PR DF Political Rights Defense Fund

BOX 649 COOPER STATION NEW YORK NY 10003 212/691-3270

September 23, 1978

Dear Friend,

The fall will be a critical time for our lawsuit against government political spying. As you know, Attorney General Bell is refusing to hand over evidence of the FBI's disruptive use of informers. In July Bell became the first attorney general in history to be cited for contempt of court when he defied Judge Griesa's order to turn over 18 informer files to the Socialist Workers Party's attorneys. The government is once again appealing the judge's order.

The need for the American people to know the truth about government spying is greater than ever. Recent revelations have shown the role of an FBI informer in murdering civil rights workers and Blacks during the sixties. If Judge Griesa's order is upheld a precedent will have been set against the criminal use of FBI informers.

In October or November a three-judge panel will hear Bell's appeal. The government has printed up an appeal brief that totals 126 pages, with an appendix of over 2,000 pages. The government lawyers argue, in effect, that no one can ever obtain redress from government violations of democratic rights. They hold that the informer "privilege" is absolute--that informers can never be held accountable for their crimes or even have their actions and identities revealed.

The government brief challenges virtually every humanitarian and democratic concept of the rights of government vs. the rights of individual human beings!

Our attorneys, Leonard Boudin, Mary Pike, and Margaret Winter, are busy researching and writing an effective answer to this frightening document. It is very important for us to win this appeal. The case will undoubtedly be taken to the Supreme Court and the record we establish during this appeal will have a definite impact there.

The government is sparing no expense for Bell's appeal. We, on the other hand, are dependent on your contributions to allow us to meet this serious challenge to the rights of all. We anticipate expenses of $30,000 over the next several months in meeting the government's legal offensive and in taking the case before the public.

Please give as generously as you can to help us win this important fight.

Sincerely,

Syd Stapleton

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THE NATION September 2, 1978

FIDDLING WITH THE LAW

MR. BELL AND INFORMERS

ADRIAN W. DeWIND & MORRIS B. ABRAM

Recent history has taught us to look skeptically upon claims of "privilege" asserted by government officials in order to keep their files closed to public scrutiny. We might expect by now to find nearly everyone watchful of executive officers asserting "security" or "confidentiality" as the excuse for denying access to documents or information. It is therefore dismaying to find that alert, sophisticated people can still be bamboozled by highly dubious claims of privilege on the part of government executives, as witness the measure of public support for the government's claim of "privilege" in the confrontation between the Federal District Court in New York and Atty. Gen. Griffin Bell over FBI documents the Attorney General wants to keep secret.

The case involves the Socialist Workers Party suit against the FBI, in which the Attorney General has asserted a privilege to keep FBI "informant" files closed despite a court order to produce them. In this suit, pending now for five years, the plaintiffs charge that their constitutional rights have been systematically violated by criminal conduct sponsored by the FBI. Indeed, it has become public knowledge through this case and Congressional inquiries that the FBI, using hired "informants," conducted a grotesquely abusive campaign for forty years without ever producing a shred of evidence of criminal activity by any of the investigated. Federal Judge Thomas Griesa has made the importance of the case plain, saying:

> . . . [T]he issues in this case are grave in the extreme, involving charges of abuse of political power of the most serious nature.
>
> Since the allegations relate to the highest levels of government, it is entirely appropriate for a court to enter an order against a cabinet officer, if necessary, for the production of the essential evidence, and to adjudge that cabinet officer in contempt if he refuses to obey the order.
>
> . . . [T]his Court concludes that the FBI informant files constitute a unique and essential body of evidence regarding the allegations of wrongdoing in this case.

Recently, Judge Griesa held Atty. Gen. Griffin Bell in contempt of court for refusing to comply with the court's order to produce a mere eighteen out of some 1,300 FBI informant files. As Judge Griesa said:

> Plaintiffs' request for eighteen informant files is unquestionably a good faith effort to arrive at a representative selection of the files. In view of the total number of such files in existence, it is a most modest request indeed.
>
> . . . [T]he questions about production of informant files in the present case cannot be resolved by looking solely at the interest in informant confidentiality, as the Government would have us do. There are countervailing considerations which deeply affect the public good. These considerations relate to the interest of the citizens of this country in being protected against the illegal and unconstitutional use of informants to interfere with the exercise of basic political rights and to invade the privacy of persons and organizations. One obvious way to protect against such abuses is to allow private plaintiffs fair opportunity to recover for such abuses to the extent legally allowed, with the attendant exposure of any misuse of Government power to public view. These considerations reinforce the conclusion that there is ample justification for the enforcement of an order against the Attorney General which is designed to provide essential evidence in this case to plaintiffs' attorneys.

