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APR 19 1972

# Court bars former CIA aide from telling secrets

By Thomas B. Ross  
Sun-Times Bureau

WASHINGTON — In a case with overtones of the Pentagon papers controversy, the Justice Department on Tuesday got a federal court to stop a former high-ranking official of the Central Intelligence Agency from telling the public what he knows about CIA activities.

U.S. District Court Judge Albert V. Bryan Jr. of Alexandria, Va., issued a temporary restraining order after the Justice Department filed a civil suit against Victor L. Marchetti, onetime executive assistant to the deputy director of the CIA.

The Justice Department alleged that Marchetti planned to publish a magazine article and a book violating a signed agreement not to disclose secrets he learned while working for the CIA.

CIA Director Richard M. Helms submitted an affidavit asserting that he had read the article — admittedly obtained by a CIA agent in New York from a "confidential source" in the publishing world — and that it contained information that would compromise "currently classified intelligence sources and information."

#### Others say it's harmless

However, several other persons who have read the article said it was harmless, largely a compilation of some of the CIA's more exotic management and electronic practices. They contended it might make the agency look silly, but certainly would not harm the national security.

For example, the article reportedly recounts a CIA effort to implant bugging devices in a cat, which then would be trained to wander through parks picking up the conversations of suspects.

In any event, publishing sources in New York declared, Marchetti already had decided not to publish the article and had withdrawn it from Esquire magazine.

The Justice Department statement said Marchetti also had sold a "nonfiction book,"

allegedly describing "CIA activities in detail."

It was learned that the New York publishing firm of Alfred A. Knopf has entered a \$40,000 contract with Marchetti, but that he has not yet written a word of the proposed book.

The case was viewed by a number of lawyers here as involving the same principle of "prior restraint" that was the key issue in the Justice Department's efforts to prevent the New York Times and other newspapers from publishing the Pentagon papers last summer.

#### Supreme Court and prior restraint

After the newspapers were prevented from making their disclosures for two weeks, the Supreme Court ruled that the First Amendment to the Constitution prohibits such restraint. In the meantime, The Sun-Times had disclosed all of the key points in the Pentagon papers without being challenged.

The Marchetti case undoubtedly will be appealed all the way to the Supreme Court if Judge Bryan and other lower courts rule in favor of the government.

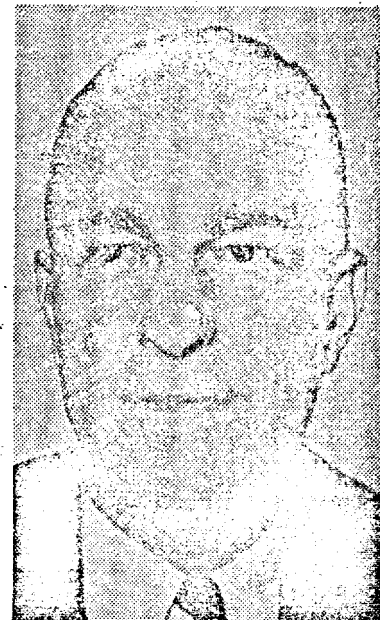
The Justice Department's suit against Marchetti charges that he was about to violate a secrecy agreement binding him not to "divulge, publish or reveal either by word, conduct, or by any other means, any classified information."

A document attached to the suit contended that Marchetti already had talked at length with 27 members of the press, including Morton Kondracke of The Sun-Times Washington Bureau, who wrote an article about him in Earth magazine.

Marchetti joined the CIA in 1955 and resigned in 1969, explaining that he had become disenchanted with many of its practices and fearful that it was beginning to conduct operations against private citizens within the United States.

#### Gave works to judge

His most important job with the agency was as executive assistant to Vice Adm. Rufus Taylor, former deputy director. Marchetti reportedly went to Taylor two weeks ago to as-



RICHARD M. HELMS

"Compromises currently classified intelligence"

continued

sure him that he did not intend to harm the CIA and was prepared to submit a script to the agency for its suggestions.

