt. Gunther.  
and desire them for your files.

# MEMORANDUM FOR CAPTAIN PHILLIPS

cc

February 21, 1941

SUBJECT: Status of a person holding a commission in the United States Naval Reserve who is at the same time acting as a vice-consul for a foreign government.

1. Under Article I, Section 9, Clause 8, of the United States Constitution, a person who is holding any office of trust under the United States is forbidden, without the consent of Congress, to accept any office or title of any kind whatsoever from any foreign state.

(a) The Department of Justice recommends:

2. It would seem, therefore, that a person holding a commission in the United States Naval Reserve could not act as a vice-consul for a foreign country, as that would certainly amount to the accepting of an office or title from a foreign country, within the meaning of the Constitution, while holding an office of trust under the United States.

(a) The Department of Justice recommends:

3. Should a Naval Reserve officer, while on active duty, act as a vice-consul for a country, such as Japan, especially at this particular time, he would not only be violating the Constitution, but would be performing duties wholly inconsistent with the best interest of the Navy, and it would seem as if he would be subject to immediate disenrollment by the Secretary of the Navy.

Under Navy Regulations, Article 143, Section 1(a), the Bureau of Navigation is charged with the discipline of officers of the Naval Reserve, such a matter as aforementioned should be taken up with that Bureau for proper disciplinary action.

Respectfully,

Enclosure covered by the provisions of the National Archives Act of 1950 and excluded from this legislation.

Respectfully,

L. W. Gunther,  
Lieutenant (jg), U.S.N.R.

L. W. Gunther,

Lieutenant (jg), U.S.N.R.

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MEMORANDUM for OFFICE OF  
JUDGE ADVOCATE GENERAL  
U. S. NAVY

concerning  
a proposed bill which is entitled

"A BILL to authorize naval agents  
to assist civil authorities in  
the enforcement of the law."

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At the outset, it is immediately apparent that the title of this bill is its greatest, and perhaps only, fault. As it now stands, there is little wonder that some of the Members of Congress regard the bill with misgiving or even apprehension. A more flagrant example of mislabeling can hardly be imagined. The title clearly implies, either that naval agents are to meddle in civil affairs, or else that the protection of the United States Navy is a function and responsibility of civilian agencies in which we are to be allowed to "assist". Either of these conceptions is seriously in error!

In the first place, as everyone knows, the Navy has never usurped the prerogatives of civilian authorities and certainly does not propose to do it now. Nothing could be further from the intent, purpose or provisions of this bill than to allow the Navy to institute a kind of military or secret police to abridge the civil rights. Yet this is implied in the title!

In the second place, the protection of the Navy against espionage and sabotage is just as much the responsibility of the Navy as is its protection against shot and shell. Civilian agencies, to a limited extent, may effectively share in this responsibility, but they can never assume it, for it is a universally recognized military function. Yet the contrary is implied in the title!

If the title were such as to truly reflect the purpose and provisions of the bill, it would read about as follows: "A Bill to enable the Naval Investigating Service to carry out its proper functions, and to do so legally". That would be an honest, descriptive title and one which would accurately outline the provisions of the bill.

But the title is not important. Its only importance lies in the fact that it might cause the bill to be defeated. This must not be allowed to happen, for the bill itself is wise, it is reasonable, and it is urgently needed.

What are the provisions? They give to the naval agent the following powers:

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- (1) To serve warrants and subpoenas.
- (2) To make seizures under warrant.
- (3) To make arrests without warrant for probable felonies.
- (4) To carry firearms.

Let us inquire into the need for these provisions. Under the present laws, the naval agent may serve no warrants or subpoenas at all! If he needs to see a hotel register, to check the telephone calls made by an espionage agent, to examine a bank account, to trace a telegram or to inspect the contents of a spy's safe-deposit box, it cannot be done quickly, and at the same time, legally. He must set into motion the ponderous and oftentimes slow machinery of the law. He must apply to the United States Attorney or to the United States Commissioner, frequently to be found in another city. In his efforts to contact them he must use telegrams, telephones, garages etc. to transmit his desires. When he has reached these officials a search warrant or subpoena is issued, which must be served by a United States Marshal. These are not always available; when they are found and made to serve the warrant, the naval agent must share with them the important secrets of the Navy. This process takes many hours at best; sometimes several days are required, during which time the alien agent, who is always alert, sensitive and apprehensive, may have become alarmed and departed for parts unknown.

Is there no alternative which the agent may choose, to escape from this cumbersome process? Yes, there is one. In his devotion to duty, in his loyalty to his country and in his desire to protect it -- he may break the law. He may do even worse, he may induce others to do so! He might even go to a telegraph office and urgently request to see a copy of a telegram sent by a fleeing espionage agent. And if the telegraph agent were patriotic enough to furnish this information, they both would be liable to arrest and imprisonment!

The agent is reduced to such extremities by the URGENCY of his need. In warfare, time is the all important factor, and it must be remembered that Intelligence Services are continually at war. The proposed bill would remove these unnecessary and discriminatory restrictions imposed upon the naval agent, and allow him to move with the same speed and effectiveness as an agent of the Federal Bureau of Investigation, with whom the Naval Intelligence has shared its responsibility.

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The bill proposes to allow naval agents to make seizures under warrant. This provision would enable the naval agent to personally and privately conduct the search of premises which he believes are being used by espionage or sabotage agents. This is a most necessary provision. Under the present law, after having completed the laborious process of obtaining a search warrant, as already described, the naval agent may not even be allowed to take part in the search at all. His status is still only that of a citizen and he may be excluded from the premises while the search is conducted by untrained officials who have no intimate knowledge of the case. Such a search is worse than useless, because not only may valuable evidence be overlooked but the occupants of the premises are certain to be warned. Under the present laws, it is virtually impossible for the naval agent to legally conduct a discreet search!

The next provision of the bill allows the naval agent to make arrests without warrant for felonies believed to be committed. This power is absolutely necessary for the effective operation of any Federal investigating agency; as is amply proved by the fact that it has already been granted to the following agencies:

- (1) U. S. Marshals and Deputy Marshals.
- (2) Agents Federal Bureau of Investigation.
- (3) Customs Investigation Unit.
- (4) U. S. Customs Patrol.
- (5) The Coast Guard.
- (6) The Bureau of Narcotics.
- (7) The Alcohol Tax Unit Enforcement Division.
- (8) The Secret Service.
- (9) The Bureau of Internal Revenue Intelligence Unit.
- (10) Post Office Inspectors.

~~Declassified~~ Downgraded to Border Patrol.

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Surely it is just as important to protect the Navy against foreign spies and saboteurs as it is to apprehend smugglers, tax-evaders and letter-box thieves.

This provision would, for the first time, enable the Naval Intelligence agent to apprehend, on sight, foreign agents who otherwise will invariably escape. In fact, these escapes have occurred with alarming frequency. The Japanese spy, Toshio Miyasaki, escaped across the Canadian border; Dr. Griebel escaped to Germany; Lt. Comdr. T. Omae got away to Japan; William Lonkowski fled from New York to Canada by plane, and this by no means completes the list.

Harry Thompson, the Japanese agent who is now serving a fifteen year sentence at MacNeill's Island for espionage, would have escaped if a Naval agent had not broken into his room thirty minutes before he was to depart and arrested him without due legal formality. What chances did this agent take in seizing a Japanese spy? He ran the risk of being sued for false arrest, which might have forced him to pay damages for having served his country. This is hardly a situation to encourage and stimulate naval agents to greater efforts.

The next provision of the bill is to restrict the authority granted to matters pertaining to espionage, counter espionage, sabotage and other matters affecting the National defense and the Naval Service. This is a wise though not a necessary provision.

