

THE WASHINGTON POST

Approved For Release 2004/10/13 : CIA-RDP88-01315R000100140001-1
 Article appeared on page A-3 June 1979

Judge Plans Secret Opinion In Case of H-Bomb Article

By Morton Mintz
 Washington Post Staff Writer

MILWAUKEE, June 12—A federal judge said today that he will issue a secret opinion when he decides later this week whether to let the Progressive magazine publish a suppressed article on the workings of the hydrogen bomb.

In New York City, the chairman of the American Civil Liberties Union, which represents the magazine's editors, told a reporter that, to his knowledge, an in camera, or secret, opinion is "unprecedented."

Two other legal experts with whom he checked also knew of no precedent for a secret opinion, said Norman Dorsen, a constitutional law professor at New York University.

Another ACLU attorney said, however, that secret opinions have been issued on occasion. He said that one was issued only six months ago in a case involving the CIA.

U.S. District Court Judge Robert W. Warren confirmed through aides that he plans to make both his opinion and order secret, although he also may file a public version of the order.

Progressive editor Erwin Knoll told reporters, "As a defendant I find it intolerable to be subject to an opinion that I can't even read."

Knoll said he will ask his lawyers to decide whether to challenge the validity of the secret opinion in the 7th U.S. Circuit Court of Appeals in Chicago.

For more than two hours this morning, Warren heard arguments in his chambers on the ACLU's motion to lift the preliminary injunction he had granted March 26, at the government's request, to restrain publication of the article.

The injunction was the first in the nation's history to impose a prior restraint on material protected by the First Amendment to the Constitution.

The ACLU had filed the motion with the approval of the appeals court, which plans to hear arguments in September on the Progressive's effort to overturn Warren's injunction order.

In support of its motion here, the ACLU has provided Warren with recent evidence that the government, by erroneously declassifying documents on thermonuclear weapons, had for years made available information of a far more sensitive nature than any in the unpublished article.

Participating in today's argument were three lawyers for the government and eight for the magazine, its editors and Howard Morland, who wrote the article.

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ON PAGE A-2

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NEW YORK TIMES
14 MARCH 1979

A.C.L.U. Challenges a Plan for Surveillance Abroad

Special to The New York Times

WASHINGTON, March 13 — The American Civil Liberties Union yesterday challenged a proposed law that would authorize United States intelligence agencies to place Americans living abroad under electronic surveillance in noncriminal cases.

In a letter delivered to the Justice Department, the A.C.L.U. responded to a proposal made by Griffin B. Bell, the Attorney General, in an interview with The New York Times several weeks ago.

Mr. Bell said at that time that he had suggested that United States intelligence agencies be required to obtain an order

from a Federal judge when they wanted to use intrusive electronic surveillance techniques to obtain "positive intelligence" from an American living abroad.

Though American Government agencies are limited to certain legal standards in criminal or national-security use of electronic surveillance in the United States, there has been dispute over whether they are limited by constitutional protection to Americans living abroad.

Extension of Protection

Mr. Bell said in the interview that his proposal would extend the protection of the Fourth Amendment of the Constitu-

tion against unreasonable search and seizure to the area of positive collection of intelligence from Americans overseas.

In the A.C.L.U.'s letter, prepared by Jerry J. Berman, the group's legislative counsel, the group said:

"Contrary to the article's impression, the proposal to permit intelligence agencies to target Americans for intrusive investigation for foreign intelligence purposes regardless of the nature of their activities would not give 'Americans living abroad some civil liberties protections' but would take them away.

"Clearly the proposal is a radical departure from the principle that American citizens should not be subjected to intrusive invasions of privacy unless their conduct supports a probable cause showing they are involved in criminal activities contrary to the interests of the United States."

Court Views Cited

Mr. Berman's letter took the position that "the courts, even with respect to electronic surveillance, have consistently held that the rights of Americans abroad are no different than the rights of Americans at home against their own Government."

However, investigations in 1975 and 1976 by the Senate Select Committee on Intelligence established that United States intelligence agencies had made widespread electronic intrusions into the communications of Americans abroad without any consideration to the issuing of a warrant or to whether criminal activity had taken place.