The Justice Department said it had submitted copies of Marchetti's article, entitled "Twilight of the Spooks," and a copy of his book outline, "A Concept for a Book About the Central Intelligence Agency," for Judge Bryan's private perusal.

Publishing sources said the book outline was as innocuous as the article.

Shortly after it was circulated to publishers in New York, however, Marchetti's fears were realized. In an affidavit attached to the suit, a CIA agent in New York who identified himself as Robert P. B. Lohmann asserted that he had been given copies of the magazine article and the book outline by a "confidential source, who has provided reliable information in the past and whose identity I am prevented from disclosing."

#### **If the government wins . . .**

If the government wins its case against Marchetti, strong new pressure would be brought on officials not to tell the press and the public how U.S. foreign policy is being conducted.

State Department and Pentagon officials, in addition to CIA employes, are required to sign security agreements. But up to now such contracts often have been honored more in the breach, and former officials, including Presidents, regularly draw upon secret and top secret documents to write articles and books.

Helms' affidavit alleged that Marchetti's writings "would cause grave and irreparable harm to the national defense interests of the United States and will seriously disrupt the conduct of this country's foreign relations."

At the time the government moved in the Pentagon papers case, one of President Nixon's spokesmen said he was less interested in the security aspects than in allowing a precedent to be established that might lead to future leaks of his own secrets.

April 1972

## JUDGE BARS BOOK BY EX-C.I.A. AGENT

Temporary Order Is Granted  
to Justice Department

By DAVID E. ROSENBAUM  
Special to The New York Times

WASHINGTON, April 18—A federal judge, acting at the behest of the Justice Department, today issued a temporary restraining order to prevent the publication of a book or articles by a former agent of the Central Intelligence Agency.

The former agent is Victor L. Marchetti, who left the C.I.A. in 1969 after 14 years and then wrote a novel about the agency called "The Rope Dancer," which was published last fall.

The restraining order was issued by Judge Albert V. Bryan Jr. of the Federal District Court for the Eastern District of Virginia. It prohibits any publication by Mr. Marchetti until a hearing can be held on the Government's request for a permanent restraining order. The hearing is scheduled for April 28. Mr. Marchetti lives in Vienna, Va., a suburb of Washington.

Mr. Marchetti said today that he had a contract with Alfred A. Knopf, Inc., to write a non-fiction book about the agency but that he had not begun to write it. His literary representative, David Obst, said that Mr. Marchetti had also written an article about the agency for Esquire magazine but that the article was withdrawn before publication.

### A.C.L.U. Backs Author

Ralph J. Temple, legal director of the Washington office of the American Civil Liberties Union, said tonight that the A.C.L.U. would represent Mr. Marchetti.

Mr. Temple said that today's order represented "the first time the Government has gotten a restraining order against original written materials."

He said that this case was different from that of the Pentagon papers. In that case, he said, the Government was trying to prevent the publication of classified Government documents rather than of publication of an original work.

In its complaint, the Government noted that Mr. Marchetti had arranged to write a book about the agency. It declared:

"There is substantial likelihood that this book will divulge currently classified information relating to intelligence sources and methods, the disclosure of which would violate the terms and conditions of the defendant's secrecy agreement and result in grave and irreparable injury to the interests of the United States."

When a person joins the Central Intelligence Agency he is required to sign a "secrecy agreement" asserting that he will never divulge classified information, even after he leaves the agency.

Mr. Marchetti said that his book would be "a balanced attempt to try to explain how the agency works." He said he had agreed to submit it to the agency for scrutiny before it was published.

The Government's complaint also said that Richard Helms, Director of Central Intelligence, had read the proposed Esquire article and had specified for the court instances in which, in the Government's view, is disclosed classified intelligence sources and methods.

Mr. Obst, the literary representative, said he had withdrawn the article from Esquire because he did not want the information to be published before Mr. Marchetti's proposed book was written. Mr. Obst said that he did not know how the Government obtained a copy of the Esquire article but that he had sent it to several major book publishers in an attempt to sell Mr. Marchetti's proposed book to them.