The government has resisted producing any but the most cursory information about its informers' activities. Yet, having personally examined the files in question, Judge Griesa found that no major question in the case could be resolved without the plaintiffs' counsel having access to at least a representative cross section of the files.

The course chosen by Judge Griesa is a proper one. The position of the Attorney General and the government lawyers on the case is unfounded.

It is common enough for courts to hold offending parties in civil contempt without permitting any appeal whatsoever. This did not happen here. On the contrary, Judge Griesa ordered the FBI to produce the eighteen files more than a year ago, in May 1977, and the FBI immediately petitioned the Second Circuit Court of Appeals to review the judge's action. The Second Circuit refused and held that Judge Griesa's order lay within his lawful discretion. (Interestingly, among the three judges who upheld the order was William Webster, who has since been appointed FBI Director.) The government attorneys then petitioned the Second Circuit for a rehearing which the court denied. As a final effort, the government petitioned the Supreme Court to hear the appeal, and that Court also denied the government's petition.

The Attorney General's difficulty does not lie, as he asserts, in being refused appellate review. It lies in the fact that the appellate courts have ruled against him and he will not accept that.

The Attorney General has received all the appellate review to which the law entitles him. Yet, even now, he is engaged in a *third* effort to have the Second Circuit Court review Judge Griesa's exercise of discretion. His action represents a continuing effort to dictate to the courts what the government shall and shall not produce. It ill becomes the Attorney General, as a party defendant, to seek to elevate himself above the law. It is equally objectionable for the Attorney General to use the resources of the government for endless delaying tactics over an issue in which he should recognize both the law and the

Adrian DeWind is the immediate past president of the Association of the Bar of the City of New York. Morris Abram is an attorney and former U.S. Representative to the United Nations Commission on Human Rights.

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public interest by voluntary compliance. His asserted notion that disclosure of information about these government-hired thugs will disrupt the proper administration of our justice system is mind-boggling.

What the Attorney General says he wants and has *not* received is appellate court review, not simply of whether Judge Griesa was acting within the limits of a trial judge's lawful discretion but also of whether the Judge's particular directive was the "right" one. The reason the Attorney General has not received such a review is because the law prohibits it. The law has prohibited such appeals prior to final judgment after trial ever since Congress passed the Federal Judiciary Act in 1789.

The rationale for this long-standing ban against what are known as "interlocutory appeals" is simple and compelling: without it the federal courts would be hopelessly clogged. Litigants (such as the government here) with sufficient power and resources could eternally delay cases simply by appealing the scores of determinations judges make prior to finally deciding a case. Among other things, this could assure that parties with limited resources would be driven out of court without justice simply for lack of funds.

For more than a century the Justice Department has consistently supported this federal rule. Attorneys General have invoked it countless times against *private* defendants who sought interlocutory appeals for reasons far more compelling than the government's in this case.

Now the shoe is on the other foot, and the Attorney General is saying, in essence, that the law which applies to others does not apply to the government. But it is a fundamental premise of our law that the government stands before the courts like any other party.

Quite rightly, the Attorney General has expressed concern with the "unseemly" situation which exists. But the only unseemly thing here is the Attorney General's posture which ignores a basic precept of law in order to shield FBI "informants" who were not, in fact, volunteer informants but government-hired *agents-provocateurs.* Documents made public in this case and through Congressional inquiries reveal a wearying catalogue of incidents of burglaries, blackmail, harassment and violent intimidation. The FBI has admitted committing more than ninety burglaries of the SWP's headquarters in New York City alone.

