

Marchetti v. United States

By Kenneth McCormick

The ray of hope of reassertion and protection of our rights of free speech and press—which many had when the Supreme Court ruled against restraining publication of the Pentagon Papers—has faded.

While many civil libertarians have pointed out the dangers of sanctioning even temporary prior restraints, as was done by some of the Justices in the Pentagon Papers opinions, a subsequent case, in which the Supreme Court has just denied review, raises the specter of Government censorship to a far greater degree—*Marchetti v. United States*.

In April 1972, the Government instituted legal proceedings against Victor L. Marchetti, a former C.I.A. agent, by obtaining a temporary restraining order from the United States

District Court for the Eastern District of Virginia. The temporary order, which later became a preliminary and permanent injunction, requires Marchetti to submit to the C.I.A., thirty days in advance of release, all writings, even fictional, which relate or purport to relate to intelligence, intelligence activities, or intelligence sources and methods. The C.I.A. may forbid disclosure of any information which it has classified and which has not been placed in the public domain by prior disclosure. The basis of this broad injunction was a secrecy agreement signed by Marchetti in 1955 when he began working for the C.I.A.

The decision of the District Court was affirmed, with slight modification, by the Court of Appeals for the Fourth Circuit. It is that opinion which now stands by reason of the Supreme Court's denial of certiorari.

Although the Circuit Court of Appeals' opinion does allude to the im-

portance of the First Amendment, it allows the C.I.A. full discretion to prevent the publication of any material which is "classified" and not in the public domain. The ruling means that once material has been stamped "classified," no court may look behind that stamp to determine whether or not it is reasonable—let alone necessary.

In effect, it purports to allow the executive branch unfettered discretion in determining what information can be withheld from the public. It imposes no requirement that some need for secrecy exists.

While a traditional view of the First Amendment would impose a firm mandate against any prior restraint by the Government, it cannot be denied that some judicial inroads have been made on this doctrine. A recent example is

of course, the Pentagon Papers case where there was a temporary period of restraint to enable the judiciary, at various levels including the Supreme

Court, to determine whether or not dissemination of the publications would be harmful to the nation. In the *Marchetti* case, however, the decision of the Circuit Court of Appeals allows prior restraint by the executive branch without meaningful judicial review.

Moreover, by holding that the courts may not look behind the government label of "classified," the Fourth Circuit would abrogate the important role of the judiciary to protect the First Amendment rights of the people. To allow the executive branch such unilateral determination not only undermines the very purpose of the First Amendment but it serves to weaken the whole concept of responsible government so vital in a democracy.

While it is difficult to attribute any concrete reason to the denial of review by the Supreme Court, one can hope that the determining factor was that no attempt to restrain publication of specific material had been made.

In its brief to the Supreme Court, the Government argued that the issue of prior restraint as posed by the *Marchetti* situation was now only "academic." It emphasized that Marchetti had not yet submitted any proposed publication to the C.I.A. and that the C.I.A. had not denied approval for publication of any material. To that extent, the *Marchetti* case can be distinguished factually from the government's action to restrain publication of the Pentagon Papers.

Should Marchetti proceed with his writing and should the C.I.A. order the deletion of certain materials prior to publication, the Supreme Court justices could still determine that judicial review of the appropriateness of such deletions is required.

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Court upholds CIA to require review of Marchetti data

By DONALD R. MORRIS
Post News Analyst

A number of federal agencies are breathing easier in the wake of a recent Supreme Court decision. The CIA's injunction to prevent Victor Marchetti from publishing material based on his service with them has been upheld by the highest court in the land.

As usual in such cases, the issues are far from clear and generate considerable emo-

Post analysis

tion. Marchetti claimed that the injunction interfered with his freedom of speech, was contrary to a 1971 ruling permitting the media to publish portions of the Pentagon Papers, and would lead to a systematic scheme of censorship. He was supported by the Authors League of America, the Association of American Publishers and the American Civil Liberties Union.

The injunction, issued by a U.S. Circuit Court in September, binds Marchetti to adhere to the secrecy agreement he signed when he went to work for the CIA in 1956. The agreement does not prohibit Marchetti from publishing. It only requires him to submit relevant material to the agency prior to publication for review on security grounds.

Despite the dangers seemingly present in such an arrangement, the CIA has an excellent track record in previous cases. Marchetti, in

fact, is the first former employe the agency has taken to court in a quarter of a century.

The agency's stand, which the record bears out, is that it makes no effort to interfere with attacks on its policies or operations. It will, however, take action to prevent disclosure of operations, techniques or the identity of personnel not already known to opposition intelligence services.

The key phrase is not "classified material" but "previous disclosure." All pa-

perwork is classified as it is generated, and the level is unimportant because "Confidential," "Secret" and "Top Secret" are simply internal routine indicators and all boil down to "internal use only." Over the years, much of this material becomes known to the Soviet services — the KGB and the GRU — and thus loses its sensitivity. The KGB discovers techniques and identifies agents, and operations are terminated. The material has been "disclosed" and is no longer "sensitive," although it is still technically "classified" — and will remain so until some one faces the chore of declassifying it. A previous employe might write a book based entirely on such material without upsetting the agency a whit. It would only intervene to delete reference to materials which would aid the clandestine activities of the KGB or the GRU.

Declassifying dated material is a major headache. An agency official once showed

me a letter. "Here is a major newspaper," he said, "asking for all documents we hold bearing on Viet Nam from 1955 through 1963 — the 47 volumes of the Pentagon Papers are simply extracts from the mass he is asking for in its entirety. There are over 3 million microfilms for the period in question, warehoused. To review for declassification would involve making hard copies of all, screening them, and having them reviewed by the officials who drafted them — several thousand of them no longer in government service and other thousand scattered all over the world. Over 5,000 foreign names would have to be traced to determine current status. We have no Congressional appropriations to hire the task force of about fifty people needed even to start such a job. Even if we made hard copies and just handed them over without screening, they would fill about six trucks, and just what would the man who asked for them do with them then?"

How am I supposed to answer such a letter?"

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A Man's Word

Monday the U. S. Supreme Court refused by a 6-3 vote to hear an appeal from a federal court injunction prohibiting a former official of the Central Intelligence Agency from publishing books or articles containing classified material.

✓ The appellant is Victor E. Marchetti of Vienna, Va., formerly executive assistant to the deputy director of the CIA. After resigning in 1969 he submitted an article to a magazine which, the government contended, would disclose classified information about intelligence sources, methods and operations. He also has attempted to publish a novel about the CIA.

Marchetti was supported in his appeal by the American Civil Liberties Union, the Authors League of America and the Association of American Publishers. The appeal said the injunction would lead to "a systematic scheme of censor-

ship which will surely result in the denial of the fundamental right of the American people to be supplied with information about the conduct of their government."

Defending the ruling of lower courts, the government said it is in accord with the Supreme Court's "consistent recognition of the need for secrecy in the sensitive areas of foreign affairs and national security."

Apparently little attention was paid to the fact that Marchetti, when he joined the CIA in 1956, signed an agreement never to divulge classified information without the director's approval. One would have to assume that he and the American Civil Liberties Union think his right to publish, whatever the consequences for his country, is more important than keeping his word. ✓

CAN'T PUBLISH ARTICLE

CIA Agent Loses Appeal

The Supreme Court today rejected, 6-3, a plea by a former Central Intelligence Agency employe for permission to publish articles about the CIA without the agency's prior approval.

The justices, in a brief order without comment, refused to hear the appeal for Victor L. Marchetti, of Vienna, Va., who worked for the CIA from 1955 to 1969.

Justices William O. Douglas, William J. Brennan Jr. and Potter Stewart dissented, saying they would grant full review of Marchetti's appeal. It takes the vote of five justices or a full court review.

The effect of the court's action was to leave standing an order by Judge Albert V. Bryan Jr. of U.S. District Court in Alexandria which bars Marchetti from writing about the agency. Bryan's order was later upheld by the 4th U.S. Court of Appeals.

THE GOVERNMENT sought the order after it

learned that Marchetti was planning to publish an article in "Esquire" magazine about the CIA.

Justice Department attorneys, representing the CIA, said that Marchetti isn't entitled to publish articles or books dealing with the agency because he signed a contract with the CIA in 1955 in which he pledged never to do so.

In appealing to the Supreme Court, the American Civil Liberties Union attorneys representing Marchetti said that Bryan's order violates his right to free speech.

They said the contract is "a systematic scheme of censorship which will surely result in the denial of the fundamental right of the American people to be supplied with information about the conduct of government.

THE COURT ORDER against Marchetti amounts to "a prior restraint forbidden by the First Amendment," they added.

Since he left the CIA, Mar-

chetti has published a novel, "The Rope Dancer," about a hypothetical "National Intelligence Agency." He also published an article in "The Nation" magazine that was critical of the CIA.

His attorneys said he has abandoned plans to publish the "Esquire" article, but has signed a contract to write a book about the CIA.

In another case involving the Washington area, the Supreme Court refused to hear an appeal in which it was asked to curtail the authority of Metropolitan Police officers to arrest persons for cursing on public streets.

THE PRACTICE of arresting people who utter curse words when accosted by police is "obnoxious" and "a serious and unlawful infringement upon the liberty of many citizens," said attorney John Vanderstar, representing William Von Sleichter, who was arrested in Georgetown in 1969.

"We strenuously urged that

this delegation of authority to police to arrest for speech on public streets should be reviewed and sharply curtailed by this court," he said. But the justices declined to go along.

Von Sleichter was arrested by an officer who testified that he spotted Von Sleichter "passing and changing" something with two other men. When he approached Von Sleichter, the officer said, Von Sleichter cursed him and ran away.

The officer found him underneath a car nearby and arrested him for disorderly conduct — cursing in public. When Von Sleichter climbed out from under the car, the officer found a bag of heroin where he had been lying.

Von Sleichter was never prosecuted for disorderly conduct. Instead, he was brought to trial only on the narcotics count. He was convicted and sentenced to a fine of \$100 or a jail term of 90 days. — FRED BARNES.

2 DEC 1972

STATINTL

Court's ruling could restrain secrecy stories

By Luther Huston

Reporters who write "inside" stories about the operations of government intelligence agencies could find themselves in trouble because of a Federal Court of Appeals ruling in the case of Victor L. Marchetti.

Marchetti signed a secrecy oath, which is required of all CIA employees, when he went to work for the agency 14 years ago. He resigned in 1969 and wanted to write a book about the CIA and arranged with a publisher to publish it. His years with CIA gave him access to many of the agency's secrets.

When the CIA learned of his plans for a book, it sought an injunction against publication, claiming the secrecy provision of his contract applied. Opposing issuance of a restraining order, Marchetti claimed an injunction would infringe his First Amendment rights.

Judge Albert V. Bryan, in U.S. District Court, Alexandria, Va., rejected the First Amendment argument, held that it was a question of contract law, and issued a permanent injunction. Marchetti took the case to the Fourth Circuit Court of Appeals.

Appeal to Haynesworth

In an opinion written by Chief Judge Clement F. Haynesworth, the appellate court affirmed Bryan's decision, holding that the CIA's contract with Marchetti, including the secrecy provision, was legal and constitutional. The appeals court, however, modified the injunction to make it reach only to classified information, inapplicable to information that is unclassified or that has been officially disclosed.

Haynesworth wrote that, although the upon information that is not classified and has been officially made public, the court First Amendment precluded restraint in the case before it, was "concerned with secret information touching upon the national defense and the conduct of foreign affairs, acquired by Marchetti in a position of trust and confidence," and the First Amendment argument did not apply.

Although the Marchetti case involved only a book, the ruling could conceivably be invoked by the government in any subsequent case involving publication of stories purporting to relate secret activities of a government agency. The Supreme Court, conceivably, might be asked to reconcile its ruling in the Pentagon Papers case that prior restraint on publication was unconstitutional with the lower court judgments in the Marchetti case.

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The Whistle Blowers

Ralph Nader and two colleagues, Peter J. Petkas and Kate Blackwell, have written a book on this topic (*Whistle Blowing*, Grossman Publishers, 398 pp. \$6.95). A good case is made for whistle blowing not merely as a means of keeping alive the conscience of bureaucrats in large-scale public and private organizations, but of getting to the public some small part of the information it needs in order to understand what these organizations are doing that may adversely affect the general welfare. The book contains fascinating case histories of thirty-three whistle blowers who, in one way or another and at some risk to themselves, have served the public well by "going public" with their stories.

A new recruit to the whistle blowers is Patrick J. McGarvey, who spent fourteen years with the CIA, the Defense Intelligence Agency, and Air Force Intelligence before telling all—or at any rate more than was comfortable for his former employers—in *CIA: The Myth and Madness* (Saturday Review Press). The CIA read the book in advance and made a few minor deletions, but did not try to stop publication. The agency took quite a different tack with Victor Marchetti [see *The Nation*, April 3 and May 15]. In his case the CIA obtained a court order preventing Marchetti from writing any book about the CIA that had not been cleared by it. The Court of Appeals has now ruled that the First Amendment does not bar prior censorship of the writings of former public servants, whether established by contract or statute, to prevent the disclosure of classified information. The case is now on its way to the Supreme Court and, obviously, a precedent is in the making which could have an important bearing on whistle blowing in the future.

Marchetti feels that the CIA elected to proceed against publication of his book for special reasons. His case did present an awkward problem for the CIA. He comes from a working-class ethnic background. He is in no way a radical. He started at the bottom and rose to be executive assistant to the number-two man in the agency, Adm. Rufus Taylor. He was one of the elite who had morning coffee with Richard Helms, the director. He is, in his own words, "a typical Middle American," who became disillusioned with the CIA because of its "goofed-up" management and policies. He was particularly annoyed by the "old boy network" that pervades the agency and the "born-with-a-silver-spoon-in-the-mouth WASPs" who

run it. "I was the lone ethnic in the CIA hierarchy, their token Wop," he said recently on a Channel 13 interview. Obviously Marchetti was a whistle blower who should be silenced if possible—or it may be that the agency decided that one test case pending in the courts was enough, and so did not proceed against McGarvey.

The Authors' League has just filed an excellent brief in the Marchetti case which disposes of the Court of Appeals argument. The First Amendment, the brief points out, bars the Congress and executive agencies from imposing, by contract and injunction, restraints on free speech that they could not constitutionally establish by statute or regulation. Second, the petitioner—Marchetti—did not waive his First Amendment rights to speak or write about the CIA by signing a secrecy pledge. Finally, and most important, the First Amendment rights at stake are not solely the petitioner's; and he did not have the power to waive them. The guarantees of the First Amendment "are not for the benefit of the press so much as for the benefit of all of us." Few more important cases are currently en route to the Supreme Court. If the Court of Appeals decision is reversed it will be a boon for the whistle blowers such as McGarvey and Marchetti, and other frustrated bureaucrats who may have a mind to blow their whistles as a means of telling the public some of the things it needs to know about big organizations, public and private.

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Peddling Secrets And Trust, Too

Victor Marchetti is being made out as some kind of hero, suffering the persecution of the Central Intelligence Agency (CIA) which, in the contemporary folklore, is bad because it doesn't subject more of its activities to popular referenda.

Mr. Marchetti has written a book about the CIA. The CIA is suing to halt publication. Thus the image is set — the open individual, clutching to his right to say what he wants, versus the establishment spy agency.

Well, the CIA can suffer criticism, and has. But the fact of the matter is that Mr. Marchetti signed a contract saying he would not write about his activities when he was hired by the CIA. By giving that pledge, he was trusted with information. ✓

Now Mr. Marchetti wants to peddle the secrets in a book.

This is no more acceptable than the behavior of diplomats who resign and instantly reveal all their doings. Though there could be a case for such revelations when great national questions are at stake, in recent years the instant memoirs have served mainly to mess up diplomatic relations by giving the distinct impression that anything anyone says confidentially to an American representative is going to get blabbed.

If the United States wants to run the CIA by regularly publishing all its secrets and activities, it can do that. Meanwhile, employes should be held to their word.

APPEALS COURT FAVORS CIA IN MARCHETTI RULING

A panel of judges for the U. S. Appeals Court, headed up by Supreme Court reject Clement F. Haynsworth, has upheld a lower court ruling restraining former CIA agent Victor Marchetti from publishing books or articles about that agency without prior authorization from the Director of Central Intelligence or a designated representative. The government first took action against Marchetti when it moved to block an article he had submitted to *Esquire* magazine last March. Its contention was that the article contained classified information concerning intelligence sources, methods, and operations.

The CIA had obtained from the U. S. District Court for the Eastern District of Virginia a permanent injunction stipulating agency consent prior to publication (*LJ*, July p. 2326). At issue here is a nonfiction book on the agency Marchetti plans to write for publisher Alfred A. Knopf, Inc. The author, who was employed by the CIA for 14 years, has already had published a novel and two articles, all of them critical of the agency and of its subservience to the wishes of the President.

The CIA contends that Marchetti is bound by a secrecy agreement he signed when first employed by the agency and that this agreement is not in violation of his First Amendment rights. The defense, which has the backing of the Association of American Publishers, has argued that the prior restraint violated Marchetti's rights and that it also runs counter to the public's right to know and be informed as established by the First Amendment. Moreover, it contends that the decision is in direct conflict with the recent Supreme Court ruling permitting publication of the *Pentagon Papers*. In a similar action against a publisher, the CIA put the heat on Harper & Row: first by demanding to see galleys of Alfred McCoy's *The Politics of Heroin in Southeast Asia* and then by issuing a critique of it, charging that McCoy had falsely accused the agency of drug trafficking. In this case, however, the CIA backed off from any court action, and Harper proceeded with publication (*LJ*, September 15, p. 2792-94).

The three judges on the Court of Appeals panel unanimously ruled in favor of the government agency in the Marchetti case. The court added, however, that the author could seek judicial review of any CIA disapproval of a manuscript for publication. It further stipulated that the CIA must act promptly to approve or disapprove any material submitted to it. Undue delay, said the panel, would impair the reasonableness of the restraint, and that reasonableness is to be maintained if the restraint is to be enforced. Marchetti's lawyer, Melvin L. Wulf of the American Civil Liberties Union, has announced that he will take the case to the Supreme Court.

john archibald

tv comment



Critical Documentary

By Former CIA Man

VICTOR MARCHETTI wrote a book about spies, but the spies, ignoring what "The Godfather" did for the Mafia, don't want Marchetti's work published. Marchetti's problem is that the spies in his book are the good guys, officially, and judges often side with them. A New York television station has made a film about the conflict.

