

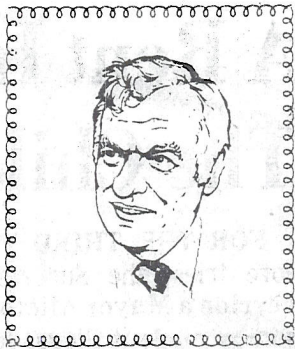
Charles McCabe

Himself

Classified!

THE FREEDOM of the press sections of the controversial (to put it mildly) Senate Bill No. 1, to overhaul the federal criminal laws, creates a new and most interesting felony: the unauthorized disclosure of "classified" official information. Classified, in government language, means a document, for the use only of the persons within government to whom it is sent.

Under S. 1, as it now stands, any public official, repeat ANY, can label anything he chooses "classified" by hammering it with a rubber stamp. The official can classify any failure to perform on his part or his colleagues, or any evidence of dishonesty, chicanery or fraud. He could suppress any evidence, in fact, that he and his fellow officials were selling the country down the river.



There is no limit to what a government official can command shall *not be printed or telecast in the media*. Whether you love the media or hate them, or feel nothing in particular about print or tube journalism, I suggest this proposal is terrifying.

You are a Washington reporter. From sources within the coffee trade that have been reliable in the past, you get a report that the tariff has been raised on, say, Colombian coffee and not yet announced, for political reasons. You call the guy who has the duty on the Brazilian or Colombian desk of the State Department. He either says it is not true (though it is), which comes within the definition of government ethical public relations. Or he tells you that the whole matter is classified, and that you are on the brink of committing a felony.

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IN ANY CASE, if you print this story, which is of enormous interest to Latin America, you and your publisher are accused felons. Worse, if by any chance your information happened to be wrong, you are still a criminal if S. 1 passes.

Under this monstrous proposal, I cannot think of a single embarrassing question a reporter could ask of a public official, down to the level of chief clerk in the Agriculture Department that could not be labeled "classified" immediately by the official who was questioned. If the matter wasn't already classified, all Junior has to do is to get out the old rubber stamp and stamp.

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NEWS GATHERING in Washington, you do not have to be told, is essentially asking embarrassing questions of officials in charge of making or administering public policy. If this proposed law had been on the books, the reporting of the Watergate scandal would have been emasculated. Recent stories reporting CIA activities would have been subject to prosecution.

Apart from reporters and editors, anyone who leaks national defense or classified information, or who "engages in conduct that causes its loss," can be prosecuted — regardless of intent and with no burden to show that any harm resulted. This applies even to former government employees who might have received classified information as a result of "having been a federal public servant."

Disclosure of classified material by journalist or public official or anyone else to a congressional committee would be a crime under S. 1 unless done "pursuant to lawful demand."

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POLITICAL AGITATION, which is what this country was founded on, would become far tougher to get away with under the conspiracy sections of S. 1. Under our present interpretation of the First Amendment, you can lawfully shoot your mouth off about the rottenness of government until you effect what Mr. Justice Holmes called a "clear and present danger" to our institutions. Under S. 1 the government may use conspiracy and sedition restrictions previously unheard of in this republic to prosecute disaffection at a point far below the "clear and present danger" peak.

Had S. 1. been passed in the early days of Watergate, Mr. Nixon would still be reigning at 1600 Pennsylvania Avenue, and the Republicans might be running the country until Armageddon. That, in fact, was rather the point of the sections which grab the press corps by the throat to make their eyes pop.