The entire affair resembles an upside-down world in which citizens peacefully exercising political rights were treated as criminals, while criminals were enlisted on the government rolls to perpetrate their crimes while cloaked with government sanction. Whatever his intentions, Attorney General Bell's assertion of "informer privilege" against the court's quite prudent order only serves to perpetuate this situation. To repeat, it defies imagination to believe that disclosing the contents of these eighteen files to the plaintiffs' attorneys would imperil any present or future legitimate law-enforcement activities of the FBI. If disclosure would discourage repetition of illegal activities under government sponsorship, then all of us will benefit.

Important and fragile principles are implicated in this unseemly fray—the independence of the judiciary and the rule of law as well as the right of citizens to meet and speak freely. We hope the Attorney General will reconsider his position and turn over the files. If he does not, we hope the Second Circuit will promptly reaffirm its earlier view and lift the stay against contempt proceedings. □

ST. LOUIS POST-DISPATCH July 10, 1978

Mr. Bell's Poor Example

For more than a year Attorney General Griffin B. Bell has refused to comply with a court order to release Federal Bureau of Investigation files on 18 informers who spied on the Socialist Workers Party, and now U.S. District Court Judge Thomas P. Griesa has held him in contempt. The files are being sought in connection with a $40 million damage suit brought by the Socialist Workers Party against the government as a result of the FBI's 38 years of wire tapping, burglaries, mail tampering and other forms of snooping without discovering any evidence of a crime by the party or its leaders.

Mr. Bell contends there is a principle at stake, namely, the right of law enforcement agencies to protect the identity of informers, and he plans to appeal the contempt finding, though an appeals court had earlier rejected his plea to overturn Judge Griesa's original order to release the files and the Supreme Court had let the appeals court decision stand. Pending the outcome of the appeal, the contempt citation was lifted by an appeals court judge so there is no danger that Mr. Bell will be subject to sanctions until the issue is settled.

It is true that law enforcement would be seriously hampered in many instances and the lives of informers would sometimes be placed in jeopardy if police could not keep their identity secret, but Mr. Bell could hardly have chosen a case less suited to supporting his contention that the privilege of confidentiality is absolute.

To begin with, Judge Griesa's order to turn over the files limited access to them to the three attorneys representing the Socialist Workers Party, and it prohibited the attorneys from sharing the information in the files with their clients. They were told they could merely use it in preparing for trial of the damage suit. Thus, the informers' identity would remain confidential. Second, inasmuch as the FBI's surveillance of the party produced no evidence of wrongdoing, the informers were nothing more than common gossips, not genuine double agents supplying evidence of criminal conduct. The FBI's surveillance of the Socialist Workers Party was an exercise in political repression devoid of connection with law enforcement.

For these reasons, then, compliance with the court order would not set a precedent for disclosing confidential sources in criminal investigations. Mr. Bell's contention that the court order would "cause incalculable harm to the nation's ability to protect itself against enemies, foreign and domestic" is as irrelevant as it is specious.

LOS ANGELES TIMES July 16, 1978

Bell vs. the Trotskyites: the Case for Equal Justice

The Attorney General Is in Contempt of the Court and of the Constitution

BY ARYEH NEIER

Nine days ago, U.S. Atty. Gen. Griffin Bell was formally adjudged in contempt of court in a lawsuit brought in New York against the FBI and several other federal agencies by the Socialist Workers Party. Bell was accused of "a totally unjustified attempt to obstruct and delay" justice for refusing to surrender files on FBI informants, as ordered by U.S. Dist. Judge Thomas P. Griesa, during the party's suit charging government with 40 years of illegal harassment.

Was it actually possible that the U.S. attorney general, a Cabinet member, would go to jail for his actions in a lawsuit brought by a tiny political party that had never even elected anyone to public office? Unless they had been following that case closely, many readers must have been startled by this sudden showdown. How did all this happen?

Five years ago, the Socialist Workers Party, a Trotskyite organization, filed a lawsuit seeking relief from harassment by the federal government. In the course of the legal proceedings, the government has been forced to admit that despite its lack of any information suggesting Socialist Workers involvement in anything except peaceful political activity, it subjected the organization to sustained manipulation and disruption.