### Alide to Admiral

Mr. Marchetti's highest position in the agency was as executive assistant to Adm. Rufus Taylor, who was Deputy Director of Central Intelligence from 1966 until 1969.

At the C. I. A., Mr. Marchetti, now 42 years old, was an expert in Soviet military affairs. He said today that he never dealt on a regular basis with intelligence information about Indochina.

Mr. Marchetti's novel, "The Rope Dancer," published by Grosset & Dunlap, is a hypothetical adventure story about the agency. In the novel, the agency distorts facts to fit the desires of the President of the United States and plots to overthrow the Government of Colombia.

Ernest Tidyman, who won an Oscar last week for his screenplay of "The French Connection," has purchased an option to make the novel into a movie.

The only other work that Mr. Marchetti has had published was an article this month in The Nation magazine.

The article, entitled "C. I. A.: The President's Loyal Tool," is sharply critical of the agency and its activities. "The C. I. A. is basically concerned with interfering in the affairs of foreign countries, and . . . the agency carries out this mission with the approval and at the request of the country's political leaders," the article states.

### Esquire Editor Comments

An editor of Esquire magazine, Donald Erickson, said here yesterday that Esquire had considered Mr. Marchetti's article but decided several weeks ago, with the amicable concurrence of the author, not to publish it. The Associated Press reported.

Mr. Erickson said the rejection was made for literary reasons.

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**Spy Left Out in the Cold****Ex-CIA 'Spook' Enjoined**

By Jim Mann

Washington Post Staff Writer

The Justice Department yesterday obtained a temporary court order to prevent a former agent of the Central Intelligence Agency from publishing a magazine article or book about the CIA's intelligence-gathering activities.

The broadly worded court order, signed by U.S. District Court Judge Albert V. Bryan Jr. in Alexandria, also requires the former agent, Victor L. Marchetti, to return to the CIA all documents and property he obtained while employed at the agency.

Marchetti also was ordered to submit any manuscript or other writing about the CIA — "factual, fictional or otherwise" — to the agency for examination at least 30 days before its release.

The Justice Department action was reminiscent of its effort last year to prevent publication of the Pentagon papers, the government's secret study of the Vietnam war.

Yesterday's request was based on the theory that Marchetti had breached a contract he signed as a CIA employee, promising not to disclose information that might jeopardize national security.

Marchetti was employed by the CIA from 1955 to 1969, serving at one point as executive assistant to the agency's deputy director. After resigning from the agency, he published a novel called "The Rope Dancer" about an employee of the "National Intelligence Agency."

In affidavits submitted to Judge Bryan yesterday, high-ranking CIA officials, including Director Richard Helms, said the CIA has received advance copies of an article entitled "Twilight of the Spooks," written by Marchetti for publication in "a magazine with a nationwide circulation."

The CIA officials said they have also obtained a copy of an outline for a book about the CIA, written by Marchetti and purchased by "a leading publishing house in New York."

The Justice Department did not disclose the names of the publishing house and the magazine. However, late last night, Aaron Latham, an associate editor of Esquire magazine, acknowledged that Marchetti recently wrote an article entitled "Twilight of the Spooks" for Esquire.

Latham said that about two weeks ago, Esquire returned the manuscript without publishing it at Marchetti's request, after Marchetti told Esquire he had signed a contract with the publishing house of Albert A. Knopf to do a book about the CIA.

Sealed copies of the magazine article and book outline were submitted to Judge Ryan by the CIA yesterday for his private examination. The CIA said that agent Robert P. B. Lohmann of New York City obtained the manuscripts from "a confidential source" on March 12. No reason was given for the one-month delay before the court action.

Also included in the court papers was a copy of the "secrecy agreement" signed by Marchetti in 1955.

