

# Goldwater Thinks U.S. Could Prosecute Paper

## Washington

Senator Barry Goldwater (Rep-Ariz.) said yesterday that the Washington Post could be prosecuted under at least five federal criminal statutes for publishing "top secret" government documents.

Goldwater said he believes it would be in the national interest for the attorney general to institute criminal proceedings to determine the applicability and constitutionality of the laws.

"I believe it is high time we find out if the government can protect its top secret materials," Goldwater said.

Benjamin C. Bradlee, executive editor of the Post, issued a statement saying:

"Last week Senator Goldwater charged the Washington Post with treason. Now he's down to theft, but his accusation is again false.

"We acquired the documents lawfully from a source who had acquired them lawfully, possessed them lawfully and disclosed them lawfully.

"The documents dealt with the questionable legal and perhaps criminal act of wiretapping more than four years ago. They are overwhelmingly relevant to the critical issues of our time.

"Our counsel specifically advised us that no crime was involved in their publication."

Goldwater's case was outlined in a 38-page memorandum by his legal counsel, J. Terry Emerson, which he inserted into the Congressional Record.

The memorandum outlined the five laws Goldwater said would apply to the Post. They carry penalties ranging up to ten years imprisonment and a \$10,000 fine.

Goldwater referred specifically to publication in the Post on June 12 of a memo from the late FBI Director J. Edgar Hoover to then Attorney General John Mitchell.

The memo — dated May 9, 1969 — quoted Alexander M. Haig Jr. as saying that Henry A. Kissinger had requested telephone surveillance on a member of Kissinger's National Security Council staff.

Kissinger, now Secretary of State, has denied that he initiated any wiretaps and has threatened to resign if questions about his role in a series of national security wiretaps are not resolved.

Goldwater said he has been advised that it is doubtful the treason statute would apply. But he said there are others.

The memorandum listed these possible felonies:

Communicating docu-

ments relating to the national defense.

Retaining national defense documents.

Conversion of federal property to one's own use.

Conspiracy to commit an offense against the United States.

Conspiracy to impair, obstruct, or defeat the lawful functions of the United States and the Secretary of State.

*Associated Press*