The U.S. Constitution guarantees to all Americans the freedom to speak, publish and assemble without interference from the government. These guarantees, embodied in the First Amendment, go to the heart of democracy, for democratic government derives its powers from the consent of the governed. That consent is developed by people exchanging views freely and deciding which policies should prevail at a particular moment and who should represent them in implementing those policies.

Thus, when the federal government attempted to shut off the expression of dissident views by the Socialist Workers Party, it did much more than violate the rights of the handful of people directly affected. It denied all of us the right to examine those views and determine for ourselves whether to make any changes in public policy. By limiting our freedom to make such decisions, the government diminishes its own legitimacy, its ability to assert that it governs with public consent. *Every* interference with First Amendment freedoms is a step on the road from democracy to tyranny.

The Constitution also guarantees privacy in our persons, houses, papers and effects against unreasonable searches and seizures. These guarantees, embodied in the Fourth Amendment, were conceived by the founders of the American republic to protect us against Big Brother. Procedurally, a search is determined to be reasonable if a court authorizes it in advance. Yet the government listened in on the conversations of members of the Socialist Workers Party, rifled their files and stole their papers, all without ever getting such a warrant.

The FBI officials who devised the campaign against the party and carried it through for decades, acted as though the First Amendment and the Fourth Amendment never existed.

Nothing was too petty for them. The FBI even arranged for a raid of a New York summer camp operated by the Socialist Workers. The operation was justified by alleged state law violations and the FBI counted it a triumph when the party had to sell the camp property. The FBI also arranged for dozens of burglaries of party offices, burglaries that continued even after the lawsuit was filed (as was learned in 1976 when the Denver police arrested Timothy Redfearn, one of the FBI's paid burglars).

Most of the disruptive work was done by FBI "informants." The bureau has had to admit that it used a small army—some 1,300 informants—against the Socialist Workers between 1960 and 1976. Just what they did and how they did it, however, is not yet known. But just last Tuesday it was revealed that Gary Thomas Rowe, a former FBI-paid informant in the Ku Klux Klan, said that he killed a black man in 1963 and kept quiet about it on the instruction of an FBI agent. Such revelations make it all the more important to know what other FBI informants were doing while spying on the Socialist Workers, and suggests that "informant" may only be a euphemism concealing rather more sinister behavior. And, of course, this makes it all the more urgent to discover what such people were doing to the Socialist Workers Party itself.

Aryeh Neier, the executive director of the American Civil Liberties Union, lives in New York.

On May 31, 1977, in a closed-door hearing, Judge Griesa ordered the FBI to turn over to the party's lawyers files on 18 of its informants. The judge, who had reviewed the FBI files, described them as "the most important body of evidence in this case, recording in immense detail the activities of the informants, the instructions by the FBI to the informants, and the FBI's evaluations of informant activities . . . (The) files indicate that the FBI may have used informants in certain instances to destroy or weaken chapters of the SWP . . . to remove private documents for production to the FBI, and to perform other types of activities whose legality was highly questionable."

The government opposed Judge Griesa's order on two grounds: There might be retaliation against the informants, and it might be more difficult to recruit such informants in the future. But Judge Griesa had already taken this into consideration. To prevent retaliation, the judge had ordered the files on the informants to be revealed only to the Socialist Workers' lawyers—and these attorneys would be forbidden even to discuss the files with their clients. Further, to prevent any damage to the government's ability to recruit informants in the future, the fact that the files were being turned over to these lawyers would be kept secret.

Still, the FBI appealed. In October, 1977, the U.S. 2nd Circuit Court of Appeals ruled that Judge Griesa's order was within his powers (and in the process, disclosed the existence of the order). The same court, in March of this year, denied an FBI petition for a rehearing, and then on June 12, the Supreme Court denied the FBI's request that it review Judge Griesa's order. Having exhausted all its appeals, the government, one might suppose, would have to comply with Judge Griesa's order.

Wrong. On June 13, Atty. Gen. Bell said that he was assuming personal responsibility for deciding whether to comply with the order. Later the attorney general, himself a former federal judge, decided that he would not comply. One of the arguments Bell made is that it would be a grave and almost unprecedented step to hold a Cabinet officer in contempt of court and to send him to prison. He also argued that his personal entry into the case changed things, and so he was entitled to time for a full appeal.