Marchetti was an executive assistant to a deputy director of the Central Intelligence Agency, V. Adm. Rufus L. Taylor, when Marchetti quit the CIA in 1969. He wrote a novel about the organization that nobody complained about (or read, apparently), but now he has done an outline of a more factual book and the government espionage people are trying to prevent its publication.

Barbara Gordon, who produced a one-hour documentary about Marchetti for New York City's educational station, WNET, said, "This film is not an expose of the CIA. It is about a man who believes the CIA must be limited in its powers, and what has happened to him since he became convinced of this."

A major publishing firm has tentatively agreed to print Marchetti's book, but it probably will be the United States Supreme Court that will decide whether the former CIA man can be stopped. Employees of the CIA are required to sign an oath saying they will not write about the methods of the organization after they leave — unless the writing is censored by the CIA — and the court must determine whether such an oath is constitutional. The American Civil Liberties Union says it is not.

The file on the case is labeled "Victor Marchetti Vs. United States of America," and that is the title of the television film.

Among the reasons Marchetti wants the public to know more about the CIA is that he is convinced that this highly secret organization, with some co-operation from the President, can start wars without a single Congressman being consulted.

Ms Gordon hopes that the program about Marchetti will be shown by educational stations throughout the country. A print of WNET's film can be obtained for \$100-\$150, she said.

"Marchetti is not some irresponsible radical," Ms Gordon said. "He joined the CIA after he graduated from college in 1955 because he felt Communism was a menace then. He cried when he left the CIA, but he is convinced that it is a bigger threat to our freedom than Communism."

WNET will show the Marchetti film tomorrow night. Unless television viewers in other cities indicate enough interest, New Yorkers may be the only ones who will see it. St. Louis's KETC-TV has usually decided that there is minimal interest in specials of this type, even when produced by Public Broadcast-

classroom programs. Besides, KETC-TV is televising the Camelot auction this week.

ACLU To Take Marchetti Case To Supreme Court

The government's injunction against unauthorized publication by author Victor L. Marchetti of classified information relating to his experiences as an employee of the Central Intelligence Agency contains a threat of broad-scale censorship, according to the American Civil Liberties Union, which has asked the Supreme Court to review the case.

The immediate effect of a recent U.S. Court of Appeals decision upholding a government-sought injunction against the former CIA employee will, among other things, "introduce a systematic scheme of censorship which will surely result in the denial of the fundamental right of the American people to be supplied with information about the conduct of their government," the ACLU said in an August 21 petition to the High Court.

Marchetti, who was hired by the CIA in 1955 and resigned in 1969, published several articles and a novel, "The Rope Dancer" (*Grosset & Dunlap*), in 1971 dealing with CIA-related experiences. He had other articles and books drawing on his intelligence background in the works when the government took action against him last April.

The government said Marchetti was bound by secrecy agreements with the CIA not to disclose anything relating to the agency or his work there without prior authorization by the Director of Central Intelligence.

A U.S. District Court judge issued a temporary restraining order against disclosure of such information in future articles, books or radio and television appearances.

After losing a bid to dissolve the restraining order, Marchetti appealed to the U.S. Appeals Court for the Fourth Circuit. That three-judge court sitting in Richmond, Va., on September 11 remanded the case to the District Court "for the purpose of revising the order to limit its reach to classified information." Marchetti is entirely within his First Amendment rights to publish materials which are not classified or which have been placed in the public domain by prior disclosure, the Appeals Court said.

The ACLU, acting on behalf of Marchetti, has taken issue with the Appeals Court on several grounds. In its petition for Supreme Court review, the

ACLU said that the CIA prohibition constitutes a prior restraint forbidden by the First Amendment. The ACLU also challenged the authority of the Federal courts to impose such restrictions on publication and asserted that Marchetti had been denied due process of law by the government's "intolerable degree of control" over his defense.

"The court must also confront the prospect that approval of an historically forbidden prior restraint on behalf of the CIA today," the ACLU petition said, "will yield an argument by the government tomorrow that similar restraints may be imposed against employees of the State Department and the Department of Defense (including members of the Armed Forces), and, the day after tomorrow, against employees of the Departments of Health, Education and Welfare, and Housing and Urban Development."

In other words, "this case has a critical bearing upon the continuing right of American citizens to know what their government is doing," the ACLU asserted. "The Constitutional prohibition against prior restraints is of critical importance because a prior restraint, as opposed to a system of subsequent criminal sanctions, cuts off at the very source the

ability of citizens to secure access to information."

Furthermore, the ACLU said, the ruling of the lower courts "allows the CIA a completely free hand to designate material as classified and surrenders any judicial responsibility for determining whether the designation is reasonable or even capricious."

The Appeals Court took the position that while the First Amendment limits the extent to which the government may impose secrecy requirements on its employees, the government does have authority to make binding contracts against disclosure of "secret information touching upon the national defense and the conduct of foreign affairs."

While the public has a right to know, there are some circumstances in which the government has a duty to withhold, the three-judge court said in its unanimous decision. "Although the First Amendment protects criticism of the government, nothing in the Constitution requires the government to divulge information.

"Since information highly sensitive to the conduct of foreign affairs and the national defense was involved" in the Marchetti case, the court said, "the law would probably imply a secrecy agreement had there been no formally expressed agreement, but it certainly lends a high degree of reasonableness to the contract in its protection of classified information from unauthorized disclosure."

SUSAN WAGNER

CENSORSHIP BY CIA
TAKEN TO HIGH COURT

WASHINGTON--The American Civil Liberties Union Foundation has petitioned the U.S. Supreme Court to reverse the Sept. 11 decision of the U.S. Court of Appeals in the case of ex-CIA agent Victor L. Marchetti, claiming that the Court has allowed censorship in the Marchetti case.

The U.S. Court of Appeals upheld an earlier ruling by the District Court which held that Marchetti may not write or speak about matters which "relate to or purport to relate to the Central Intelligence Agency, intelligence activities, or intelligence sources or methods" without prior CIA clearance.

The court also held that the CIA may deny clearance of information which is "classified and which has not been placed in the public domain by prior disclosure."

The ACLU petition declared, "The instinct of government officers to classify indiscriminately is a notorious fact. This case, therefore, has a critical bearing upon the continuing right of American citizens to know what their government is doing."

The petition further states that if the CIA is allowed to control its former employees' publications about its activities, other government agencies are likely to claim the same authority.

8 Oct 1972

Quitting the CIA

And living to tell about it, more or less

By Henry Allen

You'll never . . . there's no way. . . . you have to be in it to . . . understand.

Victor Marchetti, poor boy from a Pennsylvania mining town, former bright young man of the Central Intelligence Agency executive suite, understands. He spent 14 years with the CIA. Now, he's fighting an agency suit to censor anything else he writes about intelligence. His novel, *The Rope Dancer*, startled old agency friends with its bitterness, and his article in *The Nation* attacked the whole show out there in Langley.

But he still understands—that's something you never lose. He understood, perhaps, on the very moment it all began, one spring night in 1955, when he walked into a hotel room in University Park, Pa. and met the man with two fingers missing from his cigarette hand, one of those old OSS spook types, magnificently diffident, the right schools, the right scars—the recruiter.

Trying to make you understand, Marchetti tells you:

"On the way down in the elevator, afterwards, he put his arm around my shoulders and he said, 'Marchetti, you're the kind of guy we're looking for. You're not just one of these college boys. You've knocked around—Paris, the Army . . .'

"If that guy had given me a gun and told me to go assassinate Khrushchev, I would have left for Moscow right from the hotel lobby."

But finally, this former bright young man, this spoilt priest of the curia of American intelligence—finally Marchetti shrugs and tells you: "You'll never . . . there's no way . . . you have to be in it . . ."

One afternoon in 1969, Marchetti drove home through the monoxide haze of Route 129, and he was crying with the spastic

despair of a man who has lost his faith. It was over.

He had just sat across the desk from Richard Helms, director of the CIA, for the last time, had told him no, he wasn't moving to another job, but yes, he was working on a spy novel.

It came out in 1971. It was about a poor boy from a Pennsylvania mining town who makes it all the way up to executive assistant to the deputy director of the National Intelligence Agency, and then, for no apparent reason, starts selling the Soviets every secret he can xerox, photograph or tape-record.

Helms had noted Marchetti's steady rise from a year of clandestine field work to the analysis desks of the Intelligence Directorate, to a slot on the national estimates staff, which measures military and political potentials of other countries; then up to the executive suite to be the "token dago" as Marchetti puts it, of the 14 men who attended morning coffee every weekday at 9. They were all "spooks," Marchetti recalls, meaning that the inner circle that runs the CIA is not composed of the sort of tidy intellectuals who could spend 20 years studying Kurdish newspapers down in the directorate, but of the guys who savor the spook game for the game's sake—everything from locking the typewriter ribbons up at night to running airlines in, say, South America; everything from "termination with extreme prejudice," which is what the CIA calls assassination, to the toppling of a particularly aggravating Middle Eastern regime.

Marchetti was executive assistant to the number-two man in the

agency, deputy director Adm. Rufus Taylor.

In 1969, at 39, Marchetti looked like a comer—dressing a bit less establishment than the pin-stripe CIA dons, and sometimes playing the professional Italian, which was strange, seeing that his ancestors were German-speaking Tyroleans, only Italian by surname—but still promising. "I never thought of Vic as naive," says an associate from those days.

"Vic was smart. Smart and . . . I can't think of the right word . . . it isn't 'devious' . . ."

Perhaps he only needed a little seasoning. Perhaps he could have risen very high if, like most men in very high places, he learned to relish working not only on the strengths of his convictions or his cynicisms, but on pure animal survival instinct.

Anyhow, Helms had seen it happen to a lot of bright young men. He had seen them go stale, get nervous, get bitter or complacent. Sometimes they quit, like Marchetti. Sometimes they built little bureaucratic fiefdoms for themselves. Sometimes they just waited out their pension time.

It was the kind of sea change that's an occupational hazard in any outfit that demands loyalty bordering on infatuation—the Marine Corps, for instance, or some Ivy League colleges—the kind of organizations whose minions purse their lips and nod their heads every so often and vow that they're "going to write a book about it someday."

So Marchetti wrote his book about it.

"Listen, I'm no Daniel Ellsberg," he says now. "I never loved anything in my life so much as the CIA. I was going to be one of these guys who get special dispensations to keep working past retirement age. I wanted to die with my boots on."

(Between discreet "no comments," a former supervisor of Marchetti let slip a surprised, "Oh, really?" when Marchetti's enthusiasm was quoted to him.)

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 WEEKLY - 23,695

Appeal scribe's case

WASHINGTON, D. C. — The American Civil Liberties Union Foundation asked the U. S. Supreme Court to reverse the Sept. 11 decision of the U. S. Court of Appeals in the case of ex-CIA Agent Victor L. Marchetti, claiming that the Court has allowed censorship in the Marchetti case in direct conflict with the decision of the U. S. Supreme Court last year in *New York Times v. United States*.

Marchetti, author of the novel, *The Rope Dancer*, has a contract with Alfred Knopf to publish a book assessing American intelligence practices. The CIA obtained a Federal District Court order forbidding Marchetti's disclosure of any information about the CIA without the CIA's prior approval.

The U. S. Court of Appeals for the Fourth Circuit substantially upheld the District Court's ruling. It said Marchetti may not write or speak about matters which "relate to or purport to relate to the Central Intelligence Agency, intelligence or intelligence activities, or intelligence sources or methods" without prior CIA clearance. The CIA may deny clearance of "information which is classified and which has not been placed in the public domain by prior disclosure."

The ACLU Foundation notes in its petition to the Supreme Court that the CIA itself decides which information is classified. Therefore, the Fourth Circuit's opinion gives the agency unlimited discretion to keep information from the public. In the *New York Times* case, on the other hand, the Supreme Court said publication of information could be restrained only if the government could prove in court that disclosure would "surely result in direct, immediate and irreparable injury to the Nation or its people."

"The instinct of government officers to classify indiscriminately is a notorious fact," the ACLU Foundation says. Further, if the CIA is allowed to control its former employees' publications about its activities, other government agencies are likely to claim the same authority in the future. "This case, therefore, has a critical bearing upon the continuing right of American citizens to know what their government is doing." The petition points out that "the facts about the MyLai massacre, for example, were gathered almost entirely from former military personnel."

25 Sept. 1972

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Court confirms CIA's right to enforce secrecy agreements

By DONALD R. MORRIS

Post News Analyst

By a unanimous three-man decision on Sept. 11, a federal court of appeals upheld the Central Intelligence Agency's right to enforce secrecy agreements signed by its former employees. It was the first judicial recognition of the validity of the agreements, which thousands of federal officials have signed.

The decision stemmed from the activities of Victor Marchetti, a CIA employe from 1955 until 1969. Marchetti signed a secrecy agreement before entering on duty, and a second one on his resignation. Both in effect bound him not to publish undisclosed classified material which he had received as a result of his employment, unless specifically authorized in writing by the director.

Since his resignation, Marchetti has published a novel patently based on his CIA experiences and a magazine article criticizing CIA policies and practices. He has appeared on TV and radio shows and has given press interviews. The government took no action against these activities.

In March, 1972, Marchetti submitted an article based on his employment to various magazines, and submitted the outline of a proposed book to a publishing house.

The CIA went to court as a result of the proposed book. A district court ordered Marchetti to submit his fiction and nonfiction writings which bore on intelligence to the CIA 30 days before their release to any person or corporation, and a court of appeals has now upheld this order.

Clearly at stake was a possible infringement of Marchetti's right of free speech under the First Amendment. The court found for the government on the basis of the agreement Marchetti signed in 1955.

The court pointed out that freedom of speech and of the press were neither absolute nor irrational, and detailed numerous areas in which limitations were imposed on both speeches delivered orally or writing.

It also mentioned such special areas as accounts of criminal careers written by federal prisoners, a right used by the government to prevent certain publications in the Valachi case.

To these areas the court has now added the government's right to protect secret and con-

fidential sources of information. Marchetti retains the same unimpaired right as any citizen to publish unclassified material or classified material which has been otherwise disclosed (such as the Pentagon papers). He is barred only from publishing previously undisclosed classified material to which he had access as the result of his employment.

The CIA, in turn, is bound to respond within 30 days to any material Marchetti submits for review. But the court added that it sees no reason for subsequent judicial review of any material the CIA chooses to object to.

The CIA has consistently maintained that it does not object to and will not take action against material attacking its policies and practices, but will act to bar publication of material bearing on the security of its collection sources, successes and techniques.

Since it is difficult to criticize policies and practices without touching on techniques, this statement is obviously open to misinterpretation, but the CIA's track record in the 25 years of its existence generally confirms its stand.

A considerable amount of material has in fact been published by former employes. Most of it, but far from all, has been submitted for review. When material is submitted, the CIA does not censor criticism as such (although it frequently offers material in rebuttal for the author's edification), but limits itself to marking disclosures of sensitive sources and techniques, the use of which it then "negotiates" with the author.

The majority of former CIA employes who do write about intelligence have a perfectly clear idea of what material is not yet known to opposition intelligence services (specifically the KGB), and avoid it. This results in the publication of a certain amount of material which, while perhaps new to the public, is in fact already known to the KGB and thus "surfaced."

Material emanating from non-CIA employes, not signatories to secrecy agreements, is in a different category. The CIA is again relatively uninterested in criticism, only in the disclosure of sensitive sources and techniques.

In a recent case, for example, a non-CIA employe wrote a scholarly book describing the drug traffic in Southeast Asia, in the course of which he accused the CIA of abetting the narcotics trade. The national security was not involved, and the CIA took no court action. It did, however, request advance review of the manuscript, which the publishers provided over the objections of the author. The CIA then provided material rebutting specific charges, the publishers chose to ignore the material and the book was published as written. The government took no further action.

STATINTL

STATINTL

Appeals Court Supports C.I.A. In Blocking Article by Ex-Aide

By LES LEDBETTER

The United States Court of Appeals for the Fourth Circuit has upheld a lower court ruling restraining a former agent of the Central Intelligence Agency from publishing books or articles about his former employer without prior authorization from the Director of Central Intelligence or a designated representative.

The three-judge panel ruled in the case of Victor L. Marchetti, who left the agency in 1969 after 14 years, serving his last three years as executive assistant to the deputy director.

The judges ruled unanimously that Mr. Marchetti would not be deprived of his right to speak and write about the intelligence organization as long as he did not "disclose classified information obtained by him during the course of his employment which is not already in the public domain."

Articles Blocked

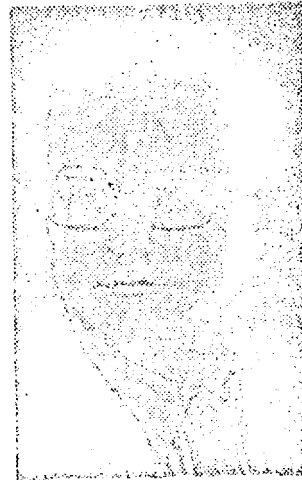
The Government brought its action against Mr. Marchetti to block an article he had submitted to Esquire magazine last March. It contended that the article contained classified information concerning intelligence sources, methods and operations.

In the opinion last Monday, Chief Judge Clement F. Haynsworth Jr. wrote for the court, "Marchetti by accepting employment with the C.I.A. and by signing a secrecy agreement did not surrender his First Amendment rights of free speech. The agreement is enforceable only because it is not a violation of those rights."

The court added that Mr. Marchetti could seek judicial review of any CIA disapproval of a manuscript for publication.

The attorney for Mr. Marchetti denounced the newest setback for his client as permitting "an extraordinary burden to be imposed upon First Amendment rights and is in direct conflict with the Supreme Court's opinion in the Pentagon papers case."

"We shall of course take the case to the Supreme Court im-



Victor L. Marchetti

mediately," said the attorney, Melvin L. Wulf, legal director of the American Civil Liberties Union.

On June 30, 1971, by a vote of six to three, the Supreme Court refused to restrain publication of the Pentagon papers by The New York Times and The Washington Post because the Government did not prove that its reasons for wanting the articles stopped outweighed the constitutional guarantee of freedom of the press.

Referring to the question of restraint prior to publication, the appeals court said, "Because we are dealing with prior restraint upon speech, we think the C.I.A. must act promptly to approve or disapprove any material which may be submitted to it by Marchetti. Undue delay would impair the reasonableness of the restraint, and that reasonableness is to be maintained if the restraint is to be enforced."

