

Some Experts Find Anti-Leak Bill of Little Effect

By NICHOLAS M. HORROCK

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Some present and former Government security officers contend that President Ford's new secrecy bill will not "materially" change the Government's power to halt leaks of information.

Present and former officials of the Defense Department, the Federal Bureau of Investigation and the Central Intelligence Agency have said in interviews that existing laws could have been sufficient to deter leaks but that the Federal Government had been reluctant to use current statutes to prosecute those who leak information to newsmen.

These sources said that in many cases over the last decade the Government "declined" to prosecute unauthorized disclosures of national security information because, by going into a public trial, the Government would have been forced to "declassify" the very information it was trying to keep secret.

At other times, several sources said, the actual source of a news leak was such a high level official that investigations and prosecutions were halted to avoid political embarrassment.

One former F.B.I. official said that he found nothing in Mr. Ford's bill sent to Congress last week, that materially improved the Government's position to prosecute. But he acknowledged that it might "narrowly" improve the Government's chances of controlling the actions of former Government employees and act as a better deterrent on news leaks.

W. Donald Stewart, who headed the Defense Department investigations of unauthorized disclosures from 1965 until 1972, said he was personally involved in 80 separate investigations of news leaks. He said that no criminal prosecutions had resulted despite the fact that in many cases his office developed what it considered

substantial evidence of criminal violations.

Some attorneys outside the Government have contended that the Government lacked legal authority to prosecute officials for secrecy leaks except under provisions of the espionage act that outlawed giving classified information to foreign agents.

But Government security officers took the opposite view, contending that there was authority to prosecute officials for news leaks even though the information might reach foreign agents only indirectly.

Mr. Stewart said that of the 222 substantive complaints of unauthorized disclosures processed by his office from 1965 until 1972, about two-thirds were actually investigated by the individual military services.

Sanctions, he said, were imposed in only a handful of cases. In two instances in Vietnam, he said, newsmen lost their accreditation to the military command, and this reduced their ability to cover the war.

In several other cases, Mr. Stewart said, Government employees were dismissed or transferred from sensitive positions. But he said that when his office urged prosecution, and the case was in the hands of the Federal Bureau of Investigation, the Defense Department declined to declassify the information involved so that it could be used as evidence in court.

Mr. Stewart said that he had investigated 22 complaints of unauthorized disclosures that appeared in news articles written for The Wall Street Journal and The New York Times by William Beecher. He said his office believed that it had identified sources who made the disclosures to Mr. Beecher in several instances but that no prosecutions resulted.

He said Mr. Beecher's writings based upon unauthorized disclosures of national security material were not given a great deal of consideration when Mr. Beecher was appointed to a

\$36,000-a-year Pentagon post several years later.

"I guess the thinking was, if we can't catch the fox we may as well have him on our team," Mr. Stewart said in an interview. Mr. Beecher is now a correspondent for The Boston Globe.

Mr. Stewart said his office had investigated Daniel Ellsberg as a possible source of leaks two years before the Pentagon papers case but that the investigation was halted. He said he believed that many leak cases were halted to avoid "political embarrassment" or because the suspected news leak was high ranking enough to avoid censure.

Administration lawyers who worked on Mr. Ford's secrecy law suggested that, among other things, it would work as a deterrent to those who might consider stories about sources and methods of intelligence to the news media.

Dr. Ellsberg was indicted by a Federal grand jury for violating the espionage act. The charges were later dismissed on the ground of Government misconduct including illegal wiretapping.

Mr. Stewart, who was in charge of the investigation of Pentagon spying on the White House that grew out of an inquiry into news leaks to Jack Anderson, the columnist, said that, despite substantial evidence of violation of espionage laws, that case was never even referred to the Department of Justice.

News organizations and reporters who publish classified information cannot be prosecuted except under the communications intelligence law, which covers those who are conduits for disclosure of signal intelligence as well as the Government employee who leaks it.

All the experts interviewed said they believed that far more important than a new law would be action by Government to prosecute the violations it now finds. "I don't care if you win or lose in the final analysis," one former senior F.B.I. man said, "I think you have to convince people you're serious."

C.I.A. Urged New Law

According to Administration sources, Mr. Ford offered the new secrecy bill mainly at the urging of the Central Intelligence Agency. William E. Colby, former Director of Central Intelligence, and other C.I.A. officials had become convinced that they needed such a statute to halt the publication of information by former C.I.A. employees.

But most other law-enforcement officials interviewed who are familiar with this field, said that these former employees could have been prosecuted had the Government "had the stomach for it," as a former C.I.A. official put it.

Mr. Stewart, who recently completed a book on the problem, called "The Pentagon untouchables," said that the whole question of unauthorized disclosures was complicated by the fact that often the Government has "overclassified," the information, or made it secret after substantial details were already public knowledge in certain industries, or the secret information dribbled out in innocuous official Government speeches and public announcements.

He said that the areas of classified information were so vast that senior officials often could not remember what part of what they knew was secret and what part could be told to newsmen and others.