It was a naked display of power: Judge Griesa was expected to back down. Sending ex-Atty. Gen. John Mitchell to jail was one thing: After all, he had been thoroughly disgraced by years of Watergate revelations and by the time he was tried, he was long out of office. Griffin Bell, on the other hand, is very much in office and few members of the public know why he might deserve to be held in contempt.

But Judge Griesa did not back down. He held the Attorney General of the United States in contempt, and was even getting ready to decide what sentence he would impose—jail, or something else—when another federal judge, Murray I. Gurfein, delayed the contempt order

For the moment, the confrontation has been averted. The government once again can try to persuade the appellate court that Judge Griesa exceeded his powers. Unless some appellate court judges have a change of heart now that the attorney general has assumed "personal responsibility," the results of an appeal should be the same as they were the last time.

But if the appellate court reverses Griesa's ruling, people who share the radical political views of the Socialist Workers Party will probably not be very surprised. For they are the sort who tell you that the law punishes poor people who commit burglaries, but not FBI informants, and that the law sends lowlier bureaucrats to jail for contempt, but never an attorney general.

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Rocky Mountain News
Denver, Colo.
August 1, 1978

A 'Bourbon Democrat'

The myopic view from Griffin Bell's lily-white ivory tower

By NICHOLAS VON HOFFMAN

ATTORNEY GENERAL Griffin Bell is a Bourbon Democrat. When he talks with that undershot jaw of his, he looks like a palsied fish positioning itself to snap a white insect egg from the surface of the water. It produces inexact locutions for the nation's No. 1 lawyer. Yet it avoids the energetic precision suggested of the pushy types whom they'd never let into the segregated country clubs where this gentleman person has spent his adult social life.


Von Hoffman

So it was in character for the oh so gentle and genteel Bourbon Democrat to be commenting the other day on how the processes of justice are canted in favor of the poor crooks as opposed to the wealthy criminals: "We lean over backwards and we are a little less careful with the rights of the rich than of the poor."

As he blinks out at the world, squinting to make the lower class fragments of the cosmos come into focus, it looks to him as though the jails are jammed with unjustly accused millionaires and wrongfully pilloried plutocrats. None of us sees what is; all of us see selectively as we're conditioned by our upbringing, our social class, our way of life.

For one who sees with the eyes of a Bourbon Democrat it is reasonable and fair to resist a federal court order, already upheld by the Supreme Court, to divulge the names of informers the Justice Department used against a political organization. That's what Mr. Bell is doing in the suit brought by the Socialist Workers Party against the government.

For nearly 40 years the Justice Department has been opening mail, burglarizing, sabotaging and spying on this group. To carry out these ignoble activities the department has employed some 1,300 finks, informers and two-faced double-dealers. It is the names of these less than honorable people that the attorney general seeks to keep hidden because he'll have more trouble recruiting new finks if the word gets around in finkdom that the department didn't protect the old ones.

The Socialist Workers Party has never been convicted, or even indicted, for doing or conspiring to do anything illegal. For four decades its leadership has obeyed the law and stayed out of jail, which is more than Mr. Bell can say of his own political party or that of his main opponents, the Republicans.

THE DIFFERENCE IS that the Socialist Workers Party is composed of admirers of the late, but only indifferently lamented Leon Trotsky, a revolutionist who struck terror in the hearts of our parents and grandparents the way a name like Fidel does in Jimmy Carter's. Members of the Bourbon democracy such as Mr. Bell never meet Trotskyites and therefore can't understand that the use of finks to spy on their political meetings may have the well-known chilling effect on their free speech. At the country clubs of Mr. Bell's acquaintance where the rich refugees from judicial harassment seek protection and surcease, you won't find G-men hiding in the bunker at the 16th hole, and the membership committee meeting at which the pushy and the non-white get blackballed are not penetrated by undercover federal agents.

The New York Times, long a citadel of Bourbon democracy also, has supported the attorney general in his stand. Both he and the newspaper think finks are a necessary tool of government as this quote from the paper's editorial on this subject shows: "Informers are essential; they are also often afraid; and they depend on pledges of confidentiality. It is surely conceivable that violating that pledge in this case would reverberate in many others."

