

**BEST AVAILABLE COPY**

6 May 1966

Mr. John R. Blandford  
Chief Counsel  
Committee on Armed Services  
House of Representatives  
Washington, D. C.

Dear Mr. Blandford:

*Not until August 1964*

The claim of privilege asserted by the Government in the case of Heine v Raus is in my opinion soundly based. This Agency was conducting foreign intelligence activities which were clearly within its statutory charter involving Estonian groups in this country. The Agency came to the conclusion that Heine, an alien, a Canadian citizen and resident of Estonian birth, was a KGB agent and consequently a danger to those intelligence activities as well as to individuals in the groups. In instructing Raus to take appropriate action to warn the groups, therefore, it appears to me that the employees involved were well within the scope of their duties and that, therefore, under the doctrine of Barr v Matteo and related cases the utterances made by Raus should be absolutely privileged. It should be noted that insofar as our experience goes over the last 20 years, this situation is unique in that it involves a nonresident alien endangering foreign intelligence activities with which United States citizens were concerned and, therefore, also were endangered.

Insofar as United States citizens are concerned, we have no jurisdiction concerning subversive activities of resident citizens. In the Federal Government this is the exclusive jurisdiction of the Federal Bureau of Investigation. Thus, as you know, we investigate our own employees and applicants as to whether their employment would be clearly consistent with the interests of national security in accordance with section 8(c) of

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Executive Order 10450. However, if during the course of such an investigation any information is developed of the type specified in section 8(a) of the Order, which is primarily concerned with information of a subversive nature, it is promptly referred to the Federal Bureau of Investigation in accordance with section 8(d) of the Order, and this Agency takes no further action in connection therewith.

As a general rule we do not investigate or follow the affairs of United States citizens abroad, and if, as occasionally happens, information of a derogatory nature is given to us, it is promptly passed to the Federal Bureau of Investigation. If there is definite indication that a United States citizen abroad may be involved in subversive activities outside the country, it is part of our basic foreign counterintelligence responsibility to investigate the matter. However, the reports of such investigation are promptly passed to the Federal Bureau of Investigation. Under these circumstances, we do not have the same basis for asserting privilege that I believe is so clearly established in the Heine v Raus case.

Sincerely,

SIGNED

Lawrence R. Houston  
General Counsel

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Distribution:  
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1 - OGC - Heine v Raus  
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