In it, Marchetti, who had then just graduated from Penn State University, swore that he would never "divulge, publish or reveal either by word, conduct or by any other means, any classified information, intelligence or knowledge . . . unless specifically authorized in writing, in each case, by the director of central intelligence."

Asked last night whether the Justice Department was also considering a criminal prosecution of Marchetti, a department spokesman replied, "That would be something you would

have to take up with the CIA," which he said would be responsible for documenting a case against Marchetti.

Following publication of the Pentagon papers, the Justice Department began a criminal prosecution of Daniel Ellsberg, charging in part that he had violated an agreement he had signed as an employee of the Rand Corp. not to disclose classified information.

Bryan, 45, a judge appointed in 1971 by President Nixon, refused to comment last night on the reasons for his issuance of the court order. A hearing in the case has been scheduled for April 28.

Marchetti, who lives in Vienna, Va., was not present in court when Judge Bryan issued his order yesterday, and could not be reached for comment last night. It was not clear whether he has already given back CIA documents as ordered by Bryan.

# Court asked to gag author of 'tell-all' book on CIA

By DAN THOMASSON  
Scripps-Howard Staff Writer

The Justice Department has gone to court to try to prevent a former high-ranking Central Intelligence Agency official turned author from spilling how the nation gathers secrets.

In an unprecedented move, the department filed a civil suit in Federal District Court against Victor L. Marchetti, a former executive assistant to the CIA's deputy director, and according to one department source, a man "who knows one hell of a lot about U.S. espionage activities."

The department later won an order from Federal District Judge Albert V. Bryan in Alexandria temporarily restraining Mr. Marchetti from "disclosing classified information" in an article the government said he has sold to an unnamed national magazine and in a planned nonfiction book.

## REVIEWS ARTICLE

The historic move came yesterday after CIA Director Richard M. Helms reviewed the proposed magazine article and decided it would compromise current intelligence sources and methods.

The government also charged there is a "substantial likelihood" that Mr. Marchetti's planned book "will divulge currently classified information" on how U.S. spies operate.

That being the case, the government said, publication of either book or article would cause irreparable harm to the nation's defense interests and violate an agreement Mr. Marchetti signed when he joined the CIA in 1955.

That agreement, according to the government, clearly prohibits Mr. Marchetti from disclosing any of the secrets he has gained while working with the agency, even after he quits, which he did in 1969.

## SPY ON SPY?

To obtain the preview of the article and proposed book, Mr. Helms and CIA agents apparently did a little spying on Mr. Marchetti.

Robert V. Lohmann, employed by the CIA in New York said in an affidavit accompanying the government's suit that Mr. Marchetti's article was entitled "Twilight of the Spooks," and that his ex-colleague had already outlined

the book under a heading "a concept for a book about the Central Intelligence Agency."

Mr. Lohmann said, of course, the material had come to him from a "confidential" source.

Mr. Marchetti said thru a spokesman he would fight the suit. David Obst, who said he was Mr. Marchetti's friend and literary agent, said Mr. Marchetti wrote the rough draft of an article for Esquire Magazine but withdrew it to expand into a book. He denied the article had been sold.

The book, he said, would be "an honest analysis" of how the intelligence system works. He denied it would jeopardize national security in any way. The book exists in outline form only, he said, and has been sold to a publisher. The manuscript was to be finished by next February.

Ironically, Mr. Marchetti, a 42-year-old father of three, already has had a number of contacts with newsmen (27 according to the department); written an article for the nation

entitled "CIA: The President's Loyal Tool," and authored a "secret" memorandum to a New York congressman which gained some circulation last fall on Capitol Hill.

## FORCE AGREEMENT

In its suit, the government asks the court to order Mr. Marchetti:

- Not to violate the secrecy agreement he signed when he joined the agency.
- To submit in advance of publication to the CIA anything he has written which purports to relate to the agency.
- To return to the agency all governmental documents and papers he has as well as notes based on them.

Asked if the government really was that concerned about Mr. Marchetti, whose efforts at peddling his CIA-based stories had made little impression on the Washington journalism scene, a department source snapped:

"If you think the Pentagon papers were hot, you should see what that man could do."