Mr. Marchetti wrote a novel, "The Rope Dancer," published by Grosset & Dunlap, shortly after leaving the C.I.A. In the hypothetical adventure story, the "National Intelligence Agency" distorts facts to fit the desires of the President and plots to overthrow the Government of Colombia.

He also published an article in the April 3, 1972, issue of The Nation entitled, "C.I.A.: The President's Loyal Tool," which criticized the agency and its activities.

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STATINTL

19 SEP 1972

Ex-CIA aide loses bid to publish book

Richmond (Special)—A former employee of the Central Intelligence Agency yesterday lost a move to dissolve a court injunction that prevented him from writing a book about secret activities of the espionage agency.

Victor L. Marchetti, who was executive assistant to the CIA's deputy director when he resigned in 1969, claimed that he was denied his right of free speech by the injunction.

But Mr. Marchetti, whose claim was supported by the American Civil Liberties Union, was granted a chance to argue that the court restraint on him is too broad and should be modified—even though it cannot be dissolved completely.

The case was decided in an opinion prepared by Chief Judge Clement F. Haynsworth, of the Fourth Circuit Court of Appeals.

Mr. Marchetti admitted that he signed an agreement with the CIA that bound him to silence about the ultra-secret activities of the agency.

13 SEPT 1972

Approved For Release 2001/03/04 : CIA-RDP80-01601R

▶ EX-CIA MAN MARCHETTI LOSES ANOTHER ROUND

The authority of the Central Intelligence Agency to impose a secrecy oath on its employees was upheld by the Fourth U.S. Circuit Court of Appeals in Richmond, Va., last week. The appellate court affirmed an injunction granted last May by Judge Albert V. Bryan in Federal District Court in Alexandria, Va., restraining Victor L. Marchetti from publishing a book about the CIA. In a 3-0 decision, written by Chief Judge Clement F. Haynesworth, the court held that the provision in the CIA's contracts requiring an employee to pledge under oath not to publish information about the agency (even after separation from it) was legal and constitutional. It is the position of the American Civil Liberties Union, which represents Marchetti, and the Association of American Publishers, which has filed an amicus brief on his behalf, that a citizen can't sign away his rights under the First Amendment -- even if he wants to. Judge Bryan, however, when granting a permanent injunction, held that contract law, rather than the First Amendment, applied. In sustaining Judge Bryan's ruling, Judge Haynesworth wrote, ". . . we are here concerned with secret information touching upon the national defense and the conduct of foreign affairs." The government's right to enjoin applied to such information, the appeals court said, but not to unclassified or previously disclosed information. The case was remanded to the district court to limit the reach of the restraining order to classified information. Marchetti, who resigned from the CIA in 1969 after 14 years, is the author of the spy novel "The Rope Dancer" (Grosset & Dunlap) published last fall. He has a contract with Alfred A. Knopf to write a nonfiction book about the agency and it is this book, still unwritten, which is cause of the present legal maneuvering. (See PW, April 24, June 5, July 31.)

CIA Oath On Secrecy Is Upheld

RICHMOND, Va., Sept. 11 (AP) — The Fourth U.S. Circuit Court of Appeals today upheld the authority of the Central Intelligence Agency to impose a secrecy oath on its employees, but restricted the scope of the oath to matters that have been classified.

The case involved an attempt by Victor L. Marchetti, a former CIA employee, to remove himself from the oath so he can publish a book about the CIA. Marchetti resigned in 1969 after working for the agency for 14 years. His positions with the CIA included that of executive assistant to the deputy director.

Last May, U.S. District Court Judge Albert V. Bryan Jr. of Alexandria, Va., granted the government a restraining order prohibiting Marchetti from publishing information about the CIA.

In upholding Judge Bryan by a 3-0 vote, the appeals court said the secrecy oaths are legal and constitutional contracts.

The decision was written by Chief Judge Clement F. Haynesworth.

The First Amendment precludes restraint upon information that is unclassified or has been officially disclosed, Haynesworth wrote, "but we are here concerned with secret information touching upon the national defense and the conduct of foreign affairs, acquired by Marchetti in a position of trust and confidence."

The case was remanded to U.S. District Court to limit the reach of the restraining order to classified information and to allow Marchetti to pursue further legal action.

By RICHARD R. LINGEMAN

Time was when the Central Intelligence Agency was accused of some particularly dirty trick by the press it would reply blandly, "The C.I.A. neither confirms nor denies the charge." Recently, however, the agency has departed from its customary inscrutability; it has doffed the cloak, drawn the dagger and intervened openly in the book-publishing process. The most publicized of these interventions has been its demand to examine, prior to publication, the manuscript of "The Politics of Heroin in Southeast Asia," by Alfred W. McCoy, which makes some serious allegations about the C.I.A.'s inadvertent involvement in the heroin traffic. In another less publicized case, the agency enjoined a book by a former agent named Victor Marchetti which had been contracted for but not yet written.

The background of the McCoy affair is, briefly, this. After Mr. McCoy's charges had become public knowledge in June, Cord Meyer Jr., a C.I.A. official, called on Harper & Row and reportedly raised questions regarding the book's accuracy, libel and the national interest. On July 5, the C.I.A. formally asked to see the manuscript, saying that "Mr. McCoy's claims . . . are totally false and without foundation"; libel and the national interest were not mentioned. On July 19, Harper & Row, through its counsel B. Brooks Thomas, agreed to make the manuscript available under certain conditions (including confidentiality) despite the firm's belief that "Mr. McCoy's scholarship is beyond reproach." In addition Mr. Thomas wrote, "We do not mean to imply that we will make changes in the work because you request them or even because you believe the statements made to be harmful to some agency of our government."

The C.I.A. critique of the manuscript was sent on July 28; in its reply of Aug. 4, Harper & Row, after consultation with the author, made a rather devastating point-by-point refutation and announced it would publish the book unchanged.

So what is the problem? After all, submitting books to prior review by experts in the field is nothing new. It is done frequently by scholars who send early drafts to colleagues in their field for criticism. To inject a personal note, I

The
Last Word

wrote a book on drug abuse and was glad to accede to the publisher's suggestion that an expert read it over for possible errors. And, of course, Harper & Row says that "The Politics of Heroin" was read "by independent authorities" before the C.I.A. entered the picture.

But the case of McCoy v. the C.I.A. is distinguishable, as the lawyers would say. Because of the highly secretive nature of the C.I.A.'s operations, the information uncovered by Mr. McCoy could only have been obtained by independent investigation. Further, Mr. McCoy's allegations were taken by the C.I.A. as highly embarrassing—so embarrassing that they jarred the agency into abandoning its traditional low profile. Letters from high C.I.A. officials were fired off to The Washington Star and Harper's magazine, which had published some of Mr. McCoy's material, attempting to impeach his veracity. The battle lines were clearly drawn.

It should be made clear at this point that Mr. McCoy's book does not raise problems of classified information or national security. Although a C.I.A. representative reportedly mentioned libel and the national interest at one point, these words did not come up in their official letter of July 5—probably because there were no grounds for urging them. It is curious, then, that in a letter to The Village Voice defending Harper & Row's action, Mr. Thomas summoned up the spectre of possible legal action. "One of the reasons for volunteering the book," he wrote, "was in the hope of avoiding such expense [of a trial] by convincing the C.I.A. that they had no case for court action."

And yet Cord Meyer told The Times's Seymour Hersh, "We at the agency at no time thought we had any right to suppress the book." Certainly there is no threat of legal action in the Harper & Row-C.I.A. correspondence; if avoidance of a court battle was one of its motives, Harper & Row was being super-cautious, to say the least.

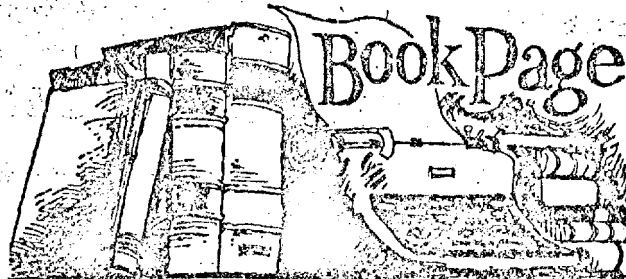
In any case, it is not the universal practice in publishing to let the C.I.A. review every book about it before publication. According to Robert Bernstein, president of Random House, his company twice refused such requests.

That there are circumstances under which the C.I.A. wants to play the role of pre-censor is shown by the Marchetti case. Mr. Marchetti, who had already written an unimpressive novel about a C.I.A. man, signed a contract with Alfred A. Knopf for a nonfiction work about the agency. In April the agency went to court and got an injunction against the book on the grounds that as a former employe of C.I.A. Mr. Marchetti had signed a secrecy oath and must obtain C.I.A. permission before the book is published. The case raises several interesting questions: Can a man contract away his First Amendment rights? Are former employes under a blanket prohibition from writing anything about the C.I.A.? And what of the public's right to know more about the C.I.A. than they do now? Must Mr. Marchetti confine himself to anonymous tips to Jack Anderson? At any rate the case is now on appeal, with the American Civil Liberties Union acting in Mr. Marchetti's behalf.

As for Mr. McCoy's book, clearly—and the C.I.A. are in an adversary relationship; the only seemly place for the to fight it out is in the marketplace ideas, not in the privacy of the publisher's office. No interest could be served having the C.I.A. go over the manuscript prior to publication; it is like putting one's head in a man-eating tiger's mouth to verify if he is hungry. Pre-review—a governmental agency, where the lines of difference are as clearly drawn as they are here, is next door to prior restraint. Harper & Row may argue that it retained the final say throughout, but in fact caved in and acted under a principle which any governmental agency criticized by a book could demand to see it, cast doubts on the author's integrity with its own version of the "facts" (this at a time when publishers' memories of the Irving Hoax are still fresh) and perhaps even cause its suppression if the publisher is timid and the author refuses to make changes. Governmental agencies, including the C.I.A., are not by definition liars but in some cases a plausible version of the truth that differs from "official" truth will surface; it should be protected, rather than submitted to bureaucratic bullying.

CIA 3.01
A. Hentoff, Nat
p. Anderson, Jack

CIA 103 Meyer, Cord
SOC. 4.01 Alfred A. Knopf
- Harper & Row
- Random House
- The Politics of Heroin
in S.E. Asia



ANN LLOYD MERRIMAN

Book Editor

POLITICS, SPIES:

New Novels Concentrate On Pentagon, CIA

PENTAGON COUNTRY, by Clay Blair, Jr.; McGraw-Hill, \$7.95.

THE ROPE DANCER, by Victor Marchetti, Grosset and Dunlap, \$6.95.

Reviewed by STEVE ROW

The political novel and the political spy novel have come a long way, owing in part to the amazing complexity of national and international government affairs.

These two novels show encouraging and discouraging trends in the state of this relatively new literary form at the present time.

The novel about the Pentagon is a relatively poor mixture of drama and dry facts (such as the length of the Pentagon hallways) as it traces a brief period in the life of a Navy captain, William Montgomery King Jr., who is caught in a situation with pressure from several sides.

King first of all is in line for a promotion to star rank, a promotion which seems tied directly to the success of his section to secure approval of an expensive new submarine weapons system.

Meanwhile his wife is pining away at home, wondering about their future, their wayward son (who, they have just learned, has dropped out of college and run away with a long-haired girl), and whether she is as desirable as she once was.

The novel is constructed well, and some of the dialogue is crisp and realistic, but the situations often stumble on the thin line dividing melodrama and pure corn. The author is a former Time-Life Pentagon correspondent who slips in entirely,

too much "gee-whiz" information about the Pentagon to be appreciated.

It also is a novel which ends with everyone living happily ever after, with the captain dropping out of the Navy and the wayward son being nearly killed in a student riot in the Pentagon. But he wasn't. Maybe he should have been.

The other novel, on the other hand, is just the opposite — a gripping, unpredictable spy story written by a former member of the CIA.

Marchetti has produced a taut, meaningful suspense story in which the hero (or is he?), Paul Franklin, decides he is fed up with the aims of his government in spy and investigative security matters. He hires himself out to become a double agent for the Soviets.

Ostensibly he has done it for the money, and he gets big money. He provides some valuable information on this government to the Soviets, gets spirited away to Moscow to receive the top award from the party chairman himself, and still manages to conceal his activities.

The only quarrel one has with the book is that Franklin escapes discovery for so long. Not only is he relatively free from suspicion at work, but his wife (whom we really

never get to know) also abides by all his late night "work."

The plot twists abound, however, and eventually the chief "Commie-hunter" in the agency, an internal security head, confronts Paul with his knowledge that Paul's activities are known. But there is an offer of help: If Paul can expose the agency's Director and his secretary, both of whom are suspected also of being Soviet agents by the security chief, then Paul may be spared treason charges.

Paul's life ends as the novel ends, and in much the same impersonal manner as did that of Alexander Leamas in "The Spy Who Came in From the Cold." The whole book carries a cold feeling similar to Le Carre's work throughout.

But there are questions as the book closes. Was Paul believed expendable by his Soviet comrades and ordered killed, did American agents eliminate him, or was he simply the victim of a robbery-shooting in downtown Washington?

Marchetti has constructed a fine enough book to keep nearly everyone guessing.

(A Federal court has concurred with a request by the Justice Department and the CIA to halt publication of Marchetti's novel, because he may have violated a trust agreement between the CIA and its agents on disclosing "vital" information after the

The CIA: Book Editing Division

Writers working on projects that might offend the government have been warned to be wary of having Harper & Row as a publisher. The warning has been given by the present management of that very publishing house.

Alfred W. McCoy, a Ph.D. candidate in Southeast Asian history at Yale, spent 18 months investigating narcotics operations in Southeast Asia. The resultant book, commissioned by Harper & Row, had been thoroughly examined by attorneys for the publishing house. But then, the CIA asked Harper & Row for permission to review McCoy's book, "The Politics of Heroin in Southeast Asia," prior to publication.

Despite the lessons of the battle to publish the Pentagon Papers, despite the continuing travail of Beacon Press (publishers of the Gravel edition of the Pentagon Papers), despite the First Amendment, Harper & Row acceded to the CIA's request!

Seymour Hersh, the most valu-

able addition to the Times-Washington bureau in my memory, dug out the story as part of a continuing investigative account of the increasing quantity of heroin coming into this country from Southeast Asia. As Hersh points out (Times, July 22), the CIA's interest in Alfred McCoy's book is due to McCoy's allegations that "both CIA and State Department officials have provided political and military support for America's Indochinese allies actively engaged in the drug traffic; have consciously covered up evidence of such involvement, and have been actively involved themselves in the narcotics trade."

The CIA, understandably exacerbated—all the more so because Mr. McCoy has been tes-

tifying before Congressional committees—put pressure on Harper & Row. The CIA did not try seriously to claim that national security is involved. The agency impugns the accuracy of the book and wanted to see it before publication in an attempt to persuade the publisher to make "corrections" so the CIA and other American agencies won't look so bad. (The First Amendment stands even if the CIA had insisted that national security might have been breached, but Harper & Row yielded on a much softer point. That's what is so appallingly surprising after all we have learned from the Nixon administration concerning its intentions with regard to the First Amendment.)

Seymour Hersh quotes Brooks Thomas, vice-president and general counsel of Harper & Row, as having no doubts about the book: ("We've had it reviewed by others and we're persuaded that the work is amply documented and scholarly.") Nonetheless, Mr. Thomas adds: "We're taking a responsible middle position. I just believe that the CIA should have the chance to review it."

According to Hersh, the book's author, Alfred McCoy, was given the choice of agreeing with Mr. Thomas's "responsible middle position" or not having his book published by Harper & Row.

Brooks Thomas tells me that's not accurate. An either/or situation, he says, did not develop.

"If McCoy had refused to allow the page proofs to be seen by the CIA," prior to publication I asked Thomas, "would you have published the book?"

"I don't know what we would have done," Thomas answered. "In any case, we persuaded McCoy to let the CIA see it." (My information is that Harper & Row would not have published the book if McCoy had resisted prior viewing by the CIA.)

I am sorry that Mr. McCoy allowed himself to be persuaded. At first, Hersh writes, McCoy refused to go along, but "changed his mind during protracted negotiations."

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EVANSVILLE, IND.
COURIER
M - 65,904
COURIER & PRESS
S - 109,651

AUG 9 1972

Governmental secrecy test

The case of Victor L. Marchetti, a former Central Intelligence Agency operative charged with violating his pledge of secrecy, is of particular interest because the outcome may have an impact on the entire question of governmental secrecy.

A federal district court has enjoined Marchetti from revealing further information learned while he was with the CIA. If higher courts uphold this ruling, that might lead to the government's writing into many other employment contracts a secrecy pledge patterned after the CIA's.

By the same token, should the district court ruling be overturned the result might be to pry open the door that has thus far kept the CIA's operations almost totally secret from the public. Thus the Marchetti case can be seen to have far-reaching implications.

Both aspects of it are import-

ant to the public. Secrecy in government is bad enough at present.

Were the courts to rule in such a way as to permit the government to pledge a great many more persons to secrecy even after they leave government employ, that would have a further restrictive effect.

Under such circumstances officials would be less likely to disclose information about the workings of government, lest they run the risk of legal action against them. That would not be in the public interest.

The opposite is true of an outcome that would make the CIA less a closed book to Congress and the public. Up to now it has been subjected to very little scrutiny, and very little control over how its big appropriation is spent. The public has a right to know more about such things.

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Approved For Release 2001/03/04 : CIA-RDP80-016

Harper to Show CIA Proofs of New Book on Asian Drug Traffic

Marchetti Book on CIA Still Under Suit

Harper & Row has decided, after much consideration, to honor a request from the Central Intelligence Agency to see page proofs of Alfred W. McCoy's controversial September 13 book, "The Politics of Heroin in Southeast Asia," and to consider "factual" corrections that the CIA may offer. The publisher, however, has made no advance commitment to accept any requested changes.

In his book, written with Cathleen B. Read, Mr. McCoy, a 26-year-old student in Yale's Ph.D. program in history, alleges that French, Vietnamese and U.S. personnel have used the traffic in opium and heroin in Southeast Asia for their own ends, and that the CIA and other U.S. agencies have either accepted or have responded inadequately to the situation. Mr. McCoy told Congressional committees early in June (including the foreign operations subcommittee, headed by Sen. William Proxmire, D., Wis., of the Senate Appropriations Committee), that he had had more than 250 interviews about the drug traffic, including talks with CIA and South Vietnamese officials, and that President Thieu and Premier Khiem were involved: he gave details of many allegations which appear also in the book. B. Brooks Thomas, Harper vice-president and general counsel, tells *PW* he and the editors have worked closely with Mr. McCoy on the manuscript, have insisted on documentation of all material points, and have had outside experts read it. As a result, Harper & Row is convinced that the book is well-documented, scholarly and deserves to be published.