Mr. Bell said that he made the proposal in December to members of a National Security Council committee that is trying to produce a Carter Administration proposal for a legal charter of the United States intelligence agencies. He said he hoped his idea would act as a "compromise" between the needs of the intelligence agencies and the concern for the protection of individual rights for American citizens.

Extensive Surveillance Feared

The A.C.L.U. said that it felt the use of electronic surveillance for positive intelligence-gathering abroad might result in "extensive targeting of Americans for covert surveillance in the United States."

While the proposal would limit the use of established intelligence techniques that require the use of warrants — for example, mail opening — it implies that nonwarrant techniques such as informer infiltrations, undercover agents, mail covers and physical surveillance might be authorized for such collection in the United States under lower standards; for example, against Americans believed to be in possession of "significant foreign intelligence information."

Mr. Berman's letter is expected to open more public debate on the charter legislation being prepared both in the Carter Administration and on Capitol Hill.

Article appeared
on page A-3

THE WASHINGTON POST
14 March 1979

Plan Would Let U.S. Spy on Americans Abroad

By Bernard D. Nossiter
Washington Post Staff Writer

A proposal to give U.S. intelligence agencies limited power to spy electronically on any American abroad is being drafted for National Security Council consideration.

The proposed new rule came to light in an American Civil Liberties Union letter charging that it "would even undermine the already far too permissive standards" in President Carter's January 1978 executive order to control the intelligence community.

Justice Department aides are drafting the proposed intelligence legislation for consideration by the NSC's Special Coordinating Committee.

The ACLU expressed its protest in a five-page, single-spaced letter from Director John H. F. Shattuck to Attorney General Griffin B. Bell.

Bell and his aides declined to comment because the criticized proposal is a tentative draft that has not yet received either the approval of the NSC panel or President Carter.

Administration officials have been engaged in a prolonged exercise to write a code of behavior governing spy agencies at home and abroad.

With the Senate Intelligence Committee, they hope to complete a legislative charter spelling out what the FBI, CIA, National Security Agency and others can and cannot do. Their task is to reconcile agency demands for information with the liberties guaranteed by the Bill of Rights.

The charter draft that drew the ACLU fire would enable the agencies to bug, wiretap, break in and use other techniques to gain information

regarded as vital from Americans abroad who have committed no crime. The spy unit would first have to get an approving order from a judge.

Thus, the test to permit these "intrusive" techniques would depend on the importance of the information and not on the conduct of the citizen spied upon. In contrast, current legislation permitting electronic spying on Americans at home requires a judicial finding that the target is an "agent of a foreign power" who is engaged in activity that may involve a federal crime.

An administration official offered this justification for the proposed departure: an American abroad, acting lawfully, might interview the defense minister of a nation on the edge of war and learn something that diplomats, journalists or the normal run of spies would not pick up. The lawful American might decline to tell U.S. officials what he knows, so they want the power to extract his story anyway.

The ACLU protested that "wholly innocent Americans . . . could be targeted." Former attorney general Ramsey Clark could have had his Paris hotel room bugged when he met Ayatollah Ruhollah Khomeini. Members of Congress abroad "could be subjected to intrusive electronic surveillance," the ACLU said. The civil libertarians said they fear that the rule could even be stretched to cover Americans at home.

A government official said that stringent standards for the information sought would be written into any proposed legislation. In addition, high officials would have to certify in writing the vital nature of the information before judicial permission was sought for the technique.

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Article appeared
on page C-8THE WASHINGTON POST
16 November 1978

ACLU Celebrates Its Veterans

By Carla Hall

Roger Baldwin, 95, founder of the American Civil Liberties Union, dressed in business suit gray and took a sip of his Manhattan and declared that he had never had a fight in his life.

"I came to the conclusion a long time ago that I wouldn't participate in violence," he announced in a firm tone. "I never hit anybody in my life and never was hit in my life. I was always that way—from the time I was a small boy. I was always a pacifist."

So when a reporter asked Baldwin last night at the ACLU's Henry W. Edgerton Annual Dinner at the Washington Hilton—where he was honored with a testimonial salute—why he started the American Civil Liberties Union, he raised his eyebrows and said, "Oh, we had to. The war was on."

What he started after World War I was declared and after he himself had served a year in jail for refusing to serve was a civil liberties union for people who needed defense and needed lawyers.