It is wise because it anticipates and removes objections to the bill which might be based upon the fear that the naval agent will trespass beyond the sphere of naval interests.

It is not necessary, because the laws of the Navy have already strictly limited the activity of naval agents to affairs pertaining to the Navy and the National defense.

The last provision of the bill is that which authorizes the naval agent to carry firearms. It is a most necessary provision. Under the present circumstances the naval agent is expected to conduct surveillances and searches of the headquarters of foreign espionage agents, not only without the legal protection of a warrant, but also without the physical

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protection of firearms. The alien agent is no common criminal who carefully calculates and weighs the legal consequences of his act. On the contrary, he is often inspired by loyalty and devotion to his own country in whose service he would not hesitate to kill. These agents are as dangerous as any fanatics.

Only a few months ago a sabotage agent was surprised in the act of attempting to burn down an airplane hangar belonging to the U. S. Marines, at Quantico, Va. He unhesitatingly turned and shot down the sentry, and only the fact that the sentry was armed, and returned the fire, prevented him from successfully completing his destructive act.

The naval agent without a warrant may be shot and killed as a common felon. This bill prevents that possibility.

The beneficial effects of this bill may be briefly recapitulated as follows:

(1) Provides equal powers where responsibility is equal, thus correcting an unjust and inequitable condition.

(2) Protects the naval agent against charges of false arrest, burglary and other offenses.

(3) Enables civilians to freely and legally cooperate with naval agents, without fear of civil suit.

(4) Provides personal protection for the agent by means of firearms.

(5) Adds forty-eight hours to the time a suspect may be held for investigation.

(6) Makes possible the capture of foreign agents who may otherwise escape.

(7) Gives naval agents the same power to protect the Navy as has already been given to many civilian agencies.

(8) Provides authority commensurate with the responsibility which has long since been acknowledged

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SUBJECT:

S. 345  
A BILL

TO AUTHORIZE NAVAL AGENTS TO ASSIST CIVIL  
AUTHORITIES IN THE ENFORCEMENT OF THE LAW

Enclosure:

- (A) Copy of Bill S. 345.  
(B) Digest of Bill S. 345  
(C) Copy of President's Directive of June 26, 1939.  
(D) Information relative to appointment of Naval Agents  
and statistics concerning same.  
(E) Copy of Captain Jules James' testimony before  
the Naval Affairs Committee of the House of  
Representatives on Thursday, January 23, 1941.

STATEMENT RELATIVE TO SUBJECT BILL.

Under the President's Directive of June 26, 1939,<sup>1</sup> the Office of Naval Intelligence was given certain functions in the controlling and handling of cases of espionage, counter-espionage, and sabotage, together with the Office of Military Intelligence and the Federal Bureau of Investigation.

In order to carry out the intent and purpose of the President's Directive, and to protect the Navy against cases of espionage, counter-espionage, sabotage, and other matters affecting the National Defense and the Naval Service, the immediate enactment of this Bill is considered essential to the security of the Navy.

This Bill provides that the Secretary of the Navy shall be granted authority to appoint Naval agents<sup>2</sup> who, in cases of sabotage, espionage, counter-espionage, and other matters affecting the National Defense and the Naval Service, shall have the power to serve warrants and subpoenas, make seizures under warrants, make arrests without warrants where the agent has reasonable grounds to believe that the person is guilty and that there is a possibility of the person escaping before a warrant can be obtained. In either case the person arrested shall be immediately

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taken before a committing officer. In addition, these agents shall be authorized to carry firearms.

This Bill will enable the Naval investigating service to carry out its proper functions and do so legally. At the present time a Naval Agent has no more power than a private citizen. As a result of which he may serve no warrants or subpoenas at all. It is necessary that he set into motion the ponderous and oftentimes slow machinery of the law, by applying to the United States Attorney or to the United States Commissioner who is frequently not available at the time. The ultimate result of such a delay is apparent. By permitting an agent of Naval Intelligence to serve such a warrant will allow him to move in the same manner and with the same effectiveness as an agent of the Federal Bureau of Investigation who is performing parallel duties.

The next provision of the Bill, which would allow an agent to make a seizure under such a warrant, is equally as important. It would enable the agent to personally and privately conduct the search of premises which he believes are being used by espionage and sabotage agents. Under the present procedure, after an agent has obtained a search warrant he may not even be allowed to take part in the search at all. In other words, under the present laws, it is virtually impossible for the Naval Agent to legally conduct an intelligent search. In order that a Naval Agent may apprehend on sight such persons as foreign agents who would otherwise invariably escape, it is necessary that power to make arrests without a warrant for felonies believed to have been committed should be given an agent where he has reasonable grounds to believe that the person is guilty.

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This power is absolutely necessary for the effective operation of the Domestic Intelligence branch of our Office, especially at this particular time.

The fact that this Bill restricts and limits the foregoing powers of a Naval Agent to cases of espionage, counter-espionage, sabotage, and other matters affecting the National Defense and the Naval Service, is most significant. The purpose of this provision is to limit definitely the authority granted to a Naval Agent to that absolutely necessary to carry out his duties. There is one point that we want definitely understood, and that is that it is not the intent of this legislation to set up a military police to abridge civil rights. Its object is to protect the Navy, which responsibility and duty the Navy must alone accept.

The last provision of the Bill is that which authorizes the Naval Agent to carry firearms. It is, indeed, a most necessary provision and it is considered unnecessary to elaborate as to the reason for it.

In conclusion the most beneficial effects of this Bill will be:

- (1) That a Naval agent will be protected against charges of false arrest, burglary and other offenses.
- (2) That civilians will feel free to cooperate with Naval Agents without fear of being placed in jeopardy by civil suit.
- (3) Personal protection is provided for the agent.
- (4) A period of 48 hours is ultimately added to the time a suspect may be held for investigation.

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- (5) It makes possible the capture of suspects who might otherwise escape.
- (6) A Naval Agent will have the same power to protect the Navy and things connected therewith with the same power as has already been given to an agent of the Federal Bureau of Investigation.

- 1. See enclosure (A)
- 2. See enclosure (D)

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 Date: 16 Aug 98 Unit: NCIS 82



Enclosure (A)

77th CONGRESS  
1st Session

S. 345

IN THE SENATE OF THE UNITED STATES

January 14, 1941

Mr. Walsh introduced the following bill; which was read twice and referred to the Committee on Naval Affairs

A BILL

To authorize naval agents to assist civil authorities in the enforcement of the law.

1 Be it enacted by the Senate and House of Representa-  
2 tatives of the United States of America in Congress assembled,  
3 That for the detection and prevention of sabotage and espio-  
4 nage the Secretary of the Navy is authorized to appoint naval  
5 agents who shall be vested with the authority necessary for  
6 the execution of such duties. Such agents who are specifi-  
7 cally designated by the Secretary of the Navy are empowered  
8 to serve warrants and subpoenas issued under the authority of  
9 the United States; to make seizures under warrant for viola-  
10 tion of the laws of the United States; to make arrests with-  
11 out warrant for felonies which have been committed and.....

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1 which are cognizable under the laws of the United States, in  
 2 cases where the person making the arrest has reasonable  
 3 grounds to believe that the person so arrested is guilty of  
 4 such felony and where there is a likelihood of the person  
 5 escaping before a warrant can be obtained for his arrest, but  
 6 the person arrested shall be immediately taken before a com-  
 7 mitting officer: Provided, That the authority herein granted  
 8 shall be restricted to matters pertaining to espionage, counter-  
 9 espionage, sabotage and other matters affecting the national  
 10 defense and the naval service. Persons designated by the  
 11 Secretary of the Navy in accordance herewith are authorized  
 12 and empowered to carry firearms.