A chapter from the book, adapted, appears in the July *Harper's* magazine. The magazine has received a letter from the CIA's executive director, W. E. Colby, denying allegations involving the CIA. *Harper's* reportedly plans to publish the letter soon. Mr. Colby and an officer of Air America (a contract airline which does work for CIA in Southeast Asia) also wrote to the *Washington Star*, disputing allegations picked up by a *Star* columnist from Mr. McCoy's findings. In these protests, and in its approach to

Harper & Row, the CIA is said to be departing sharply from its usual policy of silence concerning criticism.

Harper & Row was approached early in June, when a representative called upon Cass Canfield, Sr., former chief executive, now a senior editor for the firm, and said the agency understood the McCoy manuscript contained serious allegations about CIA and other agencies—allegations that he said might be libelous to individuals or severely damaging to the national interest. The representative spoke also to M. S. Wyeth, Jr., executive editor of the trade department. The Harper officials said the manuscript was not yet ready to be read, but that the request would be considered.

In weighing their decision, Harper & Row officials and editors talked among themselves and with respected publishing colleagues, including experts in the field of the freedom to read. On June 30, Mr. Thomas wrote to the CIA asking the agency to state its request, with reasons for it, in writing. The reply, dated July 5, came from Lawrence R. Houston, general counsel of the CIA. He wrote that the CIA was in no way questioning Harper & Row's right to publish the book, but said, "We believe we could demonstrate to you that a considerable number of Mr. McCoy's claims" about the CIA were "totally false" or "distorted" or "based on unconvincing evidence."

Harper & Row then decided to let the CIA see the book—subject to the author's approval, without which, Harper & Row president Winthrop Knowlton told *PW*, the CIA's request would not be accepted. The author finally accepted the decision, to let the CIA look at page proofs only, and to give a quick reply, with Harper & Row reserving all its options and reaffirming its right to publish.

"As head of the house of Harper & Row," Mr. Knowlton told *PW*, "I am sensitive, like all my colleagues in publishing, to the problem of censorship, and if I felt this request involved censorship we would not be agreeing to it. In view of the gravity of the allegations, we simply think this is the most responsible

way we can publish this book." A 5.2

Ironically, in view of CIA efforts to refute the charges by Mr. McCoy and others, personnel of CIA, State and the Department of Defense completed in February a report to the Cabinet Committee on Narcotics Control which buttressed many of the charges, according to Seymour Hersh in a front page *New York Times* story, July 24. Mr. Hersh reviewed the Harper-CIA discussions in the *Times* of July 22.

The CIA's procedure with respect to Mr. McCoy's book is in sharp contrast to government action on an as-yet-unwritten book, a nonfiction work about the CIA, which Victor L. Marchetti is under contract to prepare for Knopf. In that case, the Justice Department obtained in April a restraining order to prevent Mr. Marchetti from publishing the proposed book, on the ground that it would be likely to divulge currently classified information in violation of a secrecy agreement that Mr. Marchetti had made as a CIA employee. Mr. Marchetti worked for the CIA for 14 years and resigned in 1969. He then wrote a novel, "The Rope Dancer" (*Grosset*), based on his observations.

Judge Albert V. Bryan, Jr., U.S. District Court, Alexandria, Va., in issuing the restraining order, ruled that Mr. Marchetti's agreement with the CIA "takes the case out of the scope of the First Amendment." The American Civil Liberties Union, representing Mr. Marchetti, denies this and argues that the author cannot in fact sign away his First Amendment rights. The Association of American Publishers and the Authors League have filed *amicus curiae* briefs supporting Mr. Marchetti in further court proceedings. (See *PW*, April 24, June 5, June 12.)

DETROIT, MICH.
NEWS

E - 592,616

S - 827,086

JUL 24 1972

Marchetti's cloud-nine logic

Intelligence being a key factor in the security of any nation, it is logical for any government to ensure that its intelligence officers abide by their pledged word never — not even after quitting the job — to reveal information acquired while on the job.

Former CIA officer, Victor Marchetti, 42, now a writer, disgraced; and a three-judge appeal panel is hearing the argument pleaded by the American Civil Liberties Union against a judge who enjoined Marchetti from revealing further secrets.

The significance of the case is that the original judge, finding that Marchetti had violated his secrecy pledge, also granted the U.S. government unprecedented prior restraint via a civil suit process on his writings on intelligence subjects. Much less proof is needed to show a breach of contract in civil court than the heavy burden of proof required in a criminal case, such as that of Daniel Ellsberg's over the Pentagon Papers.

Should the Marchetti case appeal fail, press contacts would be inhibited with officials who would become more vulnerable to government legal action.

Marchetti was a good intelligence officer. Recruited by the CIA out of

the classroom at Pennsylvania State University, he became an executive assistant at \$25,000 a year. He resigned three years ago to devote his time, in Ian Fleming style, to writing spy novels and also non-fiction intelligence topics.

Today Marchetti argues that he's justified in trying to open up the CIA to greater congressional and public scrutiny to force reform of its "clandestine-oriented" practices. He contends that the CIA is not qualified to judge what violates national security, which is a startling argument.

The ACLU pleads that the judge's restraining order violates the First Amendment guarantee of free speech and a free press and that the CIA cannot enforce the secrecy provisions of its employment contract.

A never-never land of unrealism opens up when anyone signing a work contract reserves to himself the right later to break it. In this instance, Marchetti used his \$25,000-a-year access to secrets to make money later by his spy novels. If intelligence officers are allowed to get away with that malarkey, the CIA will become not the guardian but the sieve of this nation's top secrets.

SAN FRANCISCO, CAL.

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E - 204,749

EXAMINER & CHRONICLE

S - 640,004

JUL 23 1972

courts

CIA vs. Security

--A Test Case?

THE three secrecy oaths signed by Victor L. Marchetti during the course of his career as an agent for the Central Intelligence Agency, had come back like persistent ghosts to haunt him. The problem last week for the 42-year-old ex-CIA executive - turned - author, though, was the locale the CIA "spooks" had chosen: the courts.

A U.S. District Court in Alexandria, Va. -- a suburb of Washington -- had granted the government unprecedented "prior restraint" after the CIA had filed suit against Marchetti to muzzle him on the subject of intelligence activities in the U.S. Marchetti, who had turned to writing as a way of making a living since he quit (in good graces) his CIA job in 1969, had published one spy novel and had had publishing offers for other work in a nonfiction category.

CIA Alarmed

Given to statements such as, "This excessive secrecy, the sanctity of the cult of intelligence, is just so much crap," and "In my opinion, the CIA is not qualified to decide what violates national security," Marchetti had roused the apprehension of his former colleagues.

In attempting to comply with the oaths of secrecy which were a condition of his employment, Marchetti -- after leaving the organization -- had allowed CIA employees to read unpub-

nonfiction work. Apparently alarmed, the CIA had then filed suit in Superior Court, without informing Marchetti of its intent to do so.

The result had been the temporary restraining order, and the little-noticed emergence of a test case that showed signs of major significance in the contest between freedom of the press and government censorship.

The court had accepted government allegations of 35 breaches of security (publishing of classified material) in Marchetti's writings in magazines and other forms of publication. Marchetti had admitted only two of the alleged disclosures: the code name of a downstate Virginia CIA training "farm," and the title of the Air Force satellite reconnaissance organization.

However, on the strength of arguments that the government could obtain no adequate monetary compensation for damage caused by release of classified material, and that such disclosure constituted a violation of contract, District Court Judge Albert V. Bryan Jr. had ruled against Marchetti and had made the restraining order permanent.

The White House reportedly had been following the Marchetti case with intense interest. If the court decision were sustained in appeals courts and ultimately in the U.S. Supreme Court, the government would seize on the rul-

ing and insert secrecy clauses into all government employment contracts.

Such a move would probably have the effect of inhibiting press contacts with officials who would be more open to prosecution than before. In criminal cases such as that of Daniel Ellsberg, for example, a "heavy burden" of proof is required to gain a conviction for breach of contract, and both the intent to harm the national interest, as well as actual harm, must be proved. A civil court breach of contract case is relatively easier to win.

STATINTL

16 JUL 1972

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EX-AGENT SEEKS TO LIFT PLEDGE

CIA Secrecy Decision Could Hinder News

BY ROBERT C. TOTH
Times Staff Writer

WASHINGTON — A little-noticed government suit against an ex-CIA man is under way and could have far greater impact on government secrecy restrictions than the Pentagon Papers trial in Los Angeles.

A U.S. district court in Alexandria, Va., has enjoined Victor L. Marchetti, 42, now a writer, from violating the pledge of secrecy in his CIA contract. It granted the government unprecedented "prior restraint" via civil process on his writings on intelligence subjects.

If the government's view is upheld through appeal courts, authorities will have a potent new weapon for curbing security leaks.

The White House has followed the case closely and is considering inserting the same CIA secrecy provision into all government employment contracts if the suit is upheld in the courts.

This would probably inhibit press contacts with officials who would become more vulnerable to government legal action. Much less proof is needed to show a breach of contract in civil court than the "heavy burden" required of the government in criminal cases, like Daniel Ellsberg's, where intent to harm the national interest, as well as actual harm to those interests, must be proved.

On the other hand, if the courts uphold all of Marchetti's arguments, as presented by the American Civil Liberties Union, the CIA contract's secrecy agreement could be declared unenforceable and much more intelligence information would become public from former CIA employes.

This, aside from making a living, is Marchetti's declared aim. He wants to open the agency up to greater congressional and public scrutiny and to force the reform of what he calls its "clandestine-oriented" attitudes and practices.

"This excessive secrecy, the sanctity of the cult of intelligence, is just so much crap," Marchetti said in an interview in his comfortable suburban home. He alleges there is enormous waste and inadequate congressional control over the CIA's \$700 million annual budget and the operations of its 17,000 employes.

The CIA refuses to discuss the case.

Marchetti's experience dates back to the early 1950s, when he served in Europe as an Army intelligence officer. He later was graduated from Pennsylvania State University in Soviet studies and was recruited by the CIA out of the classroom.

He signed two secrecy agreements then. One pledged he would not disclose the initial interview. The second was signed when he began work and was a condition for employment. In it he swore claim to any intelligence information (or collection, handling and analysis of it) learned while in the agency and pledged "never" to reveal such information unless authorized in writing by the CIA chief.

By all accounts, Marchetti did well in the agency and left under no cloud. He first trained for clandestine work but turned to analysis of Soviet military affairs. He rose to become executive assistant to the deputy director, then Adm. Rufus Taylor. A year after Taylor retired, Marchetti resigned his \$25,000-a-year post.

When he quit in 1969, he signed a third secrecy agreement which in effect repeated his earlier pledge not to disclose without advance authorization intelligence information obtained while employed.

Writes Spy Novels

To maintain the same standard of living for his wife and three children, Marchetti turned to writing spy novels and nonfiction on intelligence subjects. He believed he could bring a "certain realism" to these matters that would increase its market value.

From his recitation of the facts, Marchetti was soon restive about the whole business of secrecy over his literary attempts.

He first wrote a novel, "The Rope Dancers," which the agency asked to read in its initial stages. Marchetti promised to submit it only in finished form. When the manuscript was completed, a CIA man called and asked to take it to the agency to be copied and studied. Marchetti refused, allowing it to be read only in his house. No objections were made to its content, he said. It was published and enjoyed modest success; an option for movie rights was purchased.

Then he turned to non-fiction, writing an article for the Nation in April ("CIA: The President's Loyal Tool"). He also prepared a piece for Esquire ("Twilight of the Spooks"), and drew up the outline for a nonfiction book. He submitted the outline and the Esquire draft to six book publishers; four made offers, one of which he accepted. But one publisher apparently told the CIA.

Marchetti had not cleared any of it with the agency. He said he intended to submit the unpublished nonfiction when it takes final shape, which means after his editors have seen it. He did not, however, submit the Nation article for clearance at any time because, he said, "there was nothing in it to damage national security.

"That's my judgment," he acknowledged. "In my opinion, the CIA is not qualified to decide what violates national security." Some independent body like the courts should make such decisions, he said.

Restraining Order

The agency moved on April 18, a month after getting the unpublished material, to enjoin Marchetti from alleged future secrecy agreements. Without his

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16 JUL 1972

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U.S. Said to Break All of Soviet's Codes

STATINTL

By BENJAMIN WELLES
Special to The New York Times

WASHINGTON, July 15—The United States is reported to have refined its electronics intelligence techniques to the point where it can break Soviet codes, listen to and understand Soviet communications and coding systems and keep track of virtually every Soviet jet plane or missile-carrying submarine around the world.

"We're able to break every code they've got," a former analyst in the National Security Agency, one of the most secret of the Government's many intelligence agencies, is quoted as saying in the August issue of Ramparts magazine, which is published by Noah's

Ark, Inc., 2054 University Avenue, Berkeley, Calif.

The former analyst, whose name was not given in the article, was an Air Force staff sergeant who was discharged from military service in 1969 after three years of overseas duty as a communications traffic analyst for the agency in Turkey, West Germany and Indochina. He uses the pseudonym of Winslow Peck in the article

Some Corroboration Found

Mr. Peck, who is 25 years old, was recently interviewed by a correspondent of The New York Times in California. Extensive independent checking in Washington with sources in and out of the Government who were familiar with intelligence matters has resulted in the corroboration of many of his revelations. But experts strongly denied that the United States had broken the sophisticated codes of the Soviet Union or of other foreign powers.

The national security agency headquarters is at Fort Meade, near Baltimore. It has nearly 100,000 employes — most of them military personnel — and spends slightly less than \$1-billion a year. Unlike the Central Intelligence Agency, the N.S.A.'s primary purpose is the collection of information — most of it through advanced technology — but it rarely, if ever, tries to evaluate or analyze the information or analyze it.

The Ramparts article says that

the United States has encircled the Communist world with at least 2,000 electronic listening posts on land or on naval vessels or aircraft.

United States electronically equipped aircraft, according to the article, are constantly penetrating the air space of the Soviet Union, China and other Communist countries to provoke and record their radar, and signal techniques to develop countermeasures against them.

This claim has been challenged here by independent Government intelligence experts, who said that there have been no authorized, as distinct from inadvertent, violation of Soviet or Chinese airspace by the United States since the U-2 flights of the early nineteen-sixties. The experts said that satellite photography has replaced aerial overflights, conceding, however, that United States electronic intelligence planes often fly along Communist borders to provoke reaction and collect signals.

In the California interview, which was recorded on tape, Mr. Peck described his early life in Joplin, Mo., his enlistment in the Air Force in 1966 when he was 20 years old, his subsequent recruitment by the security agent, his specialized training, his promotions and his three years of duty overseas. He was discharged in California in November, 1969, and says he turned down a \$10,000-a-year job offer by the Central Intelligence Agency. He decided instead, he says, to work to end the Vietnam war.

Tells of TV Monitoring

A highlight of Mr. Peck's disclosures include a report that in 1967 during his duty in Turkey the agency monitored a live Soviet television contact between Premier Aleksei N. Kosygin, who was in tears bidding an emotional farewell to the astronauts Vladimir M. Komarov.

Mr. Komarov was then in orbit in the spacecraft Soyuz I, which was still two hours from re-entry into the earth's atmosphere. According to Mr. Peck's account the astronaut had just been informed by Soviet ground control that he was braking parachutes designed to bring his spacecraft safely to earth were malfunctioning and that there was no hope of saving him.

Soyuz I crashed on Soviet territory on April 25, 1967, and Mr. Komarov was killed. He was posthumously granted a second Order of Hero of the Soviet Union and is buried in the Kremlin walls.

Mr. Peck also said that during the 1967 Arab-Israeli war, the United States electronic intelligence ship, the Liberty, was ordered near the Israeli coast to intercept details of Israeli military intentions.

The ship was attacked on June 8, 1967, by Israeli jet aircraft and torpedo boats—an incident that cost 34 United States dead and 75 wounded and which President Lyndon B. Johnson later described in his book, "The Vintage of Pain," as a "heart-breaking episode." Before the attack, he said, the Liberty learned that General Moshe Dayan, the Israeli Defense Minister, intended to order his forces on to Damascus and Cairo.

Tells of Johnson Pressure

Mr. Peck stated that President Johnson then brought intense pressure on Israel to halt further troop movement and warned Premier Kosygin on the "hot line" against what appeared to be an imminent Soviet airborne operation from bases in Bulgaria against Israel.

Intelligence sources here said they were unable to recall these details but a veteran of 30 years service in intelligence said of Mr. Peck:

"He's obviously familiar with N.S.A.—its organization, operations and many of its techniques. But no sergeant in his early twenties would know how intelligence is handled at the White House level, what N.S.A. material is used or discarded by the President or more than just the fringes about C.I.A. operations."

During his year of duty in Vietnam, from November, 1968, to October, 1969, Mr. Peck, said, he participated in airborne electronic sweeps in Thailand in support of C.I.A. operations. The C.I.A., he said, was using unmarked attack bombers flown by C.I.A. "spookies" and based at Udorn to punish Meo tribesmen who had clashed with Thai Government troops over control of their traditional areas.

The United States depended on a friendly Thai Government for important air bases and other facilities useful for the Vietnam war, Mr. Peck noted, and thus was prepared to assign the C.I.A. surreptitiously to suppress internal disorders.

Neither the N.S.A. nor the C.I.A. would comment today. Senior Government intelligence officials who were shown transcripts of the Peck interview discounted parts of it but corroborated others.

David Kahn, author of "The Codebreakers," (published by Macmillan in 1967) and a leading authority on cryptanalysis, said in a telephone interview that the Ramparts article "represents much new information that rings true to me and seems correct." However, he challenged some points, specifically Mr. Peck's assertion that the agency's experts are able to "break every Soviet code with remarkable success."

Top-grade Soviet Foreign Ministry code systems "have been unbreakable since the nineteen thirties" Mr. Kahn said. He added that it was "highly unlikely that they have switched to breakable codes."

Mr. Peck's contention that "information gathered by N.S.A. is complete" implies a false importance, Mr. Kahn said. The N.S.A. does, he said, "solve" many nations' diplomatic codes; but these are countries of the third rank and provide only "indirect clues to Communist intentions."