The dinner was a gathering of so many "old and new liberals," many of whom had worked together in various pursuits that Sterling Tucker, D.C. City Council chairman, said it was like "old home week."

In the past 50-plus years, the ACLU has lobbied for or legally defended those whose civil rights were felt to be violated, including both blacks and the Ku Klux Klan. "Well, we tried to defend the KKK," said Baldwin, "but they wouldn't accept our lawyers. They were suspicious."

But Frank Snapp, the former CIA agent whose book about the agency a court has declared violated his contract with the agency, accepted the ACLU's help recently in his appeal of the decision.

"Have you been vindicated yet?" asked Baldwin with a smile as he stopped at the dinner to speak with Snapp.

"It's difficult to rally liberal support, because I'm from the CIA," said Snapp. "It takes a great leap of faith for the ACLU to support me. But they're very concerned about the First Amendment implications of this case and they've rallied to my side. If the ACLU had not picked up this case I'd be in difficult straits. The money I may get (when this case is settled) will be devoted to helping the ACLU."

The ACLU awarded plaques to three people instrumental in pushing the resolutions for fair voting rights for the District of Columbia through the House and the Senate—Del. Walter Fauntroy, who introduced the bill in the House, Sen. Edward Kennedy (D-Mass.), who was not there, and Rep. Don Edwards (D-Calif.).

It also gave an award to Hoover Rowel, a gardener at the National Institutes of Health who was one of 15 gardeners who filed a suit 15 years ago claiming that NIH discriminated against black gardeners. The suit was settled out of court only last year, and the ACLU, which represented the gardeners, awarded Rowel for his perseverance and fortitude.

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ARTICLE APPEARED
ON PAGE A-12

THE WASHINGTON POST
19 July 1978

Intelligence Bill Said Civil Liberties Peril

By George Lardner Jr.
Washington Post Staff Writer

Officials of the American Civil Liberties Union warned yesterday that the Senate-proposed charter for the nation's intelligence agencies is "more of a threat to civil liberties than it is a reform."

Testifying before the Senate Intelligence Committee, ACLU legislative counsel Jerry Berman charged that the omnibus bill before the committee—had it been law at the time—"would have legitimized" many of the abuses uncovered in the 1975-76 inquiry headed by Sen. Frank Church (D-Idaho).

Although the bill has been introduced as a reform of the CIA, the FBI, and other U.S. intelligence agencies, Berman protested that it also gives the CIA "broad authority" to conduct domestic spywork that is currently prohibited and it allows the FBI to carry out so-called "preventive actions" that could turn into smear campaigns.

For instance, Berman said, the new bill (S. 2525) would have sanctioned both the CIA's Operation Chaos, as an effort "to determine the possible connections of the antiwar movement," and the FBI's campaign to discredit the Rev. Martin Luther King, as a device "to prevent violence" in the civil rights movement.

Summed up John Shattuck, director of the Washington ACLU office: "The bill, as it now stands, is more of a threat to civil liberties than it is a reform."

The ACLU, the committee was told, wants to work with the senators to draft an acceptable bill but is prepared to do whatever it can to defeat the proposed bill or any legislation that the ACLU says sacrifices constitutional values while masquerading as reform.

Although usually described as a "foreign intelligence" measure, the bill before the committee, Berman pointed out, permits wide-ranging, highly intrusive investigations of Americans under a variety of rationales. Techniques could range from pretext interviews to surreptitious entries and other methods "heretofore assumed to be illegal," Berman said.

By contrast, another witness at yesterday's hearing, former Deputy Attorney General, maintained that the conditions laid out in the bill for initiating any counterintelligence activity are "tied

too closely" to violations of criminal law.

"... The fact that a group has not yet crossed the line between legal activity and criminal conduct should not prohibit the FBI from collecting any information concerning that group if it can be reasonably expected that they may cross the line," Silberman, who is now a senior fellow with the American Enterprise Institute, argued.

Most of the witnesses at the Senate hearings on the measure, which began in April, have criticized it on behalf of the intelligence establishment as too restrictive and harsh on the CIA and fellow agencies. Yesterday's testimony by the ACLU was the most outspoken attack on the measure thus far from the civil libertarian point of view.