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Enclosure (B)

SUBJECT: H.R. 2106 and S. 345 (Companionate Bills)  
TO AUTHORIZE NAVAL AGENTS TO ASSIST CIVIL AUTHORITIES  
IN THE ENFORCEMENT OF THE LAW.

DIGEST: I. Bill provides that:

- A. The Secretary of the Navy shall be authorized to appoint naval agents who shall be vested with the necessary authority to detect and prevent sabotage and espionage.
- B. The aforementioned agents shall be empowered to:
  - a. Serve warrants and subpoenas issued under the authority of the United States.
  - b. Make seizures under warrants for violation of the laws of the United States.
  - c. Make arrests without warrants for felonies, cognizable under the laws of the United States where:
    - 1. the agent has reasonable grounds to believe that the person is guilty of such felony, and
    - 2. there is a possibility of the person escaping before a warrant can be obtained.
- Note: In either of the foregoing, such person shall be immediately taken before a committing officer.
- C. Such authority of arrest shall be restricted to matters pertaining to espionage, counter-espionage, sabotage and other matters affecting the national defense and the naval service.
- D. Naval agents provided for under this bill shall be authorized to carry firearms.

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Auth: FO 12958

Date: 16 88 98 Unit: NCIS 22

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Authority NND73643

Enclosure (B)

DEFINITIONS:

NAVAL AGENTS--Naval agents are such persons who bear credentials which have been issued to them over the signature or with the approval of the Director of Naval Intelligence.

FELONY--Under the Federal Criminal Code a felony is any crime for which the maximum punishment is more than one year. The determining factor is the punishment which might be imposed for the offense, not the sentence that is actually imposed.

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Auth: *EO 12958* .....

Date: *16 88 98* ..... Unit: *NCIS 22* .....

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C O P Y

Enclosure (C)THE WHITE HOUSE  
WASHINGTONHyde Park, N. Y.  
June 26, 1939CONFIDENTIALMEMORANDUM FOR- THE SECRETARY OF STATE  
THE SECRETARY OF THE TREASURY  
THE SECRETARY OF WAR  
THE ATTORNEY GENERAL  
THE POSTMASTER GENERAL  
THE SECRETARY OF THE NAVY  
THE SECRETARY OF COMMERCE

UNCLASSIFIED

It is my desire that the investigation of all espionage, counter-espionage, 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.

No investigations should be conducted by any investigative agency of the Government into matters involving actually or potentially any espionage, counter-espionage, 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, counter-espionage, or sabotage.

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/s/ Franklin D. Roosevelt

Auth: *EO 12958* .....Date: *16 Aug 98* Unit: *NCFR* .....DECLASSIFIED  
Authority *NND73643*



Enclosure (D)

SUBJECT: INFORMATION RELATIVE TO APPOINTMENT OF NAVAL AGENTS AND STATISTICS CONCERNING SAME.

An agent will only be appointed by the Secretary of the Navy and selected for the position of an agent with the Division of Naval Intelligence after a thorough investigation of his qualifications, experience, and background. They will be employed on a month to month contract basis and will receive on an average of \$250 to \$300 per month. They will consist of civilians and officers of the regular service and the Reserves. Those agents who are officers of the regular Navy or of the Naval Reserve on active duty will receive the salary of their rank in lieu of the salary mentioned for civilian agents. The maximum number of officers that it is anticipated will be required for this duty will be approximately 265. Up to the present time 156 have been called to active duty for this purpose. In other words, at the present time there are now 29 civilian agents and 156 Reserve Officers who have been called to active duty for this work. It is anticipated that the full strength of the organization will be about 800.

Source: Testimony of Captain Jules James before the Naval Affairs Committee of the House of Representatives on Thursday, January 23, 1941.

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Auth: EO 12958 .....

Date: 16 Sept 98 Unit: NCIS .....

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Authority NND73643

D. N. I. No. 107

NAVY DEPARTMENT  
OFFICE OF NAVAL INTELLIGENCE  
WASHINGTON, D. C.

-----1/31-----, 194-----

MEMORANDUM FOR -----

-----Lt. Gunther-----

16-12936 GPO

Yours ?

Resp

CB

121 Sets of Credentials have been issued

(K)

Estimated number of Naval Agents on  
Mobilization

800

included Philip. - Porto Rico - Hawaii

Alaska -

In reply refer to: **NAVY DEPARTMENT**  
**Office of Chief of Naval Operations.**  
**OFFICE OF NAVAL INTELLIGENCE**  
 Washington  
 Op-16-B  
 00/EN3-10  
 00/ND  
CONFIDENTIAL

January 11, 1941

MEMORANDUM FOR THE DIRECTOR.

Via: Administrative Branch.  
 Assistant Director.

Subject: Domestic Intelligence - Number of Officers, Agents, Special Employees on Duty as of January 1, 1941.

Place	MOB.	Allowance Present Limit	On Duty			Field Units	Special Agents or Agents	Total Employed
			At Headquarters Reg.	Ret'd.	Res.			
ONI	69	36	3	1	18		4	26
ND-1	61	18	0	2	12	4	0	18
ND-3	100	28	1	2	13	8	5	29
ND-4	65	15	0	1	4	8	2	15
ND-5	52	12	1	0	5	2	1	9
ND-6	32	8	0	1	2	0	1	4
ND-7	53	10	0	0	2	0	0	2
ND-8	48	10	1	0	2	0	1	4
ND-9	85	18	0	1	6	2	3	12
ND-10	39	12	0	1	0	0	1	2
ND-11	71	24	1	2	11	2	2	18
ND-12	68	21	0	3	6	3	1	13
ND-13	84	21	0	1	8	8	5	22
ND-14	42	10	1	0	4	0	1	6
ND-15	24	12	0	1	1	0	1	3
ND-16	25	10	0	1	0	0	1	2
(17) WNY	32		Discontinued					
Total	950	265	8	17	94	37	29	(185)

185  
 37  
 148

E. B. Nixon

CC: Each Naval District.

(29)  
 (37)

23 Jan. 1941

**Declassified / Downgrade to** \*\*\*\*\*

121 Sets of Credentials "Naval Agents"  
 issued as of today

Auth: EO 12958 \*\*\*\*\*

Date: 108898 \*\*\*\*\* Unit: NCIS W \*\*\*\*\*

DECLASSIFIED  
 Authority NND73643

THURSDAY, JANUARY 23, 1941

H. R. 2106

A BILL

TO AUTHORIZE NAVAL AGENTS TO ASSIST CIVIL AUTHORITIES IN THE  
ENFORCEMENT OF LAW

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON NAVAL AFFAIRS,  
WASHINGTON, D. C.

The Committee met, at 10 o'clock a.m., for the consideration of H. R. 2106 and the report thereon is as follows:

STATEMENTS OF CAPTAIN JULES JAMES, ACTING DIRECTOR OF NAVAL  
INTELLIGENCE, AND CAPTAIN E. B. NIXON.

The Chairman. Members of the Committee Captain James is Acting  
Director of Naval Intelligence, having been placed in charge since Admiral  
Anderson has been ordered to the fleet.

Let the Clerk read the bill.

(The bill was read by the clerk)

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The Chairman. Capt. James, you are in charge of Naval Intelligence ?

Captain James. Yes, sir.

The Chairman. The Committee will be glad to have you make any  
statement you wish to make on this bill in your own way and the reasons  
why, in your judgment, it is necessary to be enacted into law.

Captain James. Under the President's directive we have certain functions  
in the protection of the national defense, the same functions as F. B. I. and  
Military Intelligence. It is necessary that these agents have the power of  
arrest. If we catch a man in an act of sabotage or espionage we have no  
such power now. We must go and get a warrant and possibly let  
although we have him right there, and see him commit the act.