Mr. Kahn noted that "what we are doing in this field the Russians are doing and, contrary to the Ramparts statement, they are very good."

He pointed out finally that the "thrust of the article, that the N.S.A. threatens peace, is incorrect."

"I believe that in the existing world of two armed camps," Mr. Kahn said, "N.S.A. can provide more light, more truth—and this can lead to better evaluation of situations and so to more realistic responses. N.S.A. is not like the C.I.A., which can foment revolutions and can indeed threaten peace."

The interview contains a lengthy question-and-answer passage that Mr. Peck conceded, in his interview with The Times, was hurriedly prepared at a time when he was "extremely rattled."

details of hitherto suspected but obscure details of electronic eavesdropping around the globe resulted, he said, from opposition to the Vietnam War and from a hope that others doing similar clandestine Government work would "come forward and say what they know." He concedes that "the agency may involve him in legal tangles."

STATIN

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Continued

4 JUL 1972

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JAMES J. KILPATRICK

Was Falstaff Right in Deprecating Honor?

"What is honor?" asked Falstaff. And he went on, in a famous passage, to spell out his cynical answer.

"What is honor? A word. What is that word, honor? Air. A trim reckoning! Who hath it? He that died o' Wednesday. Doth he feel it? No. It is insensible then? Yea, to the dead. But will it not live with the living? No. Why? Detraction will not suffer it. Therefore I'll none of it: Honor is a mere scutcheon; and so ends my catechism."

Over the past year, four incidents have come along that prompt reflection upon this word, honor or more precisely, upon the erosion of what once was a precious value, a man's word of honor.

There was the matter of Daniel Ellsberg, who had given his word not to reveal the Pentagon Papers; and revealed them. There was the matter of a highly placed national security officer, close to the White House, who had

given his word not to reveal the minutes of a meeting on India-Pakistan; and revealed them.

There was the matter of Gen. John Lavelle, who had given his word that he would obey the orders of his commander in chief; and disobeyed them. And there is the matter of Victor L. Marchetti, who had given his word not to write about information he had gleaned at the CIA; and wrote anyhow.

The incidents vary in importance, but as Hugh Sidey of *Times-Life* has suggested, they are linked by a common theme. In each case, the individual found justification for his conduct in his own assessment of a value higher than his pledged word.

In the case of the Pentagon Paper, it was "the people's and the Anderson Papers, right to know." In the matter of the unauthorized air strikes, Gen. Lavelle felt he was fulfilling a soldier's duty to punish the enemy. Marchetti, former special assistant to the deputy director of CIA, asserts that his First Amendment right of free press is superior to his own pledged word.

Much has been written of the first three incidents. The

Marchetti case dates from Oct. 3, 1955, when Marchetti's application was accepted for employment by the Central Intelligence Agency. On that day, as a condition of coming aboard, he signed an oath.

"I do solemnly swear that I will never divulge, publish or reveal either by word, conduct, or by any other means, any classified information, intelligence or knowledge except in the performance of my duties and in accordance with the laws of the United States, unless specifically authorized in writing, in each case, by the director of Central Intelligence or his authorized representatives

"I take this obligation freely, without any mental reservation or purpose of evasion."

Marchetti resigned on Sept. 2, 1969. On that date he signed a second secrecy oath, in which he again pledged his word that he would "never divulge, publish, or reveal by writing . . . any information relating to . . . intelligence sources, methods, and operations, and specifically CIA operations," without written consent of the CIA director. Whereupon he wrote a novel about a "National Intelligence Agency"; he wrote an article

for the *Nation* magazine, "CIA: The President's Loyal Tool"; and he contracted with Alfred A. Knopf for a nonfiction about the CIA.

The Knopf contract was the last straw. The CIA went to court and on May 19 obtained a permanent injunction against Marchetti, requiring him to submit whatever he writes about the CIA to the CIA--requiring him, in effect, to keep his word.

Ellsberg is being tried under an espionage statute, but the statute is defective and he probably will be acquitted. Lavelle may yet face court-martial proceedings. Marchetti is now subject to contempt charges if he breaks the injunction. Government is making its cumbersome response. But it ought to be necessary to resort to these measures -- not unless Falstaff was right; not unless, in our own time, honor has become a mere scutcheon, no more than a word,

STATINTL

PUBLISHERS ATTACK CIA BAN
ON FORMER AGENT'S BOOK

The Association of American Publishers has filed a brief contesting a U. S. District Court's (Eastern District of Virginia) "permanent" injunction against CIA Agent Victor Marchetti—an injunction that prohibits him from writing about the CIA without the agency's review and approval of the material. Marchetti has already written a novel and several articles about the CIA; he is currently under contract to Alfred A. Knopf, Inc. for a nonfiction book on the agency.

The AAP argues that the injunction amounts to unconstitutional prior restraint in that it runs counter to the public's right to know and be informed as established by the First Amendment. In its brief, the AAP further contends that Judge Albert Bryan's order went far beyond the government's request for an injunction barring publication of materials that would be detrimental to national security. The Association also contended that the role of the CIA in American foreign policy "has been the subject of considerable public interest and controversy," that Marchetti is in a position to clarify "these issues of legitimate public concern," and that his writings would not necessarily contain "particulars" that would be harmful to national security. The brief was prepared on the recommendation of AAP's Freedom To Read Committee and with the authorization of its Board of Directors.

The government contends that Marchetti is bound by secrecy agreements he signed both upon joining and leaving the CIA and that the case does not involve his protection under the first Amendment to disseminate his writings free of prior restraint by the government. The AAP finds fault with this argument and contends that the contracts cannot be considered as "a waiver of his or the public's constitutional rights." The case is to be heard by the U.S. Court of Appeals in Baltimore.

STATINTL

The CIA Responds on the Marchetti Case

On June 16, 1972, you published an article by Mr. Alan Barth, entitled "Free Speech, Security and the CIA," which discusses the case of Victor L. Marchetti. This is a case in which the government has obtained an injunction requiring Mr. Marchetti to comply with his contractual undertaking that he would submit any material having to do with intelligence for review by the Central Intelligence Agency as to whether it contained classified information relating to the national security.

Mr. Barth cites the injunction order in part, but by omitting certain parts he distorts the impact of the order and thereby also distorts the nature of the case. In enjoining Mr. Marchetti from further breaching the terms and conditions of his secrecy agreement, the order has two provisos:

"Provided, however, that this Injunction shall not apply to any information, the release of which has been authorized in accordance with the terms and conditions of the aforesaid contract, and Provided, further, that this Injunction shall apply only with respect to information obtained by said defendant by reason of his employment under the aforesaid secrecy agreement and which has not been placed in the public domain by the United States."

The Order then continues:

"Further ordered:

"That the defendant shall submit to the Central Intelligence Agency, for examination 30 days in advance of release to any person or corporation, any manuscript, article or essay, or other writing, factual, fictional or otherwise, which relates to or purports to relate to the Central Intelligence Agency intelligence, intelligence activities, or intelligence sources and methods, for the purpose of avoiding inadvertent disclosure of information contrary to the provisions and conditions of the aforesaid secrecy agreements, and such manuscript, article, essay or other writing shall not be released without prior authorization from the Director of Central Intelligence or his designated representative."

The language immediately above was quoted by Mr. Barth, but he omitted the ital-

icized portion, which is an important limitation on the scope of the injunction as the secrecy agreements apply to the publication of classified information. Under this injunction and under Mr. Marchetti's contractual undertaking, he is free to write about intelligence and he is free to criticize the Central Intelligence Agency. He has done so repeatedly in the past without any action having been taken against him. However, according to the evidence before the court he submitted to six publishers and a national magazine a draft article and a concept paper for a book without any consultation with the Agency. These contained a number of highly classified items which he has acknowledged he learned of through his employment with the Central Intelligence Agency. At this point the government felt it necessary to take steps to protect itself.

In our view, the evidence established that if published the items in question would have a serious adverse impact on intelligence sources and methods, intelligence operations, and international relations. This is the type of information which Mr. Marchetti specifically undertook not to divulge as a condition of his employment when he entered on duty with the Central Intelligence Agency in October 1955 and, as he stated in that secrecy agreement, "I take this obligation freely, without any mental reservation or purpose of evasion."

There are numerous restrictions imposed by law on government employees which limit their freedom of action, including freedom of speech. The Hatch Act is one well-known example. If such limitations can be imposed without the consent of the employee, how much more logical it is that the government can expect compliance with a voluntary undertaking in the very limited field of national security.

Mr. Barth has tried to turn this case into one of broad censorship over freedom of speech, but the record does not bear him out.

W. E. COLBY,
Executive Director,
Central Intelligence Agency.

Washington.

STATINTL

17 June 1972

Mr. Philip L. Geyelin
Editorial Page Editor
THE WASHINGTON POST
Washington, D. C. 20005

Dear Mr. Geyelin:

On 16 June 1972 you published an article by Mr. Alan Barth, entitled "Free Speech, Security and the CIA", which discusses the case of Victor L. Marchetti. This is a case in which the Government has obtained an injunction requiring Mr. Marchetti to comply with his contractual undertaking that he would submit any material having to do with intelligence for review by the Central Intelligence Agency as to whether it contained classified information relating to the national security.

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Muzzling Mr. Marchetti

Free Speech, Security and the CIA

By Alan Barth

UNDAUNTED by its experience in the case of the Pentagon Papers, the administration is back in court again trying to impose a prior restraint on publication. And again, of course, it is trying to justify its censorship in the name of national security.

This time, the administration has a new angle. Its attempt to suppress the Pentagon papers failed because the government was unable to sustain its burden of proving that publication would do "grave and irreparable injury" to the United States.

In the current case, however, the government has rather neatly managed to evade that burden by seeking to suppress something that has not yet been written. The menacing material exists only in the mind of a writer to whom the government imputes an intention to write something that would expose its secrets. What the administration is trying to do, in short, is to apply to the field of publication one of its favorite law-and-order gimmicks; it is trying to impose a kind of preventive detention in the realm of ideas.

The case in point—which has received all too little attention in the press—involves a man named Victor L. Marchetti who was employed by the Central Intelligence Agency for about 15 years until his resignation in the fall of 1969. In the course of his employment, he rose to the grade of GS-15, holding a variety of positions including that of Special Assistant to the Deputy Director.

Emerging from the cloistered atmosphere of the CIA, Mr. Marchetti undertook to earn a living as a writer. In 1971 he published a novel titled "The Rope Dancer," a more or less romantic tale about an organization called the National Intelligence Agency, one of the employees of which turns some classified documents over to agents of the Soviet Union. Mr. Marchetti also appeared on a number of television and radio shows, gave interviews to the press and published an article in the Nation magazine, the purport of which may be divined, perhaps, from its title: "CIA: The President's Loyal Tool." Moreover, he entered into a contract with Alfred A. Knopf, Inc. for a non-fiction book about the CIA, not yet begun.

Whatever the artistic merits of Mr. Marchetti's literary efforts, they did not win much favor. In 1971, when he left the agency, Richard Helms, went into court and

obtained from U.S. District Court Judge Albert V. Bryan on May 19 a permanent injunction ordering the author to "submit to the Central Intelligence Agency, for examination 30 days in advance of release to any person or corporation, any manuscript, article or essay, or other writing, factual, fictional or otherwise, which relates to or purports to relate to the Central Intelligence Agency intelligence, intelligence activities, or intelligence sources and methods," and forbidding release of any such material "without prior authorization from the Director of Central Intelligence." Obviously, this gives Mr. Helms complete power as a censor.

Like other employees of the CIA, Mr. Marchetti had put his signature, solemnly witnessed, on October 3, 1955, when he began employment, to a "Secrecy Agreement." In addition, on Sept. 2, 1969, when he left the CIA, Mr. Marchetti signed another document—this one called a "Secrecy Oath"—which even more categorically pledged him to reticence. "I will never," the oath intoned, "divulge, publish, or reveal by writing, word, conduct or otherwise, any information relating to the national defense and security and particularly information of this nature relat-

It is a very serious constitutional question whether a man can waive so basic a constitutional right—any more than he could put himself, by contract, into involuntary servitude for life in contravention of the terms of the 13th Amendment. In any case, so vague and so needlessly sweeping a renunciation of constitutional safeguards seems utterly foreign to the character of American law and its insistence upon ascertainable standards.

It may be that Mr. Marchetti is vulnerable on the basis of what he has already published to a suit by the CIA for breach of contract. It may even be that what he has spoken and written lays him open to criminal prosecution for violation of the Espionage Act or some other statute adopted by

Congress for the protection of information vitally affecting the national security.

Such actions would, of course, entail trial by jury—an adversary proceeding in which the defendant would have a chance to justify his conduct and the government would be obliged to assume the burden of proving that his words, spoken or written, actually violated the terms of his contract or actually did substantial injury to the United States.

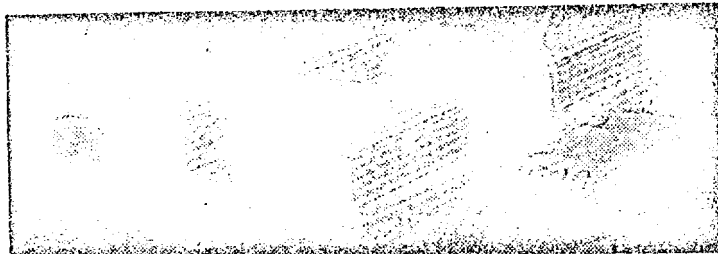
It is a radically different thing, however, for the government to forbid words before they have been uttered on the mere assumption that they are going to be injurious or to allow a single executive official to foreclose publication on the basis of his unchecked judgment that the words will, in some fashion, breach security. The difference is the difference between responsibility and censorship.

Classification of official information in the name of security is far too frequently employed as a device for covering up governmental error or inefficiency or misconduct to warrant treating mere classification by itself as a touchstone of publishability.

Disclosure of classified material sometimes vitally serves national security and the national interest. To let any public official arbitrarily foreclose it—in his own absolute and unchecked discretion, without judicial review or effective appeal of any sort—is to imperil the freedom that makes self-government possible.

To treat the Marchetti case as involving nothing more than the enforcement of an ordinary commercial contract—which is the way Judge Albert Bryan treated it—is to mistake form for essential substance. The expression of ideas cannot be enjoined in America. For to imprison ideas is to dam the democratic process.

The Marchetti case, like the case of the Pentagon Papers, tests the reach and the limits of the First Amendment. Recognizing



UPI (1967 photo)

CIA Headquarters, Langley: "... Almost a vow of perpetual silence, as though anyone emerging from the CIA must thereupon enter a Trappist monastery for the remainder of his natural life."

ing to intelligence sources, methods, and operations, and specifically Central Intelligence Agency operations, sources, methods, personnel, fiscal data, or security measures to anyone . . . without the express written consent of the Director of Central Intelligence or his authorized representative."

Here is an oath of secrecy so sweeping that it amounts almost to a vow of perpetual silence, as though anyone emerging from the CIA must thereupon enter a Trappist monastery for the remainder of his natural life. For a pledge never to publish "any information relating to the national defense and security" is a renunciation of any participation whatever in the political process. It is, in point of fact, the renunciation of a major part of an American's birthright—the freedom of expression guaranteed by the

STATINTL

Court Bars Writings by Ex-CIA Man

By NED SCHARFF
Star Staff Writer

A federal judge in Alexandria has issued a permanent injunction forbidding former Central Intelligence Agency member Victor L. Marchetti to write or talk about his experiences with the CIA.

U.S. District Judge Albert V. Bryan Jr. ruled that Marchetti's attempts to write analytical articles about the agency were in violation of secrecy contracts he signed before going to work there in 1955 and before his resignation in 1969.

The CIA asked the court to restrain Marchetti's publishing activities last month after it confiscated an outline for a factual article, "Twilight of the Spooks," which Marchetti was writing for Esquire Magazine.

The restraining order will prevent Marchetti, 42, of Vienna, Va., from writing anything about what he learned at the CIA while employed there. It also covers three television interviews Marchetti already taped.

Attorneys for Marchetti's defense had argued that silencing him would be an abridgement of First Amendment rights. But Bryan ruled that the secrecy contract signed by Marchetti "constitutes a waiver of the defendant's right . . . and renders (the case) no more than a usual dispute between an employer . . . and employe."

During the month-long trial, most of which was closed to public and press because of the classified material being discussed, Marchetti's lawyers said, they argued that the CIA's methods of classifying material are arbitrary and capricious. Bryan ruled those arguments irrelevant.

"It is not the role of the court to determine whether material should be classified . . . by contract the defendant has relegated that decision to the CIA," Bryan said.

Marchetti said he resigned two years ago because of personal feelings about his work there.

STATINTL

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Judge Puts Stop Order On CIA Data

By Douglas L. Pardue
Staff Writer

Ruling that the defendant signed away his constitutional right to freedom of speech when he took employment with the Central Intelligence Agency, U.S. District Court Judge Albert V. Bryan Jr., has ordered a permanent injunction on all writings and lectures of a former agent who has authored material critical of the security agency.

In his nine-page decision, which was handed down late Friday, Judge Bryan noted that the defendant, Victor L. Marchetti of Vienna, who quit the CIA in 1969 after 14 years as a CIA agent, signed two secrecy agreements which contractually prohibit him from discussing anything, based on his experiences in the CIA.

Marchetti's attorney, Melvin Wulf, an American Civil Liberties lawyer, argued during the case, heard in closed court because of classified material discussed, that Marchetti's First Amendment right to freedom of speech supersedes any contractual agreements. Consequently, he argued, Marchetti has the right to write or give lectures based on his experiences in the CIA.

Marchetti, who admitted his writings are based on his experiences in the CIA, said during the trial that he exercises restraint and has not revealed anything which in his opinion could harm U.S. security. He said his writings are intended to point out what he feels are transgressions by the CIA of its function.

The case, said Wulf, is similar to the Pentagon Papers case in that the CIA is trying to exercise prior restraint and because Marchetti is trying to expose actions by the spy agency, which have nothing to do with U.S. security and which are potentially harmful to the rights of U.S. citizens.

Bryan denied Wulf's argument stating that "it is not the role of the court to determine whether material should be classified or whether, even if classified, its revelation is material."

"In the opinion of the court," said Bryan, "the contract takes the case out of the scope of the First Amendment and, to the extent the First Amendment is involved, the contract constituted a waiver of the defendant's rights thereunder." Consequently, noted Bryan, the case is merely one of a dispute between an employer and employee and is not similar to the Pentagon Papers case.