"I guess we're on the horns of a dilemma," committee chairman Birch Bayh (D-Ind.) said in somewhat perplexed tones. He said it was clearly going to take a lot of persistence to get an acceptable bill through Congress in light of the assaults on the measure from both left and right.

Sen. Barry Goldwater (R-Ariz.) said he felt the biggest problem, for which he had no solution, was how to keep American presidents from misusing the intelligence agencies. "How to control a president who, for one reason or another, wants to get even" with his political enemies.

"I'm not talking about Republicans or Democrats. They've all done it," Goldwater said.

Accompanying the ACLU's complaints with detailed analysis, Berman suggested that the underlying problem with the bill is its "backwards" approach to intelligence work, permitting Americans to be targeted on flimsy grounds instead of focusing on foreign governments and hostile intelligence services.

Berman said this was the same approach used by the CIA in Operation Chaos which concentrated first on the domestic antiwar movement "in order to learn of travel and foreign contacts and then to investigate the possibility that those Americans were supported or controlled by foreign powers."

In other words, Berman said, "Operation Chaos worked backwards. And so did the FBI in conducting its 'new left' investigations. The effort to prove a negative, is open to question. That it is very sweeping and intrusive is not."

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 RADIO TV REPORTS, INC.

4435 WISCONS

FOR PUBLIC AFFAIRS STAFF

PROGRAM The Fred Fiske Show STATION WAMU-FM
 DATE February 2, 1978 7:00 PM CITY Washington, DC
 SUBJECT Interview With: John Shattuck

FRED FISKE: Following a year in office and after four revisions, the President has announced a reorganization plan for the United States intelligence operations. The order has received mixed reaction. Mostly, editorial reaction has been favorable. Some organizations, principally the American Civil Liberties Union and the Center for National Security Studies, are disappointed in the President's order.

We have at our microphones this evening, John Shattuck, who is Executive Director of the Washington office for the ACLU.

John, very, very nice to see you.

JOHN SHATTUCK: Very glad to be here.

FISKE: The President's order addresses itself to many of the criticisms which have been leveled against our intelligence operations, principally the CIA and the FBI, over the last half-dozen years or so. It limits covert action, it rules out COINTELPRO, which is infiltration of dissident organizations. It forbids contact with the academic world and research organizations. It does many of the things that we expected it would do.

Why are you displeased?

SHATTUCK: Well, it is certainly a step in the right direction, Fred. There's no question that the intelligence issue, we've been waiting a long time for President Carter to address himself to this, and finally he got around to doing so. We were critical of the delay during the year that we waited for some of those campaign promises to be borne out.

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20 October 1977

WASHINGTON POST

CIA Investigated Journalist It Gave Data on Allende

By Laurence Stern
Washington Post Staff Writer

The Central Intelligence Agency conducted a background investigation of an American journalist to whom it supplied material from agency files in 1970 on the late Chilean President Salvador Allende.

Charles A. Briggs, the information review officer for the CIA's deputy director of operations, acknowledged that the agency conducts similar investigations of businessmen and academic figures—without necessarily informing them of the process—with whom it has contacts.

In the case of the journalist, who was not identified, the CIA provided biographical material on Allende, who was killed in a 1973 coup, and reports on activities of Allende's Popular Unity Party in the 1970 Chilean elections. Briggs testified in a deposition that the journalist had been given security clearances in February, 1954, December, 1968, and October, 1973.

Briggs also said that typically the journalist would not inform anyone—"his publisher or anyone else"—that the material had originated with the CIA. "The arrangement was between the individual and the agency...," the CIA official said.

The comments were made in the course of a deposition by Morton H. Halperin and Mark H. Lynch of the American Civil Liberties Foundation last June 21 in U.S. District Court here.

It raises a new aspect in the public controversy over the CIA's relations with journalists and persons of other

professional backgrounds with whom it has contact.

A CIA spokesman said yesterday that "if for any reason there was going to be a passage of classified material, whether to a journalist or anyone else, there would be a background investigation."

Otherwise, he said, "I can't imagine any situation in which we would conduct a background investigation on a journalist or any other individual with whom we have a noncontractual relationship." He recalled that under guidelines enunciated by former CIA Director George Bush the agency also has no current arrangements with "accredited U.S. correspondents."

In the case of the Chile documents and the unidentified journalist, the CIA official testified that the documents were not themselves classified but the fact that they originated from the agency was secret. Briggs said the CIA had satisfied itself the journalist would not disclose the source.

