

SFChronicle

MAR 7 1972

High Court Look At Secrecy Issue

Washington

The Supreme Court agreed yesterday to rule on the Government's much-debated policy of classifying an entire document "secret" or "top-secret" even if sections contain nonsensitive information.

The issue came to the court in a suit brought by Representative Patsy T. Mink (Dem-Hawaii) and 32 other members of Congress.

REPORTS

The had sought public access to nine reports prepared for President Nixon on last fall's atomic test at Amchitka Island. The reports allegedly contained information about the dangers of underground nuclear testing.

The Justice Department had asked the Supreme Court to reverse an order by the U.S. Court of Appeals here which would allow release of sections of the documents. The appeal will be heard next term.

In a decision favorable to the congressmen, the appeals court ordered Federal District Judge George Hart

Jr. to examine the secret documents and decide which sections were so nonsensitive that they could be disclosed.

ORDER

The appeals court ruling also voided the controversial 1953 presidential order requiring that a document carry a classification "at least as high as that of its highest classified component."

The Justice Department, in appealing this order, said it was "highly unrealistic" to think that a court could distinguish secret information from non-secret.

The government also objected that "judicial inquiry into matters which are peculiarly within the province of the executive" is inconsistent with the 1970 Freedom of Information Act.

That act provides generally for public access to government papers but excludes from public scrutiny material which the Executive Branch thinks should be kept secret "in the interest of the national defense or foreign policy."

L.A. Times Service