The Chairman. Is there anything further you want to say ?

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Authority NND73643



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UNCLASSIFIED

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The Chairman. Is there anything further you want to say ?

Captain James. No, sir.

The Chairman. Who designates these agents ?

Captain James. The Secretary of the Navy.

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The Chairman. How are they selected ?

Captain James. We select them very carefully in my office after a thorough investigation of them, getting people who are capable of doing this work. A good many of them have had previous police experience, and some of them have had F. B. I. experience. They are all highly trained, highly respectable, fine characters.

The Chairman. Do they have civilian status or naval status ?

Captain James. Both, sir; some of them are civilians and some of them are in the naval establishment.

The Chairman. I do not know whether you want to answer this question or not. If you should not care to answer it, do not. Is there any objection to stating what the strength of your organization is, how many you have.

Captain James. At present we have 121 persons acting as agents and anticipate going to about 800. - (This estimate is high.)

The Chairman. You have 121 now ?

Captain James. Yes, sir.

The Chairman. In view of the expansion of the activities of the naval establishment you feel that Naval Intelligence should have a force of approximately 800 ?

Captain James. Yes, sir. Approximately 800 in the domestic "agent" field.

The Chairman. Of course, you are familiar with the F. B. I. in a general way ?

Captain James. Yes, sir, very thoroughly. We have close cooperation with them.

The Chairman. Do you know approximately how many they have employed in the F. B. I. ?

Captain Nixon. 2,000.

Captain James. 2,000 Capt. Nixon tells me.

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Authority NND73643

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DATE: 11/11/1981 BY: [illegible]

REASON: [illegible]

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The Chairman. How much compensation do they get ?

Captain James. We set that in the office. It runs in the neighborhood of \$250 to \$300 a month. It may be lower.

The Chairman. \$250 to \$300 a month?

Captain James. Yes, sir.

The Chairman. That includes his expenses, or the Government bears his expenses ?

Captain James. That generally includes his expenses, but if he has travelling expenses we generally pay them. Some of those agents, of course, are on active duty and they get the pay of their grade.

The Chairman. You mean by that some of them are in the regular service of the Navy.

Captain James. Yes, sir, in the regular service, and in the reserve.

The Chairman. You have a great many reserve officers, have you not ?

Captain James. Yes, sir.

The Chairman. You are appointing and calling to active duty a great many reserve officers in the Office of Naval Intelligence?

Captain James. A great many.

The Chairman. They naturally get the pay of their rank ?

Captain James. They get the pay of their rank, yes, sir.

The Chairman. What is the number of reserve officers in Naval Intelligence ?

Captain James. The maximum that we anticipate requiring now is 265, that is, in the investigative field.

The Chairman. In the reserve?

Captain James. In the reserve, yes, sir. That is all over the country.

The Chairman. That is all, just 265 ?

Captain James. That is Naval Intelligence reserve officers.

The Chairman. That is what I am talking about; only 265 ?

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Captain James. That is Naval Intelligence reserve officers.

The Chairman. That is what I am talking about; only 265 ?

Captain James. Yes, sir, at the present time.

The Chairman. How many of those have you called to active duty ?

Captain James. We have now called to active duty 185. This includes 29 civilians employed.

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- 4 -

The Chairman. How many do you have in Service, not including any in the reserve not including this 185 ? I want to get the strength of your organization, both the reserve, civilian and commissioned personnel.

Capt. James. You are speaking of the entire Naval Intelligence, sir, or these agents ?

The Chairman. I am talking about these agents.

Capt. James. We have 29 civilian agents now, sir.

The Chairman. You have 185 reserves called to active duty doing the work of agents ?

Capt. Nixon. Less 29. That is a total of 185, of which 29 are paid agents.

The Chairman. Of which 29 are paid agents ?

Capt. Nixon. Yes, sir, some of these paid agents have a commission but have not been called into the navy.

The Chairman. What I am trying to get at is what is the strength from all sources today of Naval Intelligence if you are at liberty to say.

Capt. Nixon. This is purely the investigative angle, and the other angles which include --

The Chairman. I do not want to go into that angle at all.

Capt. James. We also have foreign intelligence.

The Chairman. I know; I do not want to go into that at all. I just

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Capt. James. Domestic Intelligence, yes, sir. We have 185.

The Chairman. In the reserve who have been called to duty ?

Capt. James. In the reserve, or special agents who are civilians.

The Chairman. Now, let us see what the bill provides. "That for the detection and prevention of sabotage and espionage the Secretary of the Navy is authorized to appoint naval agents who shall be vested with the authority necessary for the execution of such duties." How many do you say you want to be appointed by the Secretary, about 800 ?

Capt. James. About 800.

The Chairman. 800.

Capt. James. 800, yes sir.

- 5 -

The Chairman. They are selected by your bureau ?

Capt. James. Yes, sir.

The Chairman. And you only have now 29 agents plus some of these reserves ?

Capt. Nixon. That is right.

Capt. James. 185, reserves and civilian paid agents.

The Chairman. 185 reserves ?

Capt. James. Yes, sir, less 29 civilian agents.

The Chairman. These agents are to be vested with the following power:  
"shall be vested with the authority necessary for the execution of such duties. Such agents who are specifically designated by the Secretary of the Navy are empowered to serve warrants and subpoenas issued under the authority of the United States." Does the Secretary of the Navy have authority under general statute to confer such authority upon an agent ?

Capt. James. No, sir.

The Chairman. How is he going to give it to them ?

Capt. James. This authorizes him.

The Chairman. That is what this act does ?

Capt. James. Yes, sir.

Mr. Drewry. This says: "empowered to serve warrants and subpoenas issued under the authority of the United States." Do you not have that power now ?

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Mr. Drewry. This says: "empowered to serve warrants and subpoenas issued under the authority of the United States." Do you not have that power now ?

Capt. James. No, sir.

Mr. Drewry. What you mean is that you need to get the warrant prior to the serving of it; your agents have the power to serve it, but they have not the power to issue it themselves.

Capt. James. They can't issue it; I do not think they can serve it; they can go and get it.

The Chairman. Then give it to the constituted civil or military authorities.

Capt. James. We cannot make an arrest. Although we catch a man going over the border with something we cannot stop him.

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The Chairman. You mean if you catch him in the very act of sabotage you cannot stop him, you must go around to a justice of the peace, a sheriff or a policeman to execute a warrant ?

Mr. Bates. Can you not detain them on the basis of suspicion ?

Capt. James. No, sir.

Mr. Bates. I think under the civil law you can.

The Chairman. If you see an unlawful act being committed any civilian has the authority to hold him if he sees the act being committed.

Capt. James. We have that power, yes, sir, but that is not sufficient.

Mr. Bates. Can you not hold a man as a suspicious person ?

Capt. James. We cannot.

Mr. Bates. That is only a right you would have under the civil law.

The Chairman. "to make seizures under warrant for violation of the laws of the United States; to make arrests without warrant for felonies which have been committed and which are cognizable under the laws of the United States". If a felony has been committed under this law and a naval agent is aware of the fact he arrests the offender without a warrant, but under other sections he must immediately carry him before a committing magistrate ?

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Capt. James. Yes, sir.

The Chairman. "In cases where the person making the arrest has reasonable grounds to believe that the person so arrested is guilty of such felony and where there is a likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be immediately taken before a committing officer."

Capt. James. Yes, sir.

The Chairman. Captain, do you feel that these broad powers of the national emergency, should be delegated to these agents

Capt. James. Yes, sir, I feel that they should.

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Capt. James. Yes, sir.

The Chairman. Captain, do you feel that these broad powers, in view of the national emergency, should be delegated to these agents ?

Capt. James. Yes, sir, I feel that they should.