Last April the U.S. Court of Appeals here held that the CIA exceeded the bounds of its charter when it conducted an extensive five-year investigation of a former National Student Association leader, Gary A. Weissman, as a candidate for recruitment.

"A full background check within the United States of a citizen who never had any relationship with the CIA is not authorized, and the law enforcement exemption is accordingly unavailable," the court said.

Halperin initially filed his freedom of information action on the basis of a finding in the Senate Intelligence

Committee report on covert operations in Chile that "special intelligence" and "inside briefings" were provided to U.S. journalists by the CIA concerning political developments in Chile during 1970. The Senate report cited CIA documents indicating that "briefings requested by Time and provided by the CIA in Washington resulted in a change in the basic thrust of the Time story on Allende's Sept. 4 victory and in the timing of the story."

In an earlier affidavit Briggs had said that the documents in the case "were prepared in 1970 in response to a request for a limited press background briefing on the political situation in Chile."

In the deposition he testified that information was provided to the journalist "because he was trustworthy, because we had determined, through the clearance process that, according to the procedures, he was — could receive information."

Briggs declined to respond when he was asked whether the journalist was a Time correspondent. A CIA attorney said the basis of Briggs' refusal to answer was a prohibition "from identifying sources and methods as part of the intelligence tradecraft process who engage in confidential relationships which we have to honor or people won't be helpful."

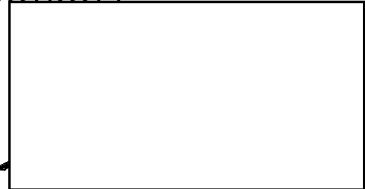
Halperin and Lynch are now seeking court permission to take depositions from the journalist and the CIA official who provided the documents under an agreement that would place their identities under protective custody.

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THE NEW YORK TIMES
10 October 1977



25X1

Ruling on Withholding C.I.A. File To Be Appealed by Liberties Union

DES MOINES, Oct. 9 (UPI)—The Iowa Civil Liberties Union said yesterday that it would appeal the decision of a Federal judge who ruled that the Central Intelligence Agency could keep secret part of a dossier it compiled on an Iowa City man.

Larry Frank had requested under the Freedom of Information Act, to the file the agency kept on him. However, the C.I.A. refused to turn over one document relating to Mr. Frank's activities in 1969-1970, when he traveled to Cuba and attempted to arrange a trip to China.

It argued that disclosure of the document could jeopardize a foreign intelligence source, exempting the document from the requirements of the Freedom of Information Act. Federal District Judge William C. Stuart upheld the agency's position.

The Civil Liberties Union contends that Mr. Stuart should have examined the document himself to determine whether it was being legally withheld.

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CHICAGO METRO NEWS
9 JULY 1977

25X1

Campaign Launched To End CIA's Secret Activities

The Campaign to Stop Government Spying and two of its member organizations, the American Civil Liberties Union and the Center for National Security Studies, announced recently that they are launching a nationwide effort to end the CIA's operations on college campuses which the Church Committee asserted in its final report raise troubling questions as to the preservation of the integrity of American academic institutions. In conjunction with this coordinated effort, the ACLU filed suit recently against the CIA for documents relating to the CIA's operational use of the academic community.

Morton H. Halperin, chairperson for the Campaign to Stop Government Spying, called upon universities across the country to adopt academic guidelines for CIA activities on campus, following those put into effect at Harvard University, and endorsed by the ACLU national board at its June 19 meeting.

The Harvard guidelines, according to Halperin, contain the first authoritative description of the CIA's current

recruitment activities on university campuses which was at the heart of the Church Committee's concern. The Harvard report describes this process as follows:

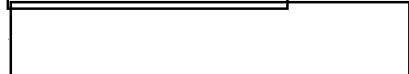
The second method of recruitment involves the use of individuals who may be professors, administrators or possibly students and who have an ongoing and confidential relationship with the CIA as recruiters. The job of these covert recruiters is to identify for the CIA members of the community, including foreign students, who may be likely candidates for an employment or other relationship with the CIA on a regular basis. Although we are not certain how the recruiting process works, we understand that when the recruiter believes that a likely candidate has been identified, the name of the candidate is reported to the CIA, which then conducts a background check on the individual and creates a file with the information it obtains. Neither the recruiter nor the CIA informs the individual at this stage that he or she is being considered for employment or other pur-

poses by the CIA. Both the Harvard and ACLU guidelines condemn secret recruitment. They require that all of those who regularly recruit for the CIA publicly identify themselves, and that names not be supplied to the CIA without the consent of the individuals concerned. Other aspects of the Harvard guidelines include limits on contacts with the CIA, a ban on intelligence operations and preparations of reports known to be misleading or untrue. The Harvard guidelines also ask the CIA to avoid the unwitting use of any member of the academic community.

