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Widespread implications seen in prior restraint decision

In April 1972, the U.S. Government obtained a court order enjoining Victor Marchetti from disclosing any information about the CIA—factual, fictional or otherwise—without prior consent of that agency. Should Marchetti speak out, he faces instant imprisonment—without jury trial—for contempt of court.

In the January issue of *Harper's* magazine, Washington editor Taylor Branch discusses the background and the implications of the first case of legally sustained prior restraint on national security grounds in the history of American law. Marchetti resigned from the CIA in 1969 after fourteen years service. Together with co-author John Marks he wrote a 500-page expose of the CIA planned for publication by Alfred A. Knopf. CIA censors seized the manuscript from the publishing house in New York and deleted 339 points on national security grounds, reducing the text by more than one-fifth.

Marchetti estimates that approximately one fourth of the deleted material already appears on the public record—he himself, for example, had published a magazine article in which he reported that Rocky Mountain Air of Arizona is a CIA domestic front airline.

Dirty tricks projects

According to Branch in "The Censors of Bumbledom," Marchetti reveals in the book that in its twenty-six year history, "the CIA has been unable to penetrate the governments of the major Cold War opponents." Furthermore, he explains the inconsequential role of espionage: "In 1964 the agency learned that the American Embassy in Moscow had been bugged from top to bottom since 1952 . . . for twelve years the KGB had access to every secret message within the embassy, and to the cable exchanges with Washington, with little evident advantage." Marchetti and Marks assert that two-thirds of the agency's budget is devoted to dirty tricks projects and paramilitary operations—during its lifetime the agency has not anticipated one outbreak of war or armed confrontation.

The manuscript describes a number of the agency's secret projects, but one particularly ludicrous project was censored to protect security. Marchetti told Branch, "I'll give you one example that they took out because I can't imagine the agency could stand the publicity of putting me in jail for revealing it. We spent hundreds of thousands of dollars and several years to develop a bugging device that could be surgically implanted inside the body of an ordinary house pet. The idea was finally scuttled when someone realized that we couldn't control the animal's movements to put it within the range of sensitive conversations, even if we could somehow place a wired cat on a target person. Many of the Agency projects are like that—pitifully silly."

Marchetti revealed that to contain the Communist menace and support demands for increased anti-Communist budgets at home, the agency developed a scheme to make Americans believe that many of their neighbors were reading the official newspaper of the Communist Party, the *Daily Worker*. Operatives invented thousands of phony names and addresses for new non-existent subscribers; they then sent taxpayers' money to the Moscow newspaper to be able to point to its burgeoning circulation.

The Government's case is based on Marchetti's violation of the secrecy contract he signed when joining the CIA. If Marchetti and Marks cannot reverse the court decision, the ruling would carry widespread implications for all government dissenters. "Conceivably," Branch writes, "the Justice Department could obtain an injunction against anyone, in or out of government, who has signed a secrecy oath and is suspected of leaking classified material. This would not be of much use against isolated, unanticipated leaks to the press, but it would be a potent weapon against the known dissenters with a lot on their minds—people like Morton Halperin, or Ellsberg, or the Kissinger aides who quit in protest. Even a casual leak would be much more dangerous for those under injunction, for it would pose the risk of being jailed instantly for contempt of court."

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