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Some Legislators See 2 Recent Trials As Carter Crackdown on Release of Information

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Special to The New York Times

WASHINGTON, July 11 — The Justice Department's handling of two separate cases has prompted such concern among a number of Congressmen, civil liberties lawyers and other experts that the Carter Administration is developing new legal methods for imposing Government secrecy.

News Analysis

A major concern about the two widely differing cases — involving a former Central Intelligence Agency officer accused of violating a contractual promise to the Government and of two men convicted of being spies — is that if they are ultimately upheld by the Supreme Court, they will give the Federal Government increased powers to control and punish civil servants who disclose information, even if it is not classified.

Another worry is that the cases might lead to the development of legal opinions that, like Britain's Official Secrets Act, would permit the prosecution of private citizens, including reporters, who make nonclassified information available to the public.

One measure of this concern was the decision of Representative Don Edwards, chairman of the House subcommittee on Constitutional and Civil Rights, to plan public hearings this fall on several aspects of the two cases.

'Antiquated and Inadequate'

Senator Joseph R. Biden Jr., Democrat of Delaware, who is chairman of the Senate Intelligence Subcommittee on Secrecy and Disclosure, said cases started by the Carter Administration and others showed that existing laws were "antiquated and inadequate" and pointed to the need for revision "so we can control really damaging leaks without resorting to techniques which can and have infringed on civil liberties."

In one of the cases, Federal District Judge Oren R. Lewis ruled last week that Frank W. Snepp 3d, a former C.I.A. officer, had violated his contract with the Government by writing an unauthorized book about the agency.

Because the Government did not contend that Mr. Snepp's book contained any specific classified information, critics fear that if Judge Lewis's decision is upheld on appeal, it will provide a precedent for curbing the critical views of any "whistle-blower" who works in any Federal agency that requires employees to sign agreements limiting post-employment speaking and writing.

A study by members of Mr. Edwards' staff, for example, has found that many agencies, including the State Department, the Defense Department, the Energy Department, the Justice Department, the Treasury Department and the Nuclear Regulatory Commission, have agreements restricting the disclosures of former employees.

Contracts Will Be Studied

While conceding the importance of protecting some kinds of information held by the Government, Mr. Edwards said in an interview that he intended to examine all the various employment contracts to determine whether they are "uniform, fair and in the public interest."

"We have to see whether these contracts also stop whistle-blowers from disclosing official misconduct," he said.

In the second case, Ronald L. Humphrey and David Truong, sentenced last week to 15 years in prison, had been convicted of being spies for Vietnam.

Espionage is one of the most serious Federal crimes. But they were also convicted of stealing information from the Government under a law long used for the theft of tangible property.

Law Like Britain's Possible

According to a variety of experts, if the conviction for stealing information ultimately is upheld by the Supreme Court, it could lead to the development of a body of law somewhat similar to Britain's official secrets law.

"By arguing that Government information is Government property, the Carter Administration is claiming the power to make almost anything it does an official secret," said John H. Shattuck, Washington director of the American Civil Liberties Union. "This is a dangerous policy."

Because of its concern about the implications of the Humphrey-Truong convictions, the A.C.L.U. recently decided to file a friend-of-the-court brief supporting the appeals of the two men.

Morton H. Halpern, director of the Center for National Security Studies and a witness for the defense in the trial of Mr. Humphrey and Mr. Truong, said in an interview, "The basic issue is whether there should be a law making it a crime to treat Government information in a way that the Government doesn't want it treated."

Mr. Halperin said that under the law as applied by the Carter Administration, "if it is Government information, and if you convert it to your own use, no matter what the subject, you could be prosecuted."

"That is a government secrets act," he added.

Official Sees No Resemblance

A senior Justice Department official, however, argued that the larceny law bore no resemblance to an official secrets act. "When someone says 'officials secret act,' they think of an over-broad or vague statute. The larceny law is very specific and does not apply to free speech." The official was commenting on the law for the Justice Department with the understanding he would not be quoted by name.

The law in question is Section 641 of the United States Criminal Code, mostly used by Government prosecutors to indict someone who either steals or receives Government property, such as an electric typewriter. In several recent cases, however, including the Pentagon Papers case involving documents detailing the history of the Vietnam War, the Justice Department has used the law to try to prosecute people who steal information.

"When Congress passed this law it had

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