The Chairman. Are you basing that upon things that are happening or things that you anticipate ?

Capt. James. Basing it upon things that have happened, and are happening and that we anticipate.

The Chairman. Without giving any information that is going to divulge any secret, is there much sabotage going on in our industrial plants and in navy yards that could be stopped by the enactment of this law.

Capt. James. Not a great deal at the present time that we have observed, but we believe that a great deal would take place that we can stop.

The Chairman. So you feel it is in the interest of national defense that these extraordinary powers be delegated to these agents to prohibit sabotage and espionage and other acts that are detrimental to the welfare of the country?

Capt. James. I do, sir. The F. B. I. and the Coast Guard have these powers now, and other agents of the Government.

The Chairman. You say the Coast Guard has those powers now, Captain ?

Capt. James. Yes, sir.

The Chairman. I do not think so.

Capt. James. That is in the letter dated Oct. 29, 1940 to the Committee from the Secretary of the Navy. That is where I got that.

The Chairman. The Coast Guard is under the Treasury Department.

Capt. James. Yes sir.

The Chairman. They have a right to make search and seizure in certain revenue questions. Read the letter from the Department.

The Clerk (Reading): "There is transmitted herewith a draft of a

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The Chairman. They have a right to make search and seizure in certain revenue questions. Read the letter from the Department.

The Clerk (Reading): "There is transmitted herewith a draft of a proposed bill 'TO authorize naval agents to assist civil authorities in the enforcement of the law ' ".

"The purpose of the proposed legislation is to authorize the Secretary of the Navy to appoint naval agents and to empower such agents specifically designated by the Secretary of the Navy to serve warrants and subpoenas issued under the authority of the United States; to make seizures under warrant for violation of the laws of the United States; and to make arrests without warrant for felonies which have been committed when the person making the arrest has reason to believe that the person so arrested is guilty of felony and may escape before a warrant can be obtained. The authority is restricted to matters pertaining to espionage, counter-espionage, sabotage and other matters affecting the national defense and

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the naval service.

"The authority provided in the proposed legislation is desired primarily for operatives of the Office of Naval Intelligence. There is at present no legal authority in connection with the protection of naval interests for representatives or agents of the Navy Department to make arrests in any place other than in the naval service except, of course, under those exceptional conditions where any citizen is authorized to make an arrest.

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"As an example, a naval agent might be standing at the gangplank of a departing vessel and see a known foreign agent boarding the vessel whom he has reasonable grounds to believe, in view of previous investigation, has in his possession stolen naval plans or other secret documents. Such naval operative would be without authority to make an arrest without subjecting himself to severe consequences in the event it were not possible to establish the guilt of the foreign agent. If the naval operative were clothed with the authority contemplated in the proposed legislation he would be protected in his personal capacity from liability to civil suit or criminal action for false arrest or other similar charge to the same extent as exists under present law for agents and investigators of the Federal Bureau of Investigation.

"The lack of authority for agents of the Navy Department to take

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Date: 17 Sep 98 Unit: NCE 22 .....

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"The lack of authority for agents of the Navy Department to take appropriate action in cases such as that described above and other cases affecting naval interests frequently results in definite detriment to the national defense, particularly in connection with espionage and sabotage.

"The Navy Department recommends that the proposed legislation be enacted.

"The Navy Department has been advised by the Bureau of the Budget that there would be no objection to the submission of this recommendation."

The Chairman: "Mr. Magnuson, do you have any questions?"

Mr. Magnuson: Captain, I am somewhat like my colleague, Mr. Drewry, here. I think you should have this power, but I think the bill is a little unconstitutional. I don't know if there is any corpus exists in many of

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these cases, and fundamentally what you are driving at is to protect your men who pick up these men. If that man were boarding a gangplank he could not commit a felony in his presence ---

The Chairman. He could arrest him without any warrant.

Mr. Magnuson. Yes, he could arrest him without any warrant. I think you should have this bill, but I am awfully afraid when we get into the House some of our good friends from the Judiciary Committee are going to question it.

The Chairman. We will cross that bridge later.

Mr. Magnuson. Did the Attorney General act on it ?

Capt. Nixon. He is cognizant of it.

Mr. Magnuson. I wish he would send down a decision. I would like to have something to fortify ourselves on it.

The Chairman. There is no need of any opinion from the Attorney General. We have a more qualified lawyer here, Commander Russell, who hugs the law a little closer sometimes than the Attorney General does.

Mr. Magnuson. Just a moment, Mr. Chairman. I hope your report will contain sufficient grounds because I still believe these powers very broad, but, of course, these agents should be protected.

Capt. Nixon. Yes, sir.

Mr. Maas. Will these agents act in their civilian capacity entirely,

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Mr. Magnuson. Did the Attorney General act on it?

Capt. Nixon. He is cognizant of it.

Mr. Magnuson. I wish he would send down a decision. I would like to have something to fortify ourselves on it.

The Chairman. There is no need of any opinion from the Attorney General. We have a more qualified lawyer here, Commander Russell, who hugs the law a little closer sometimes than the Attorney General does.

Mr. Magnuson. Just a moment, Mr. Chairman. I hope your report will contain sufficient grounds because I still believe these powers very broad, but, of course, these agents should be protected.

Capt. Nixon. Yes, sir.

Mr. Maas. Will these agents act in their civilian capacity entirely, or is this intended to include enlisted men and officers.

Capt. James. Enlisted men and officers, whoever the Secretary of the Navy designates.

Mr. Maas. May they be civilians ?

Capt. James. They may be civilians employed by the Secretary of the Navy.

Capt. Nixon. Under contract.

Mr. Maas. Under contract ?

Capt. Nixon. Yes, ~~\*\*\*\*\*~~

Mr. Maas. And this is intended to give the Secretary authority to employ officers and enlisted men or civilians under contract.

Capt. Nixon. Yes Doc: 389594 Doc: 389594 10

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Mr. Maas. These agents you have on duty, are they on duty as civilian employees or are they on active duty as reserve officers ?

Capt. Nixon. They are on active duty as reserve officers, except the 29 civilian agents.

Mr. Maas. They receive the pay of their rank ?

Capt. Nixon. Yes, sir.

Mr. Maas. Another question is whether it would be desirable to add in the bill jurisdiction in case of violation of state laws as well as United States laws because there might be cases where the violation of a state law might affect national defense, but might not in itself be a violation of Federal law. They might, for example, block a road, the purpose of which would be to deny access to a naval station, yet the blocking of a road would not be any evasion of a federal statute. What would you think about having it apply to state laws as well as Federal laws ?

Capt. Nixon. At the last Federal convention here all states were to draw up statutes which paralleled the federal laws in sabotage and espionage, and I believe that is being done in each state.

Mr. Magnuson. Most states have similar laws now.

Mr. Maas. But there might be some states that do not have. Would it not be well to give authority over violations of state laws as well ?

Mr. Magnuson. You cannot do that. There are going to be enough abuses of this thing as it is.

Mr. Maas. If it were a state law involving sabotage or espionage it should be covered.

Mr. Magnuson. A federal officer can only enforce federal laws.

Capt. James. We are only asking the same authority that the other federal officers have.

The Chairman. Are there any more questions ?

Mr. Hess. Yes. Captain, do you have any special agents who are not

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Capt. Nixon. Yes, sir.

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Mr. Magnuson. A federal officer can only enforce federal laws.

Capt. James. We are only asking the same authority that the other federal officers have.

The Chairman. Are there any more questions ?

Mr. Hess. Yes. Captain, do you have any special agents who are not on the rolls of the navy, not receiving salaries of any kind ?

Capt. James. Yes, sir.

Mr. Hess. You have special agents who do not receive salary.

Capt. James. Yes, sir.