A former CIA employe was barred from publishing manuscripts disclosing espionage secrets. A federal judge in Alexandria, Va., granted a temporary restraining order against Victor L. Marchetti, 42, a former aide to the CIA's deputy director. CIA boss Richard Helms said Marchetti's manuscripts would compromise current intelligence sources and methods, and asked that he be forced to abide by a secrecy pledge all CIA staffers sign when joining the agency. It says they won't reveal security information even after leaving the agency.

## *Court bars articles by ex-CIA man*

Washington (AP)—The Justice Department won a temporary order yesterday prohibiting a former Central Intelligence Agency employee from publishing manuscripts that allegedly disclose espionage secrets.

Judge Albert V. Bryan, Jr. of United States District Court in Alexandria, Va., issued the order against Victor L. Marchetti, 42, of Vienna, Va., who is a former CIA agent.

The government's civil suit seeks to force Mr. Marchetti to abide by an agreement he signed when entering the spy agency that he would not disclose any security information unless first cleared by the CIA director.

### *Affidavit from Helms*

According to the suit, Mr. Marchetti had sold an article entitled "Twilight of the Spooks" to a national magazine, and an outline entitled "a concept for a book about the Central Intelligence Agency."

Neither the magazine nor the book publisher was identified in the court documents released to newsmen.

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## CIA HOLDS UP WRITINGS OF EX-AGENT

WASHINGTON (AP)—  
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won a temporary order  
Tuesday prohibiting a  
former Central Intel-  
ligence Agency employe  
from publishing manu-  
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Va.

According to the CIA's  
affidavit, Marchetti had  
sold an article entitled  
"Twilight of the  
Spooks" to a magazine  
of nationwide circula-  
tion, and an outline for a  
book on the CIA to a  
publisher. Neither the  
magazine nor the book  
publisher was identi-  
fied.



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TO: JMM		19 APR 72
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REPLACES FORM 36-8  
WHICH MAY BE USED.

(47)

UPI-197

(CIA)

WASHINGTON--THE JUSTICE DEPARTMENT OBTAINED A TEMPORARY RESTRAINING ORDER TODAY TO PREVENT A FORMER EMPLOYEE OF THE CENTRAL INTELLIGENCE AGENCY FROM DISCLOSING WHAT THE DEPARTMENT TERMED "HIGHLY CLASSIFIED INFORMATION."

ACTING ATTORNEY GENERAL RICHARD D. KLEINDIENST SAID U.S. DISTRICT JUDGE ALBERT V. BRYAN JR. ISSUED THE ORDER AT ALEXANDRIA, VA., AFTER THE DEPARTMENT FILED A CIVIL SUIT EARLIER IN THE DAY AGAINST VICTOR L. MARCHETTI, 42, OF VIENNA, VA., A FORMER EXECUTIVE ASSISTANT TO THE DEPUTY DIRECTOR OF THE CIA.

THE SUIT SOUGHT TO ENFORCE AN AGREEMENT SIGNED BY MARCHETTI AND ALL CIA EMPLOYEES IN WHICH THEY STATE THAT THEY WILL NOT REVEAL ANY SECURITY INFORMATION GAINED BY WORKING FOR THE AGENCY, EVEN AFTER TERMINATING THEIR EMPLOYMENT.

THE DEPARTMENT SAID AN ARTICLE WHICH MARCHETTI HAS SOLD TO A NATIONAL MAGAZINE AND A NON-FICTION BOOK MANUSCRIPT BY HIM WHICH ALLEGEDLY DISCUSSES CIA ACTIVITIES IN DETAIL WERE CITED IN THE SUIT AS EVIDENCE THAT HE DOES NOT PLAN TO HONOR THE AGREEMENT.

THE DEPARTMENT REFUSED TO NAME THE MAGAZINE, THE BOOK, OR THE PUBLISHERS CONSIDERING THEM.

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