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Prejudicial to the interests of the state ?

FOR nearly eighteen months the British courts have been occupied in one way or another with the cases of Crispin Aubrey, Duncan Campbell and John Berry, who had been accused of various breaches of the Official Secrets Act. Mr Berry is a former analyst in an overseas signals intelligence unit, and Messrs Aubrey and Campbell are journalists who recorded a three-hour conversation with Mr Berry on the subject of signals intelligence in February 1977. Immediately after the conversation all three were arrested.

A variety of charges were directed at the defendants, most notably under section 1 of the 1911 Official Secrets Act which prescribes up to 14 years in prison for those convicted of passing information for a "purpose prejudicial to the safety and interests of the state". Past prosecutions under this section have been confined to cases of espionage and sabotage; the purposes of the defendants seem to have been limited to the dissemination of information through journalism so a conviction would certainly have broken new ground in interpretation of the act. In the event, as proceedings wore on, with many peculiar asides down to the revelation that the foreman of one jury was himself a former soldier with the highly secretive Special Air Services Regiment, the Section 1 charges were dropped and the defendants were only accused under Section 2 of the act, which makes it an offence simply to transmit or receive any unauthorised information about what government employees do, see or make. Success for the prosecution under those circumstances was inevitable; there cannot be a single self-respecting journalist, nor for that matter government employee, who could not be prosecuted under Section 2 for some indiscretion or other. The judge, having earlier hinted that he did not intend to impose immediate prison sentences, lived up to his promise, sentencing Mr Berry only to a suspended six months in gaol and providing Messrs Aubrey and Campbell with conditional discharges.

It is important that this case be remembered for more than its elements of farce and anticlimax, and in particular a perspective has to be recognised on the wider issues involved. True, Mr Berry did pass on rather low-grade information concerning secret activities of

the British government in the accumulation of intelligence—information which, it is claimed, is in any case almost in the public domain. And true there must be some small aspect of a government's activities which, for the sake of national security, is best not widely known (though Mr Berry's revelations do not seem, in any sense, to fall into such a category). But is it worth a quarter of a million pounds of public money to try and crush perpetrations of peccadilloes which could have been dealt with summarily in a magistrates' court? Maybe the judge's lenient sentences will have put heart into those who wish to reform our whole attitude to secrecy in government—a long-delayed activity. More likely the heavyweight support the government has shown for the maintenance of a *cordon sanitaire* around its activities will encourage those in government service who hold the view that nobody outside a charmed circle should know anything at all.

The Official Secrets Act casts a very long shadow. The same act that says it is undesirable that the current whereabouts of Britain's nuclear submarines should be widely known also says that any difference of opinion within a government agency is not for outside consumption. And the penumbra is even larger; those within the confines of the Official Secrets Act are expected to develop a profound group loyalty which regards even such a harmless thing as a joking reference in print to the organisation as meriting official displeasure.

The results of decades of obsessive British secrecy and the harbouring of inside knowledge are around for all to see. In the Western world there cannot be a single government less open in its intentions with the public, and more distrustful of those, like journalists, whose profession is not just to repeat the official line but to try and shed light on the inner processes of decision-making. And the lack of easy flow of qualified people into and out of government service just reinforces the insider mentality. It is a total change of attitude, not a rewriting of the Official Secrets Act, that is needed to open up government—and this may take a generation. But by its vigorous pursuit of minor journalistic escapades the British government has shown it doesn't yet recognise the need for change at all. □