Marchetti, who receives the bulk of his income from his writings, said this morning that he will definitely appeal the decision. Anticipating Bryan's action, Marchetti said, "My lawyers have already made the necessary arrangements."

Marchetti said he plans to appeal on the grounds that his writings, although based on experiences, are fictional and should not be subject to the secrecy oath. The CIA countered that argument during the trial saying that Marchetti's fictional writings approximate reality to such an extent that they jeopardize U.S. security.

STATINTL

15 MAY 1972

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STATINTL

CIA Agent's Trial Closed For Security

A hearing on a federal injunction placed on writings and lectures of a former CIA agent who has been critical of the security agency was ordered closed this morning in Alexandria by U.S. Court Judge Albert V. Bryan Jr.

The hearing was ordered closed, said U.S. District Attorney Brian P. Gettings, because of "certain classified security material that they are going into." Gettings noted that he expects the hearing will remain closed the rest of the day.

The former agent, Victor L. Marchetti, who quit the CIA in 1969 after 15 years service, was charged in early April in a CIA affidavit with preparing a book and other writings based on his experiences in the CIA which might endanger U.S. security.

In response to the affidavit, Judge Bryan imposed a temporary restraining order on Marchetti. That order prohibits Marchetti from distributing writings or giving lectures concerning the CIA pending the outcome of today's hearing.

The case has been described by American Civil Liberties attorney Melvin Wulf, who is directing Marchetti's case, as "strikingly similar to the Pentagon Papers case." Wulf has argued that the restraining order violated Marchetti's First Amendment right by imposing prior restraint.

Justice Department attorney Irwin Goldbloom has countered Wulf's argument stating that any writings or lectures by Marchetti based on his experiences in the CIA violate a secrecy oath required of all CIA employees.

Is Freedom Inalienable?

If not, it will be alienated, and ultimately destroyed. That is the paramount issue of the Victor Marchetti censorship case. [See Marchetti's "The CIA: The President's Loyal Tool"; *The Nation*, April 3.]

Marchetti, now 42, graduated from Pennsylvania State University in 1955 with a degree in Russian studies and history. He was recruited for the CIA by a professor, who, interestingly enough, was secretly on the agency's payroll as a talent scout. In time, Marchetti was promoted to the CIA executive staff and served finally as executive assistant to Adm. Rufus L. Taylor, deputy director from 1966 to 1969. Marchetti was with the agency for fourteen years, resigning in the same year as did Admiral Taylor. Obviously, Marchetti knows a lot about the CIA—that is part of the trouble.

He was well thought of by his colleagues. Richard Helms, CIA director, presented him with an autographed picture inscribed, "To Vic—With appreciation for his support." But the longer Marchetti served the CIA the less he appreciated it and its work. Among his reasons for leaving he cites "the clandestine attitude, the amorality of it all, the cold-war mentality—these kinds of things made me feel that the agency was really out of step with the times." And: "It's one of my strong beliefs that the CIA has to be more tightly overviewed by Congress. As it is now, the agency operates almost exclusively under the authority of the President." Thus the CIA is one of the factors in the subordination of the legislative branch to the executive. For that matter, once it is let loose on a project, the agency is subordinate to the executive itself only in a very loose sense. As everyone now knows, it is carrying on a war in Laos at a cost of roughly \$500 million a year, using tribesmen as mercenaries and running its own airlines, etc. In the Kansas City area it maintains an arsenal, with a "huge inventory" of weapons for its foreign operations; it has bases for training and other purposes elsewhere in the United States.

The Marchetti case assumes constitutional importance because Mr. Marchetti, when he joined the CIA, signed the usual agreement not to write or talk about the agency's activities even after he left it. Marchetti came to the attention of *The Nation* when he wrote a spy novel, *The Rope Dancer*, which had apparent reference to the CIA. Since this was in fictional form it does not appear to have agitated the CIA management; nor did *The Nation* article which, together with some interviews Marchetti gave to newspapers, was read by Admiral Taylor, who had some reservations about accuracy but concluded that there was nothing damaging in any of the material. But when Marchetti contracted with Alfred A. Knopf to write a non-fiction book about the CIA, the government got into action. Although Marchetti is willing to have the CIA review the book for classified material, the government went before U.S. District Judge Albert V. Bryan, Jr. in Alexandria, Va., and obtained a temporary restraining order prohibiting Marchetti from writing the book for Knopf—a book of which he has not yet set down a single line. The American Civil Liberties Union is trying to get the restraining order lifted.

The question raised by the action on behalf of the gov-

ernment is whether a U.S. citizen can agree to waive his freedom of conscience, of thought, of moral sentiment in the manner prescribed by the CIA. The case dramatizes the fact that the CIA is essentially an alien institution—alien to American custom, alien to the Constitution, and incompatible with both the forms and the spirit of democracy. In our view, Marchetti not only has the right but the moral obligation to write his book, just as it was his moral obligation to write the article commissioned by *The Nation*.

A ruling to that effect by the federal courts would not impose an unreasonable limitation on the proper and lawful activities of the CIA, or any other agency. It can set up rules, office policies, and normal administrative means of enforcement, but it cannot compel a former employee to waive his freedom to say or write what he sees fit, once his employment is terminated. If an agency of the government deems something that has been published to be in violation of law, it may proceed against the author and publisher, but pre-censorship is repugnant to American institutions.

6 May 1972

Spook Turns Writer

*But His Old Boss, the CIA, Goes to Court,
Says His New Book Would Spill Some Secrets*

By Michael T. Malloy

Ballplayers leave baseball and write books about what's wrong with it. Soldiers leave the Army and write books about what's wrong with that. Victor Marchetti quit his job and sent an outline of a book about his old business to a New York publisher.

"Then last Tuesday the roof fell in," he said between court appearances last week. "Marshal Dillon and Chester came to the door and presented me with some legal papers. Being just an ordinary guy with three kids living in suburbia, I didn't know where to go for advice. I called my agent and hollered, 'Help!'"

Marchetti's publishing problem is that he used to work for the Central Intelligence Agency (CIA). The legal papers constituted a court order requiring him to clear anything he writes about intelligence matters, even fiction, with his old employer. If the order holds up in further court tests, it could give the Government a new way to plug "leaks" of classified information. Looked at another way, however, it could give the Government a powerful new tool for suppressing informed debate of its military and foreign policies.

ACLU Answers Call

"It's no less important than the Pentagon Papers case," says Melvin Wulf, legal director of the American Civil Liberties Union (ACLU), which immediately responded to Marchetti's call for legal help. "If they establish this precedent," Marchetti contends, "it means no Government employe who had access to classified information will be able to criticize the actions of the Government."

The Government's action grows out of a manuscript that Marchetti submitted to Esquire magazine and a book outline he sent to Alfred A. Knopf, Inc., a publishing house. A CIA agent obtained copies of both, and the agency went to court contending the works contained classified information whose publication would do "irreparable damage" to national security.

To knowingly transmit such information to anyone else, including a publisher, would seem to leave Marchetti open to prosecution under laws that prescribe a 10-year prison sentence for violators. But the Government made a different case. It noted that Marchetti had signed a secrecy agreement while with the CIA, promising to not reveal any classified information without written permission from the agency.

From CIA: No Comment

The Government said this amounted to a legal contract. It contended that Marchetti violated the contract by sending his writings to a publisher. On this ground it obtained an injunction requiring him to clear his writings with the CIA 30 days before showing them to anyone else. If Marchetti violates the injunction, he can go to jail for contempt of court.

The Government's use of this circuitous route to head off a possible breach of security is unprecedented, lawyers say, with the possible exception of an obscure case during World War I. But it offers the Government a method to silence Marchetti without a difficult and time-consuming effort to prove that the information in his articles was damaging to national security. If the CIA's case holds up, it needs to prove only that he violated an agreement that he readily admits signing.

The CIA has a policy of taking its lumps in silence, so no spokesman was available to defend its position. But others familiar with the security laws said the laws paradoxically could require the agency to bring its secrets into open court in order to protect them, and that a prosecution could leave Marchetti free to write and speak for months on end as courts and juries made up their minds.

A Matter of Security

"Ex post facto action against unauthorized disclosure is always difficult," says retired Adm. Rufus L. Taylor, for whom Marchetti was executive assistant when Taylor was deputy director of the CIA. "You've always got to prove damage to the national security and sometimes even intent to damage national security."

To Marchetti and his ACLU lawyers, that is just the point. They say the breach-of-contract argument makes it possible for the Government to silence its critics without proving that they had endangered national security. They say the information in Marchetti's manuscripts did not present such a danger, and that the secrecy "contract" is legally unenforceable because it compels an employe to sign away his freedom of speech.

"A Government agency can still use classified information to support its policies and build its image," Marchetti argues. "When the military budget comes up, all this stuff about Russian missile capabilities comes out to support its position. The CIA and the Army do the same. But if somebody took the same informa-

tion to Jack Anderson to support the opposite position, they'd go to jail."

Marchetti didn't start out to be a crusader, and he still doesn't want to go to jail for the sake of civil liberties. He left the CIA after 14 years in 1969, at least partly because of the here-I-am-going-on-40-and-what-have-I-accomplished blues. He did believe the intelligence apparatus had become too big, too expensive, and too frozen in Cold War attitudes, but mostly, he says, he wanted to be a novelist.

Security vs. Image

He has since published one spy novel, *The Rope Dancer*; which he first showed to the CIA. ("Pretty trashy," says Admiral Taylor.) And he wrote one highly critical magazine article, which he didn't clear with the agency.

"In my opinion, this and other things Victor Marchetti says are damaging to the image of constituted authority, and it does no good to do things of this sort," Admiral Taylor says of the article. "But I personally perceived no outright security breach."

Marchetti suspects that the intelligence agency is more concerned about its image than any security breach in his new manuscripts, which Admiral Taylor hasn't seen.

"The CIA have been the golden boys of the Federal Government, the American James Bonds," Marchetti says. "Very few people have ever spoken out against them. This is a new experience for them and I guess they didn't like it."

"Look, I'm very reluctant to use the initials of the agency where I used to work," Marchetti frets, as he tries to describe his criticisms of the CIA without violating the court order.

Whipping the KGB

But in abstract terms, and trying to avoid any concrete examples that could put him in jail, he argues that the agency has succumbed to the mental inertia that afflicts any bureaucracy when it faces no outside pressure to change. "It's very hard for a bureaucracy to reform itself," he says.

Marchetti would like to see an intelligence system that was smaller, cheaper, more subject to congressional control, and less influenced by the military. He believes the CIA should stick to intelligence gathering and abandon political missions like those that helped overthrow governments in Iran and Guatemala, and involved the United States in a secret war in Laos.

"The CIA can take pride that they are the Soviet KGB's tail in many places" with cloak-and-dagger operations.

28 APRIL 1972

Delay Granted In Case Of Ex-CIA Agent

A hearing on a federal injunction placed on writings and lectures of a former CIA agent, who has been critical of the CIA, was postponed yesterday in Alexandria until May 15 by U.S. District Court Judge Albert V. Bryan Jr.

The postponement was made at the request of American Civil Liberties attorney Melvin Wulf, who is handling the defense. Wulf argued he had not had enough time to prepare his case because of security clearances required by the CIA on all witnesses.

The defendant, Victor L. Marchetti, quit the CIA in 1969 after 15 years service. He was charged earlier this month in a CIA affidavit with preparing a book and other writings which might endanger U.S. security.

In response to the CIA affidavit, Judge Bryan imposed a temporary restraining order on Marchetti April 18. The order prohibits Marchetti from distributing writings or giving lectures concerning the CIA.

In granting the continuance yesterday Judge Bryan also denied a motion from Wulf to amend the restraining order to exclude a novel and other fictional writings by Marchetti.

Bryan denied the motion on the grounds that the fictional writings are based on Marchetti's experiences in the CIA and that his decision on the matter

would be made following the May 15 hearing.

Marchetti admitted after yesterday's hearing that his novel, tentatively titled "The Rat in the Cellar," is based on his experiences in the CIA. He discounted, however, the contention that the book would pose a security risk. "How can you write a spy novel without dealing with the subject of intelligence," said Marchetti. "If this (Bryan's action) is right, then Ian Flemming (the author of the James Bond series) and all other spy novelists who had served in intelligence shouldn't have been able to write."

Wulf has argued that the case is "strikingly similar" to the Pentagon Papers case in that prior restraint has been placed on Marchetti. Such restraint, he claimed, is a violation of first amendment rights.

Justice Department attorney Irwin Goldbloom has countered that any writings by Marchetti, based on his experiences in the CIA, violate a lifetime secrecy oath required of all CIA employees. Goldbloom argued yesterday that Marchetti should be allowed to continue to write and publish only if the manuscripts or drafts are first approved by the CIA.

CIA to Show Its Case on Marchetti

By NED SCHARFF
Star Staff Writer

The Central Intelligence Agency has agreed to reveal its case against former agent and would-be author Victor L. Marchetti to lawyers working in his defense.

The CIA gave in to demands by American Civil Liberties Union attorneys yesterday with a three-judge panel of the U.S. 4th Circuit Court of Appeals in Alexandria was hearing the case.

The jurists, however, refused to invalidate a temporary restraining order placed on Marchetti on April 17, which prohibited him from talking to news media or publishers about government secrets.

Marchetti, 42, of Vienna, Va., resigned from the CIA in 1969 after working there for 14 years.

The government obtained the injunction against him because of an article he proposed to write about the workings of the agency for Esquire Magazine.

Marchetti also had contracted with publishers Alfred A. Knopf, Inc. to write a book-length analysis of the CIA.

In seeking the injunction however, the CIA had argued before U.S. District Court Judge Albert V. Bryan Jr. that the information it used in its case against Marchetti was so dangerous to government security that even Marchetti's attorneys should not be allowed to read the affidavit.

The three-judge panel, which included Clement L. Haynesworth of Greenville, S. C., J. Braxton Craven Jr. of Asheville, N.C. and Harrison B. Winter of Baltimore, enjoined the CIA from interfering with any potential witnesses in the case who have not already been called.

In all cases, the judges said, the CIA should attempt to grant security clearance to witnesses in the case so that they may examine the government's case against Marchetti in preparing their testimony.

STATINTL

▷ JUSTICE DEPARTMENT MOVES AGAINST BOOK BY EX-CIA MAN

Acting at the behest of the Justice Department, a Federal judge last week issued a temporary restraining order to prevent the publication of a book or articles by Victor L. Marchetti, a former agent of the Central Intelligence Agency and author of the novel "The Rope Dancer" (Grosset & Dunlap) published last fall. Marchetti, who resigned in 1969 after 14 years with the CIA, said he has a contract with Alfred A. Knopf to write a nonfiction book about the agency and that it is this book--which he has not yet begun to write--which is the target of the government injunction. "This is the first time to my knowledge that the government has tried to take action against a book that hasn't even been written," Marchetti told PW. "This is a perfect example of the paranoid, clandestine mentality that sees bad guys under every desk." In its complaint, the government declared that "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 CIA, he is required to sign a "secrecy agreement" asserting he will never divulge classified information, even after he leaves the agency.) Melvin L. Wulf, legal director of the American Civil Liberties Union, which is representing Marchetti, told PW that "This is an extraordinary act by the government. It's the 'Pentagon Papers' all over again. The government has fallen into the dangerous habit of using injunctions to invade the freedom of the press." Ernest Tidyman, who has just won an Oscar for his screenplay, "The French Connection," has purchased an option to make "The Rope Dancer" into a movie. Its plot concerns a disenchanting agent who falls out with his agency because he feels it is out of step with the times.

▷ CROWELL COLLIER TO PUBLISH SOVIET ENCYCLOPEDIA

"The Great Soviet Encyclopedia," a 30-volume reference work of Soviet scholarship, will be published and marketed in the West by Crowell Collier & Macmillan. Details of the multi-million dollar deal were made public jointly last week by CCM and the Soviet Embassy in Washington. Raymond C. Hagel, chairman of CCM, said the first five volumes of the English edition are scheduled to appear in 1974, with the balance published serially until completion in 1979. The English edition, copyrighted by CCM, will cost somewhere between \$500 and \$1,000 per set, the usual price for scholarly encyclopedias. The current edition, the third, replaces the heavily doctrinaire second edition, printed during and immediately after Stalin's lifetime. The first edition, which came out in the 1920s, contained so much propaganda that it is believed to have provided George Orwell with some of the inspiration for "1984," in which the hero, Winston Smith, who works for the Ministry of Truth, must rewrite history daily in order to conform with the constantly shifting party line. Spokesman for the Soviets in the deal was Vladimir S. Alkhimov, vice minister of foreign trade, who said, "I sincerely hope that the publication of the English version of 'The Great Soviet Encyclopedia' will help many readers in the United States and other countries to gain a better understanding of the life of the Soviet peoples and our viewpoints on major internal and international events." The elaborate announcement ceremonies at the Washington Hilton Hotel were briefly disrupted by a young woman who said her sister is now in a Soviet prison for "possession of Hebrew books." She later told reporters her protest was part of a continuing campaign against the mistreatment of Soviet Jewry by the Union of Councils for Soviet Jews.

CINCINNATI, OHIO
ENQUIRER

M - 189,425
S - 302,445

APR 22 1972

Publisher Digs In To Defend Book

(c) Chicago Sun-Times
WASHINGTON — A major New York publishing combine indicated it will resist the government's efforts to suppress a book by a former high-ranking official of the Central Intelligence Agency.

Random House Inc. and its subsidiary, Alfred A. Knopf, Inc., said they are considering a legal defense for Victor L. Marchetti even though no action has been taken against them.

"We are seriously concerned," they declared in a statement, "that the government may be misusing its secrecy agreements with employees and former employees to inhibit legitimate analysis and criticism of government operations and government policies."

The Justice Department has obtained a temporary restraining order against Marchetti and is seeking to compel him to submit all of his writings to the CIA for security censorship prior to their publication.

The government's com-

plaint asserts that Marchetti signed several secrecy agreements during his service with the CIA from 1955 to 1969 and, therefore, the agency has the right to purge his writings of whatever it decides to be a national secret.

MARCHETTI HAS offered to submit his proposed book to the CIA but only for its suggestions. He insists he has no classified documents in his possession and has no intention of disclosing genuine secrets.

Adm. Rufus Taylor, former deputy director of the CIA, has declared that to the best of his knowledge Marchetti, his former executive assistant, has never revealed intelligence secrets. He said Marchetti's public statements and writings so far have been "inaccurate but not damaging."