That shouldn't be taken to mean Bourbon Democrats don't believe in political liberty or that they advocate the use of the police file on everyone. The paper and the attorney general have been insidious in buttressing the civil liberties of their own kind.

MUCH OF THE HUBBUB against the Nixon administration was that it treated the sons and daughters of Bell-New York Times-type people — and sometimes even the parents — as though they were members of the Socialist Workers Party.

Since Nixon's fall, great pains have been expended by establishmentarian institutions and powers to make sure their phones will not be tapped and their homes broken into by G-men again. Mr. Bell himself has initiated prosecution of FBI agents who allegedly were so imprudent as to extend their political Peeping Tom-ism from the Trotskyite grubs to the upper middle class.

There is no reason why Mr. Bell should admit the politically unwashed to his social club, but it would be a gallant gesture on the attorney general's part to admit them to the privileges and protections of citizenship.

Government tries to buy-off SWP suit

By Richard Goldensohn

DURING THE LAST SIX MONTHS, the federal government twice offered substantial cash payments to the Socialist Workers Party in attempts to settle out of court a controversial $40 million damage suit that has embarrassed the government for more than five years. The offer was made public last week by party political member Lawrence Siegle in an address to the closing session of a week-long SWP national conference in Oberlin, Ohio.

The SWP's suit, which recently caused Attorney General Griffin Bell to be held in contempt of court by Federal District Judge Thomas Griesa, has presented the government with a series of uncomfortable dilemmas. The government is attempting to prevent the release of any of its files on the 1,300 informants who the FBI says spied on the SWP since 1960. The out-of-court settlement proposed by the government would have restricted access permanently to any of the 8 million pages of government files on the SWP in return for a cash payment.

The SWP rejected both offers, according to Siegle. Another member of the SWP's political committee, Sydney Stappleton, confirmed that he and the SWP's lawyer, Leonard Boudin, met in February and April with Barbara Babcock, the Assistant Attorney General for the Civil Division of the Department of Justice, to discuss the settlements.

Dealing for dollars.

According to Siegle, the first offer was

Richard Goldensohn

At last week's SWP rally in Oberlin, Ohio: Hector Marroquim, Rosario Ibarra de Piedra, Vernon Bellecourt, and Larry Seigle.

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Socialist Workers Party refuses to accept out-of-court offer for its five-year-old $40 million suit.

for $200,000 and the second for "somewhat more." Siegle also stated that the government had offered to seal the files in the National Archives, forbidding access to anyone "for any reason"—except the Attorney General. Stapleton stated that the amount of the second offer was left "vague" but was still considerably less than the SWP had spent so far in fighting the suit, which he estimated to be around $1 million.

Leonard Boudin declined to comment on the announcement by Siegle, saying, "It is my preference not to comment on any negotiations that I may or may not have had with government officials." A report that such negotiations had taken place appeared in an article by Stephen Brill in a recent issue of *Esquire*. No details were given. Such negotiations are normally kept secret, but Stapleton said that a decision had been made by the SWP to discuss them openly after Brill's report appeared.

Although the government routinely settles cases out of court, the offer of a settlement to the Socialist Workers Party is unusual because of its magnitude and the kind of government malfeasance charged in the suit.

David Hamlin, executive director of the Illinois American Civil Liberties Union, which itself is suing the government in two suits similar to the SWP's, stated that he was not surprised that the government wants to negotiate its way out of this suit. "The government is faced with hundreds of such suits, and they hope that if they throw money at them they will go away." Hamlin praised the SWP for turning down the settlement offers at this time. "There has not yet been a good judicial review of the principles involved. There is no dollar value that can be placed on the damages. The legal principles must be resolved."

Committing crimes to collar citizens.

The SWP, a Trotskyist party with 2,500 members, filed suit in July 1973 claiming $40 million in damages and asking the courts to stop further spying and disruption against it. The case has yet to go to trial, and may not for years, but the pretrial hearings have brought out much about political counterintelligence in the U.S. The most notorious revelation concerned the existence of "COINTELPRO," a program of disruption of the left that was launched in 1961 by former FBI director J. Edgar Hoover. Although, to date, the party has seen fewer than 1 percent of the mountain of documents the government says it has filed on it, break-ins, burglaries, wire-taps, and character assassination, carried out with astonishing frequency, have been disclosed. In the period 1960-66, it has been shown that the FBI burglarized the SWP's offices at least 94 times, an average of once every three weeks. Among the 1,300 informants who were used against the SWP in the period since 1960, 300 became members of the party.