Mr. Hess. Is there any sizeable number of them, or don't you care to answer that ?

Capt. James. By salary, you mean salary from the Navy. We pay now and have 29.

Mr. Hess. I am referring to special agents who are not being paid at all. Do you have any special agents, designated as special agents of that kind that have naval contracts ?

Capt. James. No, sir; they would be classed as informers, not agents. This power would be very much restricted to only people who can be trusted, and it is only to carry out the President's directive which has been delegated to us against sabotage and espionage.

Mr. Magnuson. Are you going to require these men to put up bond ?

Capt. James. No sir.

Mr. Magnuson. Of course, they will be in a class all by themselves of all enforcement agents.

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The Chairman. They ought to be in a class by themselves.

Mr. Magnuson. I agree with this in principle, but any deputy sheriff or marshal or policeman, under most states laws, is required to put up a bond of some kind to protect private citizens. I understand that the type of men you would employ would be better than average, but you are breaching a lot of individual rights in this bill, rights that are very fundamental. The emergency may require that you go this far.

Capt. Nixon. I do not think that the Federal Bureau of Investigation agents have to have a bond.

Mr. Magnuson. But the Bureau is bonded by the Federal Government itself.

Capt. Nixon. We are still a part of it.

Mr. Magnuson. And you cannot sue the Federal Government consent.

The Chairman. You cannot sue the Navy Department.

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Authority NND73643

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Mr. Magnuson. But the Bureau is bonded by the Federal Government itself.

Capt. Nixon. We are still a part of it.

Mr. Magnuson. And you cannot sue the Federal Government without its consent.

The Chairman. You cannot sue the Navy Department.

Mr. Flaherty. In this contemplated increase of 615, are you going to select those men entirely from the Naval Reserve group that have already been investigated?

Capt. Nixon. Yes, sir.

- 12 -

Mr. Hess. Will they be naval reserves ?

Capt. Nixon. They will be naval reserves on active duty.

Mr. Hess. Officers ?

Capt. Nixon. Yes, sir.

Mr. Hess. And you are going to increase your officer personnel ?

Capt. Nixon. No, sir; that is already taken care of.

Mr. Hess. You have 800 reserve officers in the I. V. S now ?

Capt. Nixon. But they are not all in the investigation service.

Mr. Hess. But all of these are not going to be reserves ?

Capt. Nixon. No, sir.

Mr. Flaherty. You say there are now 185 ?

Capt. Nixon. That is right.

Mr. Flaherty. And you are going to increase it by 600.

Capt. Nixon. Yes, sir.

Mr. Flaherty. Are they going to be called from the naval reserve group or selected as civilian agents ?

Capt. Nixon. Some will be from the reserve and some will be civilian agents.

Mr. Flaherty. Why are some in the reserve corps and some civilians ?

Capt. James. Their duties are different sometimes. Some are qualified one way and they are not qualified as officers. These people are in the Philippines, Puerto Rico, and different places of that kind all over the country.

Mr. Flaherty. In Boston do you have two special agents on duty as civilians ?

Capt. Nixon. Yes, sir, we have two.

Mr. Flaherty. As civilians ?

Capt. Nixon. Yes, sir.

Mr. Flaherty. Why are they not in the naval reserve corps.

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Mr. Flaherty. In Boston do you have two special agents on duty as civilians ?

Capt. Nixon. Yes, sir, we have two.

Mr. Flaherty. As civilians ?

Capt. Nixon. Yes, sir.

Mr. Flaherty. Why are they not in the naval reserve corps.

Capt. Nixon. One of them was and one of them was not. That is on account of the educational qualifications which we require of naval reserve officers.

Mr. Flaherty. If he is specializing in this line and you feel that

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he is required in this particular branch of the service in which you are engaged, regardless of his educational qualifications, why is he not a man fit to be a member of the naval reserve rather than a civilian employee?

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Capt. Nixon. That is based on the requirements of the Bureau of Navigation which qualifies officers, which sets a standard of so many years of college.

Capt. James. And also based on physical requirements, and some of these agents are employed for a month or two months.

Mr. Bates. On the question of bond that Mr. Magnuson raised, police officers of cities are not required to file bond.

Mr. Magnuson. The city is liable for a city policeman. He is their agent. The Federal Government is not.

The Chairman. These agents won't have to have any bond. What is the pleasure of the Committee with reference to this bill ?

Mr. Mass. I move that the bill be favorably reported, Mr. Chairman .

(The motion was carried.)

The Chairman. I will ask Mr. Hess to report the bill.

(Thereupon the Committee proceeded to the consideration of other business.)

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DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
WASHINGTON

September 25, 1940

MEMORANDUM FOR CAPTAIN NIXON

Status of legislative matters of interest to Naval Intelligence:

Naval Agents - This bill has been introduced in both Houses, as H.R. 10503 (by Mr. Vinson, Sept. 12) and as S. 4354 (by Senator Walsh, Sept. 18). The Senate Committee, as you know, held hearings on this bill on Friday, September 20, 1940, and, in executive session on September 24 voted to table the bill.

Anchorage bill is still at the Budget.

Safeguard naval information. There has been no further information on this, since last week's conference with the Budget.

H.R. 7694 and H.R. 9918 are on the Union calendar of the House.

H.R. 10465 - "Destruction of war Materials" passed the House yesterday, September 24, 1940.

Very respectfully,

J. A. Roberts

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76TH CONGRESS  
3D SESSION

# H. R. 10503

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 1940

Mr. VINSON of Georgia introduced the following bill; which was referred to the Committee on Naval Affairs

UNCLASSIFIED

## A BILL

To authorize naval agents to assist civil authorities in the enforcement of the law.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That, for the detection and prevention of sabotage and  
4 espionage, the Secretary of the Navy is authorized to appoint  
5 naval agents, who shall be vested with the authority neces-  
6 sary for the execution of such duties. Such agents who are  
7 specifically designated by the Secretary of the Navy are  
8 empowered to serve warrants and subpoenas issued under  
9 the authority of the United States; to make seizures under  
10 warrant for violation of the laws of the United States; to  
11 make arrests without warrant for felonies which have been

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1 committed and which are cognizable under the laws of the  
 2 United States, in cases where the person making the arrest  
 3 has reasonable grounds to believe that the person so arrested  
 4 is guilty of such felony and where there is a likelihood of the  
 5 person escaping before a warrant can be obtained for his  
 6 arrest, but the person arrested shall be immediately taken  
 7 before a committing officer: *Provided*, That the authority  
 8 herein granted shall be restricted to matters pertaining to  
 9 espionage, counterespionage, sabotage, and other matters  
 10 affecting the national defense and the naval service. Persons  
 11 designated by the Secretary of the Navy in accordance here-  
 12 with are authorized and empowered to carry firearms.

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76TH CONGRESS  
3D SESSION

# H. R. 10503

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## A BILL

To authorize naval agents to assist civil authorities in the enforcement of the law.

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By Mr. VINSON of Georgia

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SEPTEMBER 12, 40

Referred to the Committee on Naval Affairs

DECLASSIFIED  
Authority **ND 73673**

*File*

L RP.

DEPARTMENT OF THE NAVY

OFFICE OF THE JUDGE ADVOCATE GENERAL

WASHINGTON, D. C.

September 11, 1940.

MEMORANDUM FOR CAPTAIN NIXON.