A federal district court hearing is scheduled for April 28 but the American Civil Liberties Union plans to file a motion demanding that the restraints on

Marchetti be immediately dropped.

Random House and Knopf, which has a \$40,000 book contract with Marchetti, have not been served with any government papers since they have not yet received a word from him. But they seem to be moving toward legal intervention anyway, apparently because of a general feeling that the government and the CIA are mounting new pressures on the publishing world.

The Justice Department's suit carried an affidavit from a CIA agent in New York suggesting he may have a network of informants inside the publishing houses.

Publishing officials also reported that CIA officials regularly intervene with them to read and change manuscripts. CIA director Richard M. Helms was said to have recently contacted Random House personally in connection with its plans to publish a book by columnist Jack Anderson.

Judge Won't Lift Ban on CIA Articles

By Paul G. Edwards
Washington Post Staff Writer

U.S. District Judge Albert V. Bryan Jr. ruled tentatively yesterday in Alexandria that Victor L. Marchetti, former agent for the Central Intelligence Agency, signed away his constitutional right to write and talk about CIA activities and policies.

Bryan refused to dissolve a temporary restraining order that he imposed on Marchetti Tuesday. He also denied Marchetti's lawyers access to a CIA affidavit that explains why the agency believes Marchetti's past writings and public statements have violated national security.

Both rulings were appealed immediately. A hearing on the appeal is scheduled for 10:30 a.m. today in Baltimore before Judge Harrison Winter of the

U.S. Fourth Circuit Court of Appeals.

Whether or not the appeal succeeds, a hearing will be held before Bryan next Friday on the government's motion for a preliminary injunction that would bar Marchetti indefinitely from writing books and articles or making statements about the CIA that do not have the agency's approval.

The key issue in the case is the secrecy pact that all CIA agents sign. In making his ruling from the bench, Bryan said, "My opinion tentatively is that this is not a First Amendment case. I am not convinced that there is not a difference between the government as an employer and the government as sovereign. It is my opinion that this is a traditional employer-employee case."

He added that it appears on the face of the government allegations that Marchetti may have violated his agreement with the CIA.

Since he left the CIA in 1969 after 14 years as an agent and administrator, Marchetti has written a spy novel, "The Rope Dancer," and had an article critical of the CIA published in The Nation magazine.

Melvin L. Wulf, legal director of the American Civil Liberties Union and one of Marchetti's lawyers, said during yesterday's hearing that Marchetti is working on a book about the CIA to be published in 1973 by Alfred A. Knopf, a subsidiary of Random House.

Wulf also said that the former CIA official did some work on an article for Esquire

magazine, but has withdrawn from that project.

In a joint statement issued in New York, Robert L. Bernstein, president of Random House, and William A. Koshland, president of Knopf, said, "We are considering appropriate ways of assuring that the underlying First Amendment issues are properly raised in this litigation."

Wulf and ACLU general counsel Norman Dorsen argued that a secrecy pact that Marchetti signed when he went to work for the CIA in 1955 cannot be used to abridge his First Amendment right of free speech and press.

Wulf said Marchetti's case is "precisely like" last year's Pentagon papers case in which the government tried unsuccessfully to stop The New York Times and The Wash-

ington Post from printing classified Defense Department accounts of the origins of the Vietnam war.

Justice Department attorney Irwin Goldbloom argued that "this is not a First Amendment case" and that the "New York Times case has no application here."

"There was no allegation in that case," he said, "that there was an agreement between the government and The Times and Post" preventing the newspapers from publishing the information.

Wulf argued that Bryan's refusal to let Marchetti's lawyers see the secret CIA affidavit charging security violations by the former agent "emasculates our ability to prepare a defense." Bryan, however, refused him access to the document.

STATINTL

Publishers gird for court action on CIA interference

By Thomas B. Ross

Sun-Times Bureau

WASHINGTON — A major New York publishing combine indicated Thursday it will resist the government's efforts to suppress a book by a former high-ranking official of the Central Intelligence Agency.

Random House Inc. and its subsidiary, Alfred A. Knopf Inc., said they are considering a legal defense for Victor L. Marchetti even though no action has been taken against them.

"We are seriously concerned," they declared in a statement, "that the government may be misusing its secrecy agreements with employees and former employees to inhibit legitimate analysis and criticism of government operations and government policies."

The Justice Department has obtained a temporary restraining order against Marchetti and is seeking to compel him to submit all of his writings to the CIA for security censorship before publication.

Agreements cited

The government's complaint asserts that Marchetti signed several secrecy agreements during his service with the CIA from 1955 to 1969 and, therefore, the agency has the right to purge his writings of whatever it decides to be a national secret.

Marchetti has offered to submit his proposed book to the CIA but only for its suggestions. He insists he has no classified documents in his possession and has no intention of disclosing genuine secrets.

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deputy director of the CIA, has declared that to the best of his knowledge Marchetti, his former executive assistant, has never revealed intelligence secrets. He said Marchetti's public statements and writings so far have been "inaccurate but not damaging."

ACLU plans to act

A U.S. District Court hearing is scheduled for April 28 but the American Civil Liberties Union plans to file a motion Friday demanding that the restraints on Marchetti be immediately dropped.

Random House and Knopf, which has a \$40,000 book contract with Marchetti, have not been served with any government papers since they have not yet received a word from him. But they seem to be mov-

ing toward legal intervention anyway, apparently because of a general feeling that the government and the CIA are mounting pressures on the publishing world.

The Justice Department's suit carried an affidavit from a CIA agent in New York suggesting he may have a network of informants inside the publishing houses.

Regular intervention

Publishing officials also reported that CIA officials regularly intervene with them to read and change manuscripts. CIA director Richard M. Helms was said to have recently contacted Random House personally in connection with its plans to publish a book by columnist Jack Anderson.

The statement by Random

House and Knopf said the restraining order against Marchetti "raises the fundamental conflict between the government's interest in preserving secrecy and the constitutional guarantees of freedom of speech and freedom of the press. This should become a landmark case."

STATINTL

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BALTIMORE, MD.
NEWS AMERICANE - 200,782
S - 291,342

APR 20 1972

U. S. Attempts to Muzzle Writer Who Was CIA Man

By PAT SLOYAN
News American
Washington Bureau

WASHINGTON — The Nixon administration is attempting to silence a former Central Intelligence Agency employe who wants to publish an article the agency contends will cause "grave and irreparable harm" to the United States.

Named by the Justice Department in a civil suit to block publication of "Twilight of the Spooks" was Victor L. Marchetti who resigned in 1969 as special assistant to the No. 2 man at the CIA.

However, a spokesman for Marchetti denied there were any violations of security involved in the Marchetti article.

David Obft, Marchetti's literary agent, called the administration action "ridiculous."

"WE PLAN TO fight this," Obft said. "Marchetti is no hippie trying to reveal secrets. He is just making some legitimate criticisms based on some 14 years experience at the CIA. We think the administration is trying to silence this criticism."

At the same time Obft said the article in question had been withdrawn from Esquire magazine. Obft said Marchetti has decided to write a book which

will be published next year by Knopf Publishers.

The Marchetti article, according to the Justice Department, was scheduled for publication in a national magazine. The CIA in a Justice Department suit said it had intercepted the article along with an outline for a Marchetti book from an unidentified person who had handed it over to a CIA agent in New York.

IN A DEPOSITION filed with the suit, CIA Director Richard Helms argued that the Marchetti article would be a breach of national security.

"Disclosure of this information will compromise currently active intelligence sources and intelligence gathering operations, will 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," Helms said.

Marchetti has been interviewed by a number of newsmen, the Justice Department suit said. The suit listed more than 30 separate occasions in which Marchetti was quoted both in U. S. and foreign press accounts.

LAST YEAR a fictional account of CIA operations was written and published by

Marchetti. According to Obft, the fictional account, a novel called "The Rope Dancers," was published after it was cleared by the CIA.

One administration official said Marchetti's revelations could have substantially more impact on the national security than the Pentagon Papers, the classified history of the Vietnam war published last year by the New York Times.

In another deposition filed with the suit, Howard J. Osborn, director of security for the CIA, contended Marchetti has violated his agreement of secrecy with the CIA in earlier news interviews and articles.

"I HAVE DETERMINED that information contained in those public statements constituted the disclosure of information covered by terms of the secrecy agreements entered into by Marchetti on Oct. 9, 1955," the date Marchetti joined the CIA, Osborn said.

The suit also seeks to force Marchetti to turn over all documents he may have in his possession that may relate to CIA operations.

But Obft said the only CIA documents Marchetti had were a page from a CIA telephone directory and a letter to the Marchetti children from Helms.

CHICAGO, ILL.
SUN-TIMES

M - 536,108
S - 709,123

APR 20 1972

Top 1st Amendment lawyers enter

By Thomas B. Ross

Sun-Times Bureau

WASHINGTON — The government's efforts to silence a former high-ranking official of the Central Intelligence Agency took on the dimensions of a major constitutional test Wednesday when two of the nation's leading First Amendment lawyers entered the case.

Norman Dorsen, law professor at New York University and general counsel of the American Civil Liberties Union, disclosed that he has

agreed to defend Victor L. Marchetti, onetime executive assistant to the deputy director of the CIA.

At the same time, it was learned that Floyd Abrams, one of the New York Times' lawyers in the Pentagon papers case, has been retained by Alfred A. Knopf Inc., the New York publishing house that has a \$40,000 contract to publish a book by Marchetti on the CIA.

Dorsen was also involved in the Times' defense as a friend of the court for the ACLU.

The Justice Department got a temporary restraining order against Marchetti Tuesday from U.S. District Court Judge Albert V. Bryan Jr. of Alexandria, Va.

Hearing set April 28

Bryan has set a closed-door hearing April 28 to determine whether Marchetti will be permanently prevented from writing or talking about intelligence activities.

Dorsen is understood to be weighing a prior motion that Bryan throw out the government's suit on the ground that it violates the freedom of speech guaranteed by the

Amendment as upheld by the Supreme Court in the Times case.

CIA director Richard M. Helms supported the government suit with an affidavit asserting that Marchetti's proposed book and an unpublished magazine article, "Twilight of the Spooks," would compromise "currently classified intelligence (and) cause grave and irreparable harm to the national defense."

The suit demands that Marchetti turn over all classified documents he took with him on leaving the CIA in 1969. He is expected to respond that the only documents in his possession — all unclassified — are a page from the CIA phone book with his former listing, a friendly letter from Helms to Marchetti's children, and a letter of commendation from his former boss, Vice Adm. Rufus Taylor, retired deputy director of the CIA.

Secrecy pact violated?

The government contends that Marchetti's decision to

publish and his numerous interviews with the press violate a secrecy agreement he signed promising not to "divulge, publish or reveal . . . classified information."

His defense is expected to be that he has not and does not intend to disclose any secrets but merely give the American people a legitimate inside look at the general way in which the CIA acts in their name.

The outline of his book, which the CIA obtained from a "confidential source" and submitted to Judge Bryan for his private perusal, reportedly indicates that Marchetti intends

to challenge the "secret charter" under which the CIA conducts major clandestine operations as not in keeping with the spirit of the 1947 law which created the CIA.

The action against Marchetti represents the first time the government has moved to silence a former government official who had access to classified information.

Former U-2 pilot Francis Gary Powers was not challenged when he published a book that was mildly critical of the agency.

Similarly, several high-ranking officials, including at least three Presidents, have drawn on top secret information for their books without any legal action against them.

CIA case



DAYTON, OHIO
NEWS

APR 20 1972

E - 161,249

S - 215,360

Open Secret

Free speech is not much of a defense for Victor Marchetti who worked for the Central Intelligence Agency and now wants to write about what is going on in the spook business.

Mr. Marchetti has been barred from publishing a magazine article and proposed book on the CIA. The Justice department won a temporary order against publication before the U.S. district court in Virginia.

While a democracy ought to be as open as possible, Mr. Marchetti did sign an agreement not to disclose security information when he joined the CIA. If everyone who joined the CIA were not bound to such confidence, security could be seriously jeopardized. Government trust ought not be peddled on the publishing market.

20 APR 1972

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STATINTL

Has Not Revealed Any Secrets

By DAVID E. ROSENBAUM
Special to The New York Times

WASHINGTON, April 19 — Adm. Rufus L. Taylor, the former Deputy Director of Central Intelligence, said today that as far as he knew, his former executive assistant, Victor L. Marchetti, had never revealed intelligence secrets.

A Federal judge issued a temporary restraining order yesterday to prevent Mr. Marchetti from publishing a book or articles about the agency. The judge acted at the request of the Justice Department.

Admiral Taylor, who is now retired and living in Frogmore, S.C., said in a telephone interview that he had read an article by Mr. Marchetti in the April 3 issue of The Nation magazine and had read accounts of several interviews with Mr. Marchetti.

Mr. Marchetti's statements in the article and in the interviews were "inaccurate but not damaging," Admiral Taylor said.

Only Known Case

Experts in an out of the Government said today that they knew of no other instance in which the Government had filed suit to keep one of its former employees from speaking or writing.

One specialist in intelligence affairs said, however, that he believed Mr. Marchetti was the first person ever to leave the Central Intelligence Agency and then publicly criticize the agency's activities.

Mr. Marchetti, now 42 years old, left the agency in 1969 after 14 years. His highest position was as executive assistant to Admiral Taylor, who was deputy director from 1966 to 1969.

Except for the article in The Nation, Mr. Marchetti's only published work is a novel, "The Rope Dancer," which came out last fall. In the novel, fictitious agents distort facts to fit the whims of the President of the United States and plot to overthrow a South American government.

Mr. Marchetti has a contract with Alfred A. Knopf, Inc., to write a nonfiction book about the agency. In an interview, Mr. Marchetti said the book would be "a balanced attempt to try to explain how the agency works."

He said that he had not begun to write the book and that he had agreed to submit his manuscript to the C.I.A. for scrutiny before it was published.

Mr. Marchetti recently wrote an article for Esquire magazine, but the article was withdrawn and never published. Mr. Marchetti's literary representative, David Obst, said he had with-

drawn the article because he wanted to save Mr. Marchetti's material for the forthcoming book. An Esquire editor said the manuscript had been rejected for literary reasons.

Both the Esquire manuscript and a proposed outline for the book were sent to several major publishers in an attempt to sell the book, Mr. Obst said.

The Government included sealed copies of the manuscript and the outline with its complaint. The manuscript, the Government said, would "result in grave and irreparable damage to the national defense interests of the United States and the conduct of foreign relations."

There is a "substantial likelihood" that the book would "divulge currently classified information," the complaint continued.

Hearing Set April 28

The restraining order was issued by Judge Albert V. Bryan Jr. of the Federal District Court for the Eastern District of Virginia. He set a hearing for April 28, after which he will decide whether to issue an order permanently restraining Mr. Marchetti from publishing works about the agency.

Justice Department lawyers were said to be basing their case on the contention that by publishing works about the agency, Mr. Marchetti would breach a contract, namely the "secrecy agreements" he signed upon joining and leaving the agency.

In these agreements, Mr. Marchetti promised not to reveal intelligence information without the permission of the agency.

Lawyers for the American Civil Liberties Union, who are representing Mr. Marchetti, contend that to prevent Mr. Marchetti from publishing a work before it is written would be prior restraint in violation of the First Amendment.

They are relying heavily on the Pentagon papers case, in which the Supreme Court declared last summer that any attempt by the Government to block articles prior to publication bears "a heavy burden of presumption against its constitutionality."

Admiral Taylor said today that he came to Washington a few weeks ago and told Mr. Marchetti at lunch that "I hoped he would be careful about what he wrote and would submit everything to the agency before it was published."

Mr. Marchetti had promised to do so and that he was satisfied with the promise.

CIA Says It Won't Prosecute Ex-Agent for Revealing Secrets

By Jim Mann

Washington Post Staff Writer

A spokesman for the Central Intelligence Agency yesterday ruled out the possibility that the CIA will seek a criminal prosecution of former agent Victor L. Marchetti for allegedly disclosing agency secrets.

"We're not going to do anything like that, for heaven's sake," the CIA spokesman said. "All we want is for this guy to shut up. It's a one-time thing, I think."

On Tuesday, the Justice Department, acting on behalf of the CIA, obtained a temporary court order preventing Marchetti from writing about CIA activities, as he had planned under a contract with the publishing house of Alfred A. Knopf.

Yesterday, there were the following other developments:

- Marchetti struck back at the CIA, contending that its efforts to keep him from writing his book reflect "a paranoid, clandestine mentality, more than I ever thought." He retired from the CIA in 1969.

- A spokesman for the American Civil Liberties Union, which has agreed to represent Marchetti, termed the impending court battle over Marchetti's book more important than the battle over the Pentagon Papers on the Vietnam war last June.

- A spokesman for Knopf said that the publishing house has not yet decided whether it, too, will enter the court battle. Yesterday afternoon, lawyers for Knopf were said to be studying the order issued by U.S. District Court Judge Albert V. Bryan Jr. in Alexandria.

Issues Denial

Bryan's order also requires Marchetti to show the CIA anything he writes about the

subject of intelligence, even if it is fictional, within 30 days before its release, and orders Marchetti to return to the CIA any documents he might have taken when he quit the agency.

In an interview yesterday, Marchetti denied that he had ever taken any documents from the CIA:

"I don't have any documents to return . . . I'm not a (Daniel) Ellsberg. I did not walk out with a boxload of stuff. That's not my bag."

Marchetti said that the book he plans is not yet written. He has just finished his reading and research for it, he said. He envisions the book as "at times apologetic, at times critical" of the CIA.

The former agent has already written a novel about the CIA called "The Rope Dancer." He said yesterday that he submitted a copy of the novel to the CIA in advance. The agency had no official comment, he said.

The grounds on which the Justice Department obtained the court order is that Marchetti, when hired by the CIA

in 1955, signed a "secret agreement" preventing him from disclosing information about agency activities without clearance from the director of the CIA.

Effect of Publicity

Marchetti, who now supports himself with the money he earns from writing about the CIA and intelligence, said he hopes the new publicity will help his novel. "It's still dribbling along (in sales) . . . I'm hoping some good will come out of this."

Ralph Temple, executive director of the ACLU's Washington office, said he feels Marchetti's case overshadows the battle over the Pentagon Papers because "There you were talking about publishing government documents (about the Vietnam war) Here they're stopping a guy from writing something."

