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Giving the Espionage Laws a New Look

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WASHINGTON

THE issue of the hour was spies and their relentless assault on the national defense. Every day, it seemed, came fresh revelations about the hemorrhage of this country's most sensitive secrets. America was in a panic about threats from abroad.

That was in 1950, the year Congress rewrote the nation's espionage laws. Three-and-a-half decades later, with the country once again obsessed with spies, one of those statutes has emerged as a central element in a confrontation between the press and Government. The law sets a maximum sentence of 10 years in jail and a \$10,000 fine for anyone who publishes classified information obtained through intercepted communications. It also covers similar secret information on American codes or techniques for intercepting communications.

William J. Casey, the Director of Central Intelligence, last week asked the Justice Department to consider bringing the first prosecution ever under the law against NBC News for a story it aired on the damage caused by Ronald W. Pelton, a former employee of the National Security Agency who is on trial for espionage. The network broadcast a one-sentence description of an eavesdropping project involving subma-

rines that he is alleged to have disclosed to the Soviet Union.

After several weeks of negotiations with the White House, The Washington Post last week published a story about Mr. Pelton, but without many details officials had claimed would be potentially damaging to national security. A spokesman for the C.I.A. said a recommendation that the newspaper be prosecuted was under consideration.

Speaking to the American Jewish Committee, Mr. Casey asserted there had been "widespread violation" of the 1950 statute in recent months and said this was hampering American efforts to ward off terrorism. But thus far, the Justice Department has been cool to Mr. Casey's suggestions for prosecuting the press. "Don't forget, we pride ourselves on being an independent branch of the Government over here," stressed one Department official. Meanwhile, the National Security Council is said to have begun a broad study to determine if new measures to prevent disclosures of sensitive information are needed.

The 1950 restrictions on communications intelligence were enacted in the wake of a growing awareness of the Government's abilities to intercept transmissions and break codes — and the need to keep those abilities secret. A 1946 Congressional assessment of the sneak attack on Pearl Harbor, which detailed American capabilities for reading Japanese codes

before and during the war, was frequently cited in the debate over how best to protect communications intelligence. Further proof of the importance of eavesdropping on an enemy emerged years later, when it was revealed the allies had cracked the mysteries of Nazi Germany's Enigma encoding machine.

The report on Pearl Harbor concluded with a recommendation that the unauthorized publication of any classified material should be regarded as a crime. But Congress eventually decided instead to limit its law to what the House Judiciary Committee termed "a small degree of classified matter, a category which is both vital and vulnerable to almost a unique degree."

Since then, the press has come to pay an increasing amount of attention to American foreign and defense policies. And until recently, Government officials had by and large been willing to live with a certain amount of disclosure of classified information as the price paid for discussion of such issues in a democracy.

Mr. Casey believes that, among other factors, international terrorism has fundamentally changed the equation. "If we are to protect our security as a nation and the safety of our citizens," he told the American Jewish Committee, "the law now on the books to protect a very narrow segment of information, that dealing with communications intelligence, must now be enforced."