1. The following history of legislative matters initiated by the Office of Naval Intelligence is respectfully submitted:

Naval Agents. I will not bother to trace its earlier history and the basic recommendations, as you have that material available, I am sure. If not, it is available in the Confidential files, as ONO Serial No. 077716, and Serial No. 068416. On June 18, 1940, by direction of Acting Secretary Compton, this bill, as drafted, was not submitted to the Budget. There then ensued, as you know, certain conferences with the Department of Justice. Judge Holtzoff's comment on the bill is dated July 16, 1940. On 24 July, the J.A.G. office received a directive from Mr. Compton to re-submit the naval agents bill and the "anchorage" bill in final form for the approval of the Secretary of the Navy. This was done, signed by Secretary Knox and transmitted to the Budget on August 9, 1940. On August 30, 1940, the naval agents bill was returned by the Budget stating that there would be no objection to the presentation of this bill to the Congress. On September 7, 1940, the draft of the bill was submitted over Mr. Compton's signature to the Speaker of the House of Representatives. On September 9, this letter, as Executive Communication 1936 was taken from the Speaker's table and referred to the Committee on Naval Affairs. As this is written, no bill has yet been introduced in the House. See Congressional Record of September 9, 1940, page 17914.

Anchorage bill. This bill had a somewhat parallel history down to the directive of 24 July, to re-submit. This went forward to the Budget on August 6, 1940, and is still there.

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Safeguard Naval Information. As you know, the Budget or some government department, redrafted this and submitted the redraft on August 13, 1940. This was forwarded to C.N.O. (ONI) on August 16, 1940, and returned to J.A.O. by CNO on August 24, 1940 stating that the "broadened" redraft was a doubtful improvement on the Espionage Act and resubmitted our original draft for comment. This reply over the signature of Mr. Forrestal was returned to the Budget on September 3, 1940, and we have, as yet, no reply from them.

To give Secnav the authority at present vested in the Secretary of the Treasury, if and when the Coast Guard passes to the Navy. This bill was never submitted after the original decision of June 13, 1940, that this matter could be handled as a matter of administration between the two Departments.

2. The following matters of legislation of interest to C.N.I. is submitted:

Espionage Act and photographs - Mr. McGrath is working on this matter and it has not been handled through this Section. You know of this, I am sure.

H. R. 7894 - Alien Fishing - Reported out on September 5, 1940, from the Committee on Merchant Marine and Fisheries. Report No 2917. On Union Calendar of the House.

H. R. 2918 - Vessels, citizenship and requirements. Reported out on September 5, 1940, from the Committee on Merchant Marine and Fisheries. Report No. 2918. On Union Calendar of House

H. R. 10465 Destruction of war materials. Reported from Judiciary, September 6, 1940. Report No. 2923. On House Calendar.

I will give you weekly Memoranda on these matters and will try to notify you by phone of any marked change in status of matters in which you might be interested.

Very respectfully,

J. A. ROBERTS.

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NAVY DEPARTMENT  
OFFICE OF NAVAL INTELLIGENCE  
WASHINGTON, D. C.

*File*  
*CP*

*10 Sept*, 1940

MEMORANDUM FOR *Director*

16-12986 GPO

1. Obtained from J. A. G. the transmittal letter, on our bill to authorize naval agents. They promised me copies hereafter of forwarding letters ~~on~~ on bills which we have an interest.

2. The bill on powers of SOPA to regulate anchorages, & security measures for Fleet, is still in the hands of the Budget Office.

3. Attached is Bill - *believe* originated by Justice - listing national defense materials & penalties for injury & destruction. Of interest. This bill is good for peace, ~~emergency~~ or war. -

*N* → *EOB*

As an example, a naval agent might be standing at the gangplank of a departing vessel and see a known foreign agent boarding the vessel whom he has reasonable grounds to believe, in view of previous investigation, has in his possession stolen naval

VY

September 7, 1940

with a draft of a agents to assist at of the law."

legislation is Navy to appoint agents specifically Navy to serve war- authority of under warrant ited States; and felonies which making the arrest on so arrested is ere a warrant can ricted to matters pionage, sabotage ional defense and

he proposed legis- ratives of the re is at present th the protection ves or agents of in any place other of course, under any citizen is au-

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L. M.

## DEPARTMENT OF THE NAVY

WASHINGTON

September 7, 1940

My dear Mr. Speaker:

There is transmitted herewith a draft of a proposed bill "To authorize naval agents to assist civil authorities in the enforcement of the law."

The purpose of the proposed legislation is to authorize the Secretary of the Navy to appoint naval agents and to empower such agents specifically designated by the Secretary of the Navy to serve warrants and subpoenas issued under the authority of the United States; to make seizures under warrant for violation of the laws of the United States; and to make arrests without warrant for felonies which have been committed when the person making the arrest has reason to believe that the person so arrested is guilty of felony and may escape before a warrant can be obtained. The authority is restricted to matters pertaining to espionage, counter-espionage, sabotage and other matters affecting the national defense and the naval service.

The authority provided in the proposed legislation is desired primarily for operatives of the Office of Naval Intelligence. There is at present no legal authority in connection with the protection of naval interests for representatives or agents of the Navy Department to make arrests in any place other than in the naval service except, of course, under those exceptional conditions where any citizen is authorized to make an arrest.

As an example, a naval agent might be standing at the gangplank of a departing vessel and see a known foreign agent boarding the vessel whom he has reasonable grounds to believe, in view of previous investigation, has in his possession stolen naval

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plans or other secret documents. Such naval operative would be without authority to make an arrest without subjecting himself to severe consequences in the event it were not possible to establish the guilt of the foreign agent. If the naval operative were clothed with the authority contemplated in the proposed legislation he would be protected in his personal capacity from liability to civil suit or criminal action for false arrest or other similar charge to the same extent as exists under present law for agents and investigators of the Federal Bureau of Investigation.

The lack of authority for agents of the Navy Department to take appropriate action in cases such as that described above and other cases affecting naval interests frequently results in definite detriment to the national defense, particularly in connection with espionage and sabotage.

The Navy Department recommends that the proposed legislation be enacted.

The Navy Department has been advised by the Bureau of the Budget that there would be no objection to the submission of this report.

Sincerely yours,

LEWIS COMPTON

Acting Secretary of the Navy

The Speaker of the  
House of Representatives  
Washington, D.C.

Enclosures (2).

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A B I L L

To authorize naval agents to assist civil authorities in the enforcement of the law.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the detection and prevention of sabotage and espionage the Secretary of the Navy is authorized to appoint naval agents who shall be vested with the authority necessary for the execution of such duties. Such agents who are specifically designated by the Secretary of the Navy are empowered to serve warrants and subpoenas issued under the authority of the United States; to make seizures under warrant for violation of the laws of the United States; to make arrests without warrant for felonies which have been committed and which are cognizable under the laws of the United States, in cases where the person making the arrest has reasonable grounds to believe that the person so arrested is guilty of such felony and where there is a likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be immediately taken before a committing officer: Provided, That the authority herein granted shall be restricted to espionage, counter-espionage, sabotage,

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Date: 178898 Unit: NCIS

NR 10463

The following are the names of the persons who have been named as having been involved in the investigation:

## ABSTRACT

In order to be entitled to act in person, they will have to demonstrate that they are in need of your personal or professional assistance, and that such aid is not otherwise provided, approved or available.

2. *Secretary of the United States of America at Washington*

3. What the Ad appeared and as such UNCLASSIFIED

3. The proposed rule is not a "major" rule under the Regulatory Flexibility Act, 5 U.S.C. 601-612, because it will not have a significant economic impact on a substantial number of small entities.