The ACLU lawsuit, stemming from a Freedom of Information Act request submitted by John Marks of the Center for National Security Studies last December, asks for all written materials on universities which the CIA made available to the House and Senate Committees on Intelligence, and the Rockefeller Commission. It also includes a request by Halperin for the CIA's internal directives dealing with the operational use of individuals within the academic community, which the CIA has refused to release.

As part of the overall campaign to end CIA's abuse of the academic community, letters will be sent on behalf

of the Campaign to Stop Government Spying, the Center for National Security Studies, and the ACLU Academic Committee to university presidents, urging them to appoint committees to consider the role of CIA on their campus, and to adopt guidelines similar to those endorsed by Harvard for its faculty. These groups will also call on the CIA to agree to abide by the guidelines.



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MILWAUKEE, WISCONSIN
SENTINEL

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JUN 29 1977

CIA Campus Actions Prompt Legal Attack

By RICHARD BRADEE
Sentinel Washington Bureau

Washington, D.C. — A former University of Wisconsin — Madison student activist who was surprised to learn that the CIA wanted to hire him as a spy, has won a court ruling that could sharply reduce CIA activity on campus.

The American Civil Liberties Union (ACLU) announced Tuesday that it will launch a nationwide campaign to end secret CIA activities on college campuses.

The ACLU asked retired Federal Judge John Sirica to order the release of secret CIA documents. According to a report last year by the Senate Intelligence Committee, the documents show that the CIA is still involved with more than 100 major colleges and universities.

Documents Ordered

The federal court decision that will provide a legal weapon was obtained by Gary A. Weissman. The Circuit Court of Appeals here told the CIA that the agency

violated the law in an investigation of Weissman.

As a result of the illegal activity, the appeals court ordered the CIA to release 54 documents that the agency claimed should be kept secret because they had been collected for law enforcement purposes.

The ruling was announced in January and the solicitor general has asked for more time to decide whether to appeal to the US Supreme Court.

Weissman was president of the Wisconsin Student Association and vice president of the Daily Cardinal, the UW — Madison student newspaper, between 1956 and 1960.

He also was actively involved in Students for a Democratic Society, a radical protest group in Madison at the time.

When it was disclosed in 1975 that the CIA had investigated left-wing political accidents, he wrote to the CIA, asking for all their files on him.

The CIA replied that "unknown to Mr. Weissman, he was considered for employment by the agency in the 1950s."

The appeals court found that between 1958 and 1963, the CIA had collected more than 50 documents on Weissman's background because he was considered as a potential spy. One of the assignments that he was considered for involved the 1959 World Youth Festival in Vienna, Austria.

Never Informed

Weissman was never told that he was being considered for a CIA job and did not find out about the investigation until 1975.

He is now an employee of the US Labor Department here.

In an interview Tuesday, Weissman said he received a 252 page report about himself from the FBI in addition to the information received from the CIA.

The FBI file, he said, contains many pages of false information.

For example, one newspaper indicated that Weissman led a rent strike in Brooklyn, N.Y. in 1958. Weissman was living in Madison and attending the university at the time.

Another FBI report linked Weissman to a plot many years ago to have the Communists take over the NAACP.

"I was 16 years old at the time, attending high school in St. Louis," he said.

The file, according to Weissman, apparently was started when he began work for the federal government in January, 1968.

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RADIO TV REPORTS, INC.

4435 WISCONSIN AVENUE, N.W.,

FOR PUBLIC AFFAIRS STAFF

PROGRAM The Daily Drum

STATION

DATE June 29, 1977 6:15 PM

CITY Washington, D. C.