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Headquarters

EMPLOYEE BULLETIN

306

19 April 1972

CIVIL LITIGATION INVOLVING VICTOR L. MARCHETTI

1. On 19 April 1972, newspapers printed the first accounts of court action against Victor L. Marchetti, a former Agency employee. This Employee Bulletin is to state the Agency's position in this matter. The facts are in public documents filed with the court, but employees are cautioned not to comment on the merits of the case while it is still under court consideration.

2. Victor Marchetti was an Agency employee from October 1955 to September 1969. He served in a number of different capacities, all of which gave him access to sensitive information. His next to last assignment was as Executive Assistant to Vice Admiral Rufus L. Taylor, then Deputy Director of Central Intelligence. In this assignment he had access to especially sensitive information pertaining to all aspects of the Agency's activities.

3. Mr. Marchetti's entry on duty followed normal procedures, including the signing of a Secrecy Agreement. During his employment he signed additional Secrecy Agreements pertaining to special categories of information. Upon resignation he signed the regular secrecy oath form. These undertakings are conditions of employment and, therefore, integral parts of his contract of employment. He undertook never to disclose classified information, intelligence, or knowledge except in the performance of his official duties and when specifically authorized in writing in each instance by the Director of Central Intelligence or his designated representatives.

4. After his resignation in 1969, Mr. Marchetti wrote a book called The Rope Dancer, which was published in the fall of 1971. This book is not at issue in the present proceeding, as it did not specifically disclose classified information. However, in connection with the publicity attendant on publication of the book, Mr. Marchetti had numerous TV and radio interviews. While these interviews were ostensibly to discuss and promote the book, more and more they included discussions of the Agency, its functions, and its role in Government, about which Mr. Marchetti was increasingly critical. Such criticism in itself is not at issue in the present action, except in instances where it was supported by Mr. Marchetti's discussion of specific items which were classified. Instances of this sort, while of concern, were not considered sufficiently important to warrant recourse to the courts, but they did evidence an intent to make ever freer revelations.

Court bars articles by ex-CIA man

STATINTL

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.

M - 536,108
S - 709,123

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.

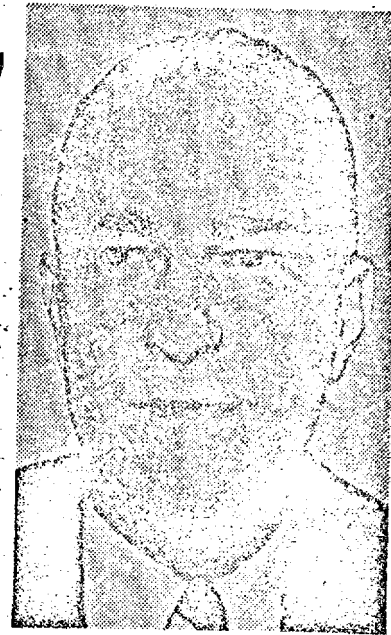
The Justice Department's suit against Marchetti charges that he was about to violate a secrecy agreement binding him not to "divulge, publish or reveal either by word, conduct, or by any other means, any classified information."

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 first assignment 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"

STATINTL

continued

Approved For Release 2001/03/04 : CIA-RDP

GARDEN CITY, N.Y.
NEWSDAY

E - 427,270

APR 19 1972

Book About CIA Stopped

The Justice Department obtained a temporary restraining order yesterday to prevent a former employe 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 employes 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 that Marchetti had sold to a national magazine and a book manuscript by him allegedly discussing CIA activities in detail were cited in the suit as evidence that he did not plan to honor the agreement. The department refused to name the magazine, the book, or the publishers considering them. The editor of Esquire magazine said that his magazine had considered using the article but rejected it for literary reasons several weeks ago.

Robert V. Lohmann, employed by the CIA in New York City, but otherwise unidentified, said in an affidavit that the copy of Marchetti's article was entitled "Twilight of the Spooks" and the outline for his book was entitled "A Concept for a Book About the Central Intelligence Agency." Lohmann said the material came to him from a confidential source.

Marchetti worked for the CIA from 1955 to 1969.

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.

Aide 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 Tidymen, 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.

STATINTL

STATINTL

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.

STATINTL

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19 APR 1972

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 government 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 journalistic scene, a department source snapped:

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

STATINTL

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.

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Judge Halts Ex-CIA Official's Disclosures

A federal judge, acting at the Justice Department's request, has ordered a former Central Intelligence Agency official to stop talking to news media and publishers about government secrets.

The order issued yesterday by U.S. District Judge Albert V. Bryan Jr. of Alexandria is aimed at Victor L. Marchetti, 42, of Vienna, Va., who resigned from the CIA in August, 1969.

Bryan's order will last for ten days, and at the end of that period — on April 28 — the judge will hold a hearing to determine whether to keep the order in effect.

The Justice Department identified Marchetti as a staff member of the CIA from 1955 through 1969. During his employment, the department said, he served for a time as executive assistant to Vice Admiral Rufus Taylor, who was then CIA's deputy director.

After leaving the CIA Marchetti wrote "The Rope Dancer" which was published last year by Grosset & Dunlap of New York and he also has an article in the April issue of the *Nationalist* magazine entitled "CIA — The President's Loyal Tool."

In a complaint yesterday, the Justice Department said that Marchetti has been talking repeatedly to news media representatives and disclosing to them secrets about U.S. intelligence operations.

The government filed with the judge and has asked him to keep secret copies of a magazine article which, the complaint said, has been sold for publication, and a typewritten copy of a proposal for a full-length book dealing with CIA operations.

Marchetti said last night that he had a contract with Alfred A. Knopf, Inc., to write a nonfiction book about the

agency but that he had not begun to write it.

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.

"I don't know what they're getting so excited about," Marchetti said. "I'm kind of confused as to why they're going to these lengths."

The article, the complaint said, was prepared by Marchetti under the title, "Twilight of the Spooks." Justice Department spokesmen would not confirm a report that the magazine involved is *Esquire*.

In New York, however, an *Esquire* editor, Donald Erickson, said *Esquire* had considered Marchetti's article but decided several weeks ago, with the amicable concurrence of the author, not to publish it, the Associated Press reported.

Erickson said the rejection was made for literary reasons and not in fear that the government might move to stop its publication.

David Obst, Marchetti's literary representative, told the *New York Times* he had withdrawn the article from *Esquire* because he did not want the information to be published before Marchetti's proposed book was written.

CIA Director Richard Helms, in a document filed with the court, said that both of these items contain intelligence data that, if disclosed, would "compromise" current spying operations, cause "grave and irreparable harm" to defense interests, and "seriously disrupt" U.S. foreign relations.

The government challenge to Marchetti potentially raises a new dispute, like that involving last year's newspaper publication of the Pentagon Papers, over published revelations of U.S. secrets.

While Bryan's order does not specifically forbid any magazine or publisher by name to disclose material from Marchetti, the order is aimed at "persons in active concert or participation with" Marchetti in disclosure of U.S. secrets.

Besides banning further disclosures temporarily, the court order requires Marchetti to submit to the CIA 30 days in advance any article — including fiction — dealing with CIA operations.

In addition, Marchetti is ordered to return any CIA documents he has, and any notes or memos he has written about them.

The government's challenge to Marchetti is based primarily on a claim that he has violated a contract he signed when he became a CIA employe pledging not to disclose or reveal any secret data unless he was given permission by the CIA director to do so.

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19 APR 1972

STATINTL
Approved For Release 2001/03/04 : CIA-RDP80-01601R000200120001-910-DAY-COURT ORDER

Ex-CIA Official's Disclosures Halted

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"The Rope Dancer"

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Critical, Revealing

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Literary Reasons

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David Obst, Marchetti's literary representative, told the *New York Times* he had withdrawn the article from *Esquire* because he did not want the information to be pub-

lished before Marchetti's proposed book was written.

Obst said that he did not know how the government obtained a copy of the *Esquire* article but said that he had sent it to several major book publishers in an attempt to sell Marchetti's proposed book.

CIA Director Richard Helms, in a document filed with the court, said that both of these items contain intelligence data that, if disclosed, would "compromise" current spying operations, cause "grave and irreparable harm" to defense interests, and "seriously disrupt" U.S. foreign relations.

Legal Dispute

The government challenge to Marchetti potentially raises a new dispute, like that involving last year's newspaper publication of the Pentagon Papers, over published revelations of U.S. secrets.

Ralph J. Temple, legal director of the Washington office of the American Civil Liberties Union said that the ACLU would represent Marchetti, according to the *New York Times*.

Temple said that yesterday'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 publication of an original work.

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name to disclose material from Marchetti, the order is aimed at "persons in active concert or participation with" Marchetti in disclosure of U.S. secrets.

Besides banning further disclosures temporarily, the court order requires Marchetti to submit to the CIA 30 days in advance any article — including fiction — dealing with CIA operations.

Return Documents

In addition, Marchetti is ordered to return any CIA documents he has, and any notes or memos he has written about them.

Should Bryan's order have the effect of interfering with a magazine's plan to publish Marchetti's article, this could lead to a major court test over freedom of the press.

Last year, in a 6-3 decision in the Pentagon Papers case, the Supreme Court ruled that the government could not prevent newspaper disclosures of those secret papers.

The government's challenge to Marchetti is based primarily on a claim that he has violated a contract he signed when he became a CIA employe pledging not to disclose or reveal any secret data unless he was given permission by the CIA director to do so.

CIA director Helms told Bryan in a document yesterday that Marchetti has been given no permission to disclose any secrets.

Among the materials filed with the judge yesterday was a list of 35 instances in which the government said Marchetti had been interviewed or quoted by news media, here or abroad.

STATINTL

The Contract of Secrecy STATINTL

O. G. Raymond Babineau, MD, Rochester, NY

Consultative experiences with military and civilian intelligence agencies which require stringent secrecy as part of their operations and some personnel problems of these units are described, especially the influence of fantasy on recruitment and the discrepancy between these fantasies and the subsequent work realities. The role of the psychiatrist as consultant to these groups is discussed. A theme frequently noticed in these workers is the use of their contract of secrecy to erect boundaries in interpersonal relationships, and as a defense against scrutiny of their private lives or inner experiences.

ONE OF THE various ways in which a group may define membership is by the possession of information which is to be kept secret from those who are outside the group. The insider knows the secret lore, and the outsider does not. This may be seen in the college fraternity, which confers membership along with the secret lore, or, at another extreme, with membership in a highly classified military project. In such groups, the issue of loyalty revolves to a great extent around the maintenance of the contract of secrecy.

Since World War II, military and civilian intelligence agencies have proliferated.¹ Members are asked to live with a contract of secrecy for a tour of duty or for an entire career. Also increasingly, psychiatrists are being asked to make a professional judgment as to whether a person should be granted a security clearance and allowed access to informa-

tion considered secret. This paper aims at delineating some relevant psychological themes in such individuals and in such groups. It is based on my three years' experience as an army psychiatrist in West Berlin, involving consultative work with over 250 individuals, military and civilian, whose assignments were of a highly classified nature.

The Fantasy of the Work

Occupational skills required in intelligence agencies are quite diverse.

Today's average spy never sees the "enemy." A product of the Cold War and the technological age, he is a physicist, a chemist, an engineer, a professor of languages, a counterfeiter, an electronics expert, a communications technician, an airplane pilot, a soldier, a sailor, a cryptologist, a translator of Sanskrit. There are jobs in the intelligence community for farmers and chefs, fingerprint experts and cloth weavers, photographers and television directors, makeup artists and female impersonators.

It is a vocational problem to attract and prepare candidates for work they have never experienced. This is particularly true with secret work, where fantasy and wishes may be unmodified by realistic information until the person is actually on the job.

A Less Military Life.—At the time of recruiting or induction the prospective candidate for a military intelligence unit may be asked to obligate himself for an additional length of service, in return for which he will receive intensive technical or language training. Beyond this, recruiters often foster the expectation that being assigned to such a unit will be a way to circumvent unpleasant military tasks such as extensive field or combat duties, menial tasks such as KP, and some of the more rigorous aspects of military dress and discipline. Comments such as this are frequently heard: "The recruiter told me that after basic training I would be leading a civilian's life, but wearing

greens."

Such fantasies about the nature of the work undoubtedly are not solely promoted by recruiters, but also have to do with the conscious and unconscious wishes of the inductee for a less military life. In any case, the greater the discrepancy between the fantasy of what the work will be like and its actual nature, then the greater the potential for subsequent dissatisfaction and annoyance.

Dreams of Glory.—The fantasies motivating enlistment in intelligence units seem to come partly from spy and intrigue novels and movies, as well as occasional sensational news disclosures, such as the capture of the *Pueblo*; and the U-2 flights. When asked directly, the candid intelligence worker will often admit that although he may have had some rational doubts, *underneath* he had vague but active expectations of a life of intrigue, charged day-by-day with the tension of dealing with top secrets. The sexual and aggressive components of the fantasies include the wish to be like a James Bond, phallic-narcissistic in his prowess with women, freely aggressive with men, self-reliant, virile, important, and effective. A small number of intelligence agents are in fact asked—in the name of loyalty to their country—to perform acts in enemy territory which would ordinarily be considered criminal. Aggression and antisocial acting-out are sanctioned by the "mother" country.

The reality of routine intelligence work is usually something quite different. As in other situations—for example, jet pilots—where the layman's fantasy is of unfettered freedom to escape mortal (and sometimes moral) limitations, it turns out in practice that it is not so much phallic-narcissistic traits which are rewarded, but obsessional ones. Precision, patience with repetitious tasks, gratification with performance of relatively mechanical procedures, teamwork, are attri-

Accepted for publication May 5, 1971.
From the US Army Hospital, Berlin. Dr. Babineau is now at the Department of Psychiatry, University of Rochester School of Medicine and Dentistry, Rochester, NY.

A preliminary version of this paper was read before the USAREUR Psychiatry Training Conference, Landstuhl, Germany, Jan 21, 1969.

Reprint requests to Department of Psychiatry, University of Rochester, School of Medicine and Dentistry, 260 Crittenden Blvd, Rochester, NY 14620.

Listen, you think psychiatrists don't have problems? Sure, I make \$75,000 a year, but I have to listen to everybody's troubles all day. Then I go home and my wife tells me I should be doing group therapy and making three times as much, and my son says it's not right that I treat just one patient at a time, that I should be preventing mental illness by solving all the problems of the world.

YOU THINK
YOU NEED A
PSYCHIATRIST?

PSYCHIATRISTS IN WASHINGTON are having an identity crisis. Many who used to be very self-assured—not to say smug—about who they were and what they were doing are acting a bit defensive and anxious these days because, like paranoids who have some real enemies, Washington psychiatrists have some very real problems.

When they all get together, snug and secure within their own establishment, they're full of themselves and full of high spirits. Like right before Thanksgiving, at the fourteenth annual Frieda Fromm-Reichmann Memorial Lecture in the auditorium of the National Institutes of Health, when a large number of the Washington psychiatric community turned out to hear a speech delivered by Dr. Margaret Rioch, our psychiatrists' very own psychologist.

Before the lecture, there is a lot of seat hopping and row jumping as each psychiatrist silently announces his presence ("Look, I'm here now") and checks out the general attendance. Most of the doctors bring their wives and a few drag along their kids for show-and-tell ("See, ours came out all right after all, thank God"). One proud couple has their twenty-year-old daughter in tow along with her nice new graduate student boyfriend and they all spread themselves out across a row of seats, like churchgoing families in a pew greeting and nodding to everyone.

Despite all the intellectual hoopla attached to this highlight of the psychiatric season, the speech is a lightweight presentation that embarrasses the prestigious audience. "When we awake in the morning, we do not really ever know what will happen before we go to sleep that night," the white-haired Dr. Rioch intoned. "We do not even know what we ourselves will do." On and on she goes, sounding like a ninth-grade teacher exhorting her class to face life bravely. But it doesn't matter because the real action is in the audience, where everyone is eyeballing everyone else, except for the few totally uninhibited psychiatrists who have fallen asleep. It's like a Friday night service at a reform synagogue. The congregation is casually, but self-consciously, dressed, with the most common psychiatric tribal costume a semi-assertive sportcoat, dark slacks, and wide, self-expressive tie.

Actually the doctors' wives give off the strongest vibrations. Since most psychiatrists look alike, it's the women who make the important psychosociological distinctions. Many are in Peck and Peck dresses—yellow or green basic wools. Many have gold or silver cufflinks and expansion band wristwatches. Many have brought along tweedy-looking

sweaters or Mexican knit shawls to put around their shoulders during the lecture. The most aware husbands know enough to be attentive during these put-ons and take-offs; a gracefully anticipated and executed maneuver expresses the solidarity of the marriage.

Most of the ladies have short, well-coiffed hairdos which were washed and set about 4:30 this afternoon, but several of the come-on-strong wives have long hair coiled into a thick bun at the nape of the neck. The real ego-trippers use one of those small knitted snoods over the bun, which is tantamount to announcing that they have completed analysis. Mixed in with the twentieth-wedding-anniversary set are a few new wives with blond hair who clearly didn't meet their husbands while they were going through medical school. The mystique surrounding the recent wives seems from the possibility that they were patients of the psychiatrists they married, and even if they weren't, they act as if they had accomplished the ultimate fantasy of every female patient—snaring her shrink. The triumphant flair of the blonds seems to unnerve the stable couples seated nearby.

Psychoanalysts attending the lecture are king of the mountain and they emit a consciously democratic effusiveness. Products of the Freudian psychoanalytic training institutes, they are to the plain psychiatrists what the brain surgeon is to the general practitioner. They can wear their hair a little longer, cultivate a moustache or Van Dyke beard, and speak with pontifical authority about any issue dealing with man.

Among the two cents plain psychiatrists are proponents of two basic kinds of psychotherapy. One is the directive-organic type who is more medically or organically oriented. These psychiatrists, the D.O.'s, place a greater emphasis on the physical symptoms, consequences, and treatment of the patient's disability, and dispense some psychotherapy of a direct or directive nature. The D.O.'s frequently use physical treatments—ranging from tranquilizers to shock therapy, and they have shorter, less intense, and less frequent sessions with the patient, who is told how to think and behave. Most of these D.O. psychiatrists are mid-western Wasp types, committed to making the patient's hurt go away as fast as possible.

The other group of psychiatrists has an analytic orientation to therapy and uses a variety of theoretical methods which are variations on the Freudian model. In the fifty-minute hour, they embark upon long-term, intensive, insight-oriented ses-