

Press-Related Legislation Lies Dormant on Hill

By John Lengel
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A wide range of press-related legislation, much of it opposed as threatening the free flow of information, lies dormant and maybe dying in Congress.

The proposals include:

- An Official Secrets Act, which would make it a crime to publish any national defense information about the military capability of the United States or an association. Opponents say such legislation would enable the government to prosecute the news media for almost any story about the Defense Department published without government authorization.

- Revision of the Espionage Act to prohibit publication of any information that might be used to prejudice interests of the United States. Existing legislation makes it a crime to publish such information only if the government can prove it was obtained with intent to harm the country.

- So-called "shield" legislation designed to limit or prohibit legal action to force reporters to identify news sources or provide other testimony based on information from news sources.

In addition, the Justice Department has dropped for the time being its preliminary work on proposals designed to narrow the application of the Supreme Court decisions limiting the grounds for which public figures can sue for libel.

The Official Secrets Act and the proposed changes in the Espionage Act are part of a proposal for extensive revision of the federal criminal code.

In the House, the code revisions are bottled up in a Judiciary subcommittee, sidetracked by the full committee's inquiry into whether President Nixon should be impeached.

A Senate Judiciary subcommittee headed by Sen. John L. McClellan, (D-Ark.) has nearly completed hearings on the proposed criminal code revision.

But the panel's chief counsel says that the current political atmosphere makes it unlikely that the bill will go to the Senate floor.

The Nixon administration proposed the criminal code revisions nearly two years ago and said the Secrets Act and Espionage Act revisions were necessary to plug security leaks.

Opponents said the administration proposals would have prevented publication of stories about the Mylai massacres, C-5A cost overruns and the Pentagon Papers.

In the extreme opponents argue, even unauthorized possession of routine reports and documents could lead to prosecution.

Rep. Robert W. Kastenmeier, (D-Wis.), a member of the House Judiciary subcommittee which will consider the proposal, doubts the Secrets

Act and Espionage Act revisions will survive.

"There will be nothing affecting a free press in that bill," he said. "The subcommittee will not approve a bill with provisions for criminal penalties for disclosure of information."

The drive for a shield law was inspired by a 1972 Supreme Court ruling that the First Amendment does not provide newsmen absolute protection against disclosure of confidential information.

Kastenmeier is chairman of a subcommittee that reported a bill in February for consideration providing that no newsmen could be required to disclose information at any pretrial proceeding, including grandjuries. The bill had the support of the American Newspaper Publishers Association.

In the Senate, the bill lies idle because of disagreement on when, or if at all, a journalist can be required to testify.

The administration contends that shield legislation is unnecessary.

Others seek an absolute shield, with newsmen completely immune to involuntary court appearances. Other factions want a limited shield with some mandatory obligations, or no congressional action at all, on the theory that any bill offers an opportunity to curb the powers of the press. Opinion within the news profession is divided.