SUBJECT CIA Recruitment Investigated

BENJAMIN JOHNSON: A lawsuit has been filed seeking to make public the recruiting activities of the CIA. One of the groups filing the suit is the Washington based Center for National Security Studies.

Spokesperson Christie Massey said the Center is especially concerned about the CIA's recruiting activities on college campuses.

CHRISTIE MASSEY: We will be focusing on a number of ones that have -- certainly have a number of foreign students, and also with certainly a number of them with high numbers of black students, because the CIA is getting more interested in recruiting black students at this time.

JOHNSON: The other organization which joined in filing the suit was the American Civil Liberties Union.

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ARTICLE APPEARED
ON PAGE A 22THE NEW YORK TIMES
1 JULY 1977

Academic Intelligence

The Central Intelligence Agency has always found college teachers a valuable resource. Some are specialists in areas that touch on the national security. Some have contacts in other countries from whom they pick up interesting tidbits of information. Some are willing to recruit for the C.I.A. in their classrooms. The agency has for years maintained relations with academics on more than 100 campuses. But professors have periodically been embarrassed by revelations of their extracurricular activities and critics have wondered about the subverting effects of a teacher's covert connection to the C.I.A.

A set of guidelines, drawn up by the American Civil Liberties Union and the Center for National Security Studies, addresses the matter in a reasoned way. It would require faculty member to report to his dean any contracts with the C.I.A. for research, information from abroad, or recruiting. No student's name would be conveyed to the C.I.A. without his approval. Scholars would not be permitted directly to gather intelligence or to spread propaganda.

Harvard adopted similar guidelines several weeks ago. They clear a path for teachers to serve their country openly and within sensible limits. Other schools should take heed of this intelligent academic's guide to intelligence.

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THE NEW YORK TIMES
30 June 1977



**U.S. SUIT WOULD BAR C.I.A.
IN ILLEGAL CAMPUS ACTIVITY**

WASHINGTON, June 28 (UPI)—The American Civil Liberties Union filed suit Tuesday against the Central Intelligence Agency in an effort to determine if the agency is conducting illegal activities on college and university campuses and to bar any such activities.

The suit, filed in Federal District Court here, was called the first step in a national effort by an organization known as the Campaign to Stop Government Spying to end C.I.A. activities on campuses.

Morton H. Halperin of the Center for National Security Studies and a plaintiff

in the suit, told a news conference that he believes "there is a (C.I.A.) person on every major campus" in the United States.

When the Senate Select Committee on Intelligence issued its report on domestic spying, it said the C.I.A. activities raised "troubling questions as to the preservation of the integrity of American academic institutions."

Mr. Halperin said C.I.A. activity at domestic colleges and universities was a violation of both academic freedom and of the agency's charter, which prohibits it from domestic activities.

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HUMAN EVENTS
7 MAY 1977

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Liberals Press Bill to Wreck Intelligence Agencies

House liberals are pushing legislation that would outlaw all "political surveillance" and shut down the intelligence gathering activities of both the FBI and the CIA.

Introduced by Herman Badillo (D.-N.Y.) and a dozen of his colleagues, the bill has the all-out support of such anti-internal security groups as the American Civil Liberties Union, the Committee for Public Justice and the Center for National Security Studies.

To a significant extent, the legislation incorporates the major provisions of a proposed piece of legislation unveiled in the Nation's Capital in February by former Atty. Gen. Ramsey Clark. The thrust of that measure, as HUMAN EVENTS noted in its March 19 issue, was said to be looked upon with some favor by various persons in the Justice Department and on the President's Domestic Council. The Badillo proposal would:

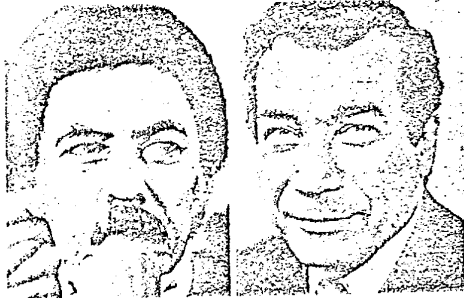
- Prohibit all electronic and "political" surveillance. What the proponents mean by this, however, is no surveillance of virtually any organization, whether or not it advocates violence or swears allegiance to a foreign country.
- Prohibit the "covert collection of foreign intelligence information abroad during peacetime...."
- Prevent the FBI from collecting information on any person unless there was evidence that the individual had already committed a crime or was about to commit one.
- Repeal the Riot Act, which permits the federal government to prosecute persons crossing state lines to promote violence, and the Smith Act, which makes it illegal to advocate the violent overthrow of the government.