Throughout the entire period of their activities against the SWP—dating back to the founding of the party in 1938—government investigators never found any evidence with which to charge an SWP member with a crime, much less win a conviction. This fact has proved extraordinarily embarrassing to the government and helpful to the SWP's suit that claims the government's activities were not related to criminal activity but were conducted solely to disrupt the party. The SWP claims, therefore, that the government violated the First and Fourth amendments to the Constitution.

Protecting stool-pigeons.

In the five years since the suit was filed, the government has been stalling and trying to prevent a cascade of new revelations about political suppression. The government has repeatedly refused to cooperate with the pre-trial "discovery" process, arguing that the release of 18 of the 1,300 informer files to the SWP's attorneys would violate "informant privilege" and compromise the informant system of fighting crime.

In June, U.S. Attorney General Griffin Bell decided to take "personal" control of the files and was held in contempt of court by Judge Thomas Griesa on July 6, for not releasing them. Bell's lawyers, the U.S. District Attorney's office for the Southern District of New York, are now appealing Griesa's ruling. Although Bell has said he will comply with a Supreme Court decision on the matter, his appeal is regarded as highly unusual and a measure of the government's determination to avoid turning over the files. "Discovery" orders in civil cases cannot normally be appealed. Arieh Neier, outgoing executive director of the ACLU, called Bell's personal intervention "a naked display of power."

Although the government claims its ability to fight crime will be dangerously impaired if it discloses the identity of informants by releasing the files, SWP members attending last week's conference argued that the government does not want to release the files so that it can continue to carry out disruption in the future. They point out that legislation is now under consideration to legalize otherwise illegal activities of informants through the use of court orders.

Jumping on the bandwagon.

Although Judge Griesa has ordered that the files turned over to the SWP's attorneys must be kept secret (they would not even be allowed to tell their clients what was in them), the government fears that they would eventually become public. If so, officials may be worried that the information in them could encourage more suits like the SWP's. The National Lawyers Guild, for example, filed suit last year for $65 million in damages in an action modeled on the SWP case.

According to Roger Rudenstein, a spokesman for the Political Rights Defense Committee, an SWP-run group which is financing and publicizing the case, the SWP's suit has already spawned hundreds of similar suits.

Asked how the case was going for the government, Frank Wohl, the head of the Civil Division of the Department of Justice for the Southern District of New York, which is in charge of arguing the case, would not comment. To the same question, SWP lawyer Winter replied, "We're winning the case. We're right on the law. We're right on the informer privilege. We're just right."

Former judge held in contempt.

The SWP is helped in its already strong case by excellent lawyers. Leonard Boudin is regarded by many as the foremost civil liberties lawyer in the country. Furthermore, the SWP is blessed with "a good judge." Judge Griesa, a 48-year-old Nixon appointee, has been hearing the case with relentless patience, persistence, and intelligence. Although he has made many rulings adverse to the SWP—refusing to request relevant files from the CIA and the National Security Agency—he has ultimately refused to bow to the extraordinary pressure that the government has placed on him. In particular, his willingness to order Bell, a former District Court Judge, held in contempt was seen by many observers as a demonstration of his determination to see the case fairly heard. In addition, Griesa's careful conduct of the case leaves little chance that the decision will be overturned on procedural grounds.

No one involved in the case will estimate how long it will be before it finally comes to trial. Margaret Winter believes that the government's strategy is to try to conduct "a war of attrition" with the SWP. "We've been litigating this informer issue for two years now," she points out. "They could drag it out for another two." Ironically, according to Winter, when the case finally goes to trial, it may last no longer than a month. Most of the evidence for the case is in documents and it is unlikely that the government will call witnesses to contest what is in them.

Already the case is the longest running case of its kind in history. Says Boudin, "The case poses for me the question of whether this is really a government of laws or whether the illegalities of government agencies directed at the destruction of political parties can receive judicial protection." ■