

In 1979 *The Progressive*, a small circulation monthly periodical dealing with political and social issues, entered into final preparation for publishing an article by freelance journalist Howard Morland about the design and manufacture of hydrogen bombs. Morland's article contained no classified information, but rather, was based upon what he had been able to surmise from interviews and general reading. Morland himself was not a trained scientist, having had only a few college physics courses. Before publishing his article, the editors of *The Progressive* sent it to a number of reviewers for pre-publication editorial comments. One of the reviewers, unbeknownst to the editors of *The Progressive* passed it on to an M.I.T. physics professor, who in turn sent it to the U.S. Department of Energy. Shortly thereafter government attorney filed a motion in federal court to enjoin publication of the article as a breach of national security, citing as the legal basis for such an injunction the Atomic Energy Act, which states in part that the term "Unrestricted data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the restricted data category.

Would the court have been morally justified in granting the injunction?

ANSWER: The injunction should have been denied on that ground that it would violate *The Progressive's* right of freedom of the press. The definition of "restricted data," which the government relied upon in requesting the injunction, is so broad that virtually any writings or utterances on the subject of nuclear energy are covered under it. A narrower definition of restricted data would have to contain language that clearly distinguishes "dangerous" or "potentially dangerous" information relating to nuclear energy from information which may be safely disseminated. It is doubtful, however whether this is possible. Phrases such as "dangerous" or "potentially dangerous" in such a definition would be unacceptably vague, and thus liable to abuse by the government.

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