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76TH CONGRESS  
3D SESSION

# H. R. 10465

## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 5, 1940

Mr. SUMNERS of Texas introduced the following bill; which was referred to the Committee on the Judiciary

## A BILL

To amend an Act entitled "An Act to punish the willful injury or destruction of war material, or of war premises or utilities used in connection with war material, and for other purposes", approved April 20, 1918.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That the Act approved April 20, 1918, entitled "An Act  
4 to punish the willful injury or destruction of war material,  
5 or of war premises or utilities used in connection with war  
6 material, and for other purposes" (40 Stat. 533; U. S. C.,  
7 title 50, secs. 101-103), be amended by adding at the  
8 end thereof the following sections:

9 "SEC. 4. That the words 'national defense materials'

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1 as used herein, shall include arms, armament, ammunition,  
 2 livestock, stores of clothing, food, foodstuffs, fuel, supplies,  
 3 munitions, and all other articles of whatever description and  
 4 any part or ingredient thereof, intended for the use of the  
 5 United States in connection with the national defense.

6 "The words 'national-defense premises', as used herein,  
 7 shall include all buildings, grounds, mines, or other places  
 8 wherein such national-defense material is being produced,  
 9 manufactured, repaired, stored, mined, extracted, distributed,  
 10 loaded, unloaded, or transported, together with all ma-  
 11 chinery and appliances therein contained; and all forts, ar-  
 12 senals, navy yards, camps, prisons, or other military or naval  
 13 stations of the United States.

14 "The words 'national-defense utilities', as used herein,  
 15 shall include all railroads, railways, electric lines, roads of  
 16 whatever description, railroad or railway fixture, canal, lock,  
 17 dam, wharf, pier, dock, bridge, building, structure, engine,  
 18 machine, mechanical contrivance, car, vehicle, boat, or air-  
 19 craft, or any other means of transportation whatsoever,  
 20 whereon or whereby such national-defense material, or any  
 21 troops of the United States, are being or may be transported  
 22 either within the limits of the United States or upon the high  
 23 seas; and all dams, reservoirs, aqueducts, water and gas  
 24 mains and pipes, structures, and buildings, whereby or in  
 25 connection with which water or gas may be furnished to any

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 2 livestock, stores of clothing, food, foodstuffs, fuel, supplies,  
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 18 machine, mechanical contrivance, car, vehicle, boat, or air-  
 19 craft, or any other means of transportation whatsoever,  
 20 whereon or whereby such national-defense material, or any  
 21 troops of the United States, are being or may be transported  
 22 either within the limits of the United States or upon the high  
 23 seas; and all dams, reservoirs, aqueducts, water and gas  
 24 mains and pipes, structures, and buildings, whereby or in  
 25 connection with which water or gas may be furnished to any

1 national-defense premises or to the military or naval forces  
 2 of the United States, and all electric light and power, steam  
 3 or pneumatic power, telephone and telegraph plants, poles,  
 4 wires, and fixtures and wireless stations, and the buildings  
 5 connected with the maintenance and operation thereof used  
 6 to supply water, light, heat, power, or facilities of communi-  
 7 cation to any national-defense premises or to the military  
 8 or naval forces of the United States.

9 "SEC. 5. That whoever, with intent to injure, interfere  
 10 with, or obstruct the national defense of the United States,  
 11 shall willfully injure or destroy, or shall attempt to so injure  
 12 or destroy, any national-defense material, national-defense  
 13 premises, or national-defense utilities, as herein defined, shall,  
 14 upon conviction thereof, be fined not more than \$10,000 or  
 15 imprisoned not more than ten years, or both.

16 "SEC. 6. That whoever, with intent to injure, interfere  
 17 with, or obstruct the national defense of the United States,  
 18 shall willfully make or cause to be made in a defective man-  
 19 ner, or attempt to make or cause to be made in a defective  
 20 manner, any national-defense material, as herein defined, or  
 21 any tool, implement, machine, utensil, or receptacle used or  
 22 employed in making, producing, manufacturing, or repairing  
 23 any such national-defense material, as herein defined, shall,  
 24 upon conviction thereof, be fined not more than \$10,000 or  
 25 imprisoned not more than ten years, or both."

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 Authority NND73643

76TH CONGRESS  
3D SESSION

# H. R. 10465

## A BILL

To amend an Act entitled "An Act to punish the willful injury or destruction of war material, or of war premises or utilities used in connection with war material, and for other purposes", approved April 20, 1918.

By Mr. SUMNERS of Texas

SEPTEMBER 5, 1940

Referred to the Committee on the Judiciary

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Office of the Chief of Naval Operations

Op-16-B

3 September, 1940.

MEMORANDUM FOR THE DIRECTOR:

On detachment of Lieutenant Commander Condon on 31 August, 1940, I had all the files on legislative items turned over to the Legal Section (Op-16-A-5). I believe that this Section, should handle all legal matters of interest to this Division, obtaining information from the Branches and Sections as is necessary to draft replies to legislation submitted to this Division for recommendation or proposed by it.

There is attached hereto for your information a report of the status of legislative items of interest.

E. B. Nixon.

CC: Assistant Director,  
Administrative Branch.

Dictated by Capt. Nixon  
" 3 Sept. 1940  
Typed by C. Wesselman

**Classified / Upgrade to .....**  
**Auth:** E012957  
**Date:** 17 SEP 98 **Unit:** NCIS 22

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NAVY DEPARTMENT  
OFFICE OF NAVAL INTELLIGENCE  
WASHINGTON

In reply refer to No.

31 August, 1940.

STATUS OF LEGISLATIVE ITEMS IN WHICH THE  
DIRECTOR OF NAVAL INTELLIGENCE IS INTERESTED

1. Police powers for naval agents - proposed bill drafted by Judge Advocate General was transmitted to Budget Bureau. If and when Budget Bureau approves draft, the Judge Advocate General will send it to Congress with a request for enactment.

2. Control of anchorage of naval vessels - draft of bill prepared by Judge Advocate General to confer certain police powers upon the Senior Officer Present was submitted to Budget Bureau. Budget Bureau requested comment of other Government Departments. If and when draft is approved by Budget Bureau, the Judge Advocate General will forward it to Congress requesting enactment.

3. Safeguarding naval information -

(a) Bill drafted by Judge Advocate General and submitted to Budget Bureau proposed: (1) To penalize persons who fail to turn in confidential matter upon separation from the service, and (2) To penalize persons in the service or formerly in the service who disclose confidential information. Budget Bureau requested comment of other Government Departments as the result of which the Budget Bureau submitted the draft of a substitute bill which would apply to all Government personnel instead of just to the Navy.

(b) The substitute bill proposed by the Budget Bureau was transmitted to O.N.I. for comment. Inasmuch as the substitute bill failed to meet the objectives of the Navy's bill, O.N.I. recommended disapproval of the Budget Bureau bill in endorsement of August 24, 1940, and further recommended that the bill drafted by the Navy Department be proceeded with.

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File

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DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
WASHINGTON, D. C.

July 19, 1940.

MEMORANDUM FOR THE JUDGE ADVOCATE GENERAL

I attended a conference at  
Justice today with Captain Nixon and Lieutenant  
Commander Condon of the Office of Naval Intelligence.

Two subjects were discussed briefly.

(1) H. R. 7694 - the Bland Bill (Alien Fish-  
ing). The Department of Justice will support the bill.  
It still leaves open the question of complete American-  
ization of crews, although providing for American owner-  
ship, officers, and corporate control. The question of  
citizenship for the crew is in a separate bill, H. R.  
9918, which I will study.

(2) Police powers for O.N.I. Operatives. -  
The Department of Justice is unequivocally opposed to  
the granting of such powers to military men, and had  
recently so advised Army representatives. Captain  
Nixon brought up the subject of civil agents or opera-  
tives, to which the Justice Department saw no objection.  
Something further on this matter from O.N.I. may reason-  
ably be expected.

DOMESTIC & SPECIAL INTELLIGENCE.	
From	To
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Very respectfully,

J. A. ROBERTS.

~~Classified / Downgrade to~~ \*\*\*\*\*

Auth: E.O. 12888 \*\*\*\*\*

Date: 178898 Unl  
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