"If this legislation as presently drafted is enacted into law, it will destroy the effectiveness of the FBI," says W. Raymond Wannall, who retired last year as assistant FBI director in charge of the intel-

ligence division. In an interview with Kingsbury Smith of the Hearst Newspapers, Wannall said:

"It would put the bureau out of business in intelligence-gathering, and that applies to organized crime as well as surveillance of radical political organizations and terrorist groups. It would make it impossible for the bureau to function effectively in the foreign intelligence field."

Under the Badillo bill, the FBI could not investi-



Rep. Ronald Dellums (left) (D.-Calif.) and Rep. Badillo are pushing for legislation designed to virtually destroy the intelligence gathering activities of the FBI and the CIA.

gate any individual or group unless there was evidence the person or group "has committed, is committing, or is about to commit" a federal crime. That would virtually cripple the FBI's drive against the Mafia.

"Combatting organized crime is to a great extent gathering information to prevent the commission of a crime," Wannall notes. "Under the proposed legislation, the FBI would also be prohibited from maintaining records on a suspect unless you could prove he had committed a crime or was about to commit one. This would make preventative action virtually impossible."

The Badillo bill provides that once an investigation is completed, the file will be sealed by the attorney general. Six months later, the subject would be informed that he had been under investigation and the government must give him a complete accounting of what it had learned about him.

Thus, if insufficient evidence is developed to provide an indictment, organized crime figures or potential saboteurs must nonetheless be notified that they were under investigation and precisely what the FBI had learned of their activities.

The Justice Department informs HUMAN EVENTS it has made no comment on the legislation, and even Badillo's office admits it may go too far for the department. But a lot of knowledgeable legal experts in the Justice Department and at the White House who would like to see this bill—
the facsimile—become the law of the

Where Are Civil Liberties Here

A Report from the ACLU Biennial Conference

Dean M. Kelley

William Colby, former director of the CIA, was the next respondent. (He was greeted by some boos and hisses—a singular form of behavior on the part of those who profess to advocate freedom of speech.) He expressed astonishment at having been invited to address the ACLU, and even greater astonishment at his having accepted that invitation.

Colby reviewed the history of intelligence agencies over the past three decades and noted that there had been a national consensus approving their work during the cold war—but that consensus has now changed. He emphasized the need to avoid extreme pendulum swings. To stress this point, he recalled that there had been a strong mood in this country after World War I for openness and, as a result, the Secretary of State had closed down the State Department's code-breaking office—asserting that “gentlemen do not read other gentlemen's mail.” He insisted that the federal government is responsive to the will of the people.

Mr. Colby observed that the ACLU agrees that the intelligence agencies should read and analyze intelligence information, and should use technological expertise to gather such information. He disagreed with ACLU policy that favors abolishing clandestine gathering of intelligence, and maintained that such information is valuable to the defense against military and economic threats.

EXCERPT

With regard to paramilitary operations, Mr. Colby pointed out that during the cold war 40% of the CIA budget was devoted to such operations. However, with the Sino-Soviet split, the emergence of detente, and the reduction of confrontation tactics, the agency's paramilitary activity now consumes only 5% of its budget. Mr. Colby also noted that the president's executive order sets guidelines for the congressional oversight committee—and this will end the notion that Congress must close its eyes to abuses on the part of the intelligence community.

Morton Halperin responded to William Colby's claim that CIA abuses of power were few and far between. Halperin, now employed by the ACLU Project on National Security and Civil Liberties, successfully sued the government for wiretapping his home telephones while he was a National Security Council aide during the Nixon Administration. He made the point that the federal intelligence agencies, under the veil of national-security secrecy, were subverting the Constitution—particularly the guarantee that government officials are bound by the law.

continued

Mr. Halperin then made some recommendations. He said that the FBI should be limited to investigating criminal activity and answering requests for information under the Freedom of Information Act. The CIA, he said, should be turned into an agency for analyzing foreign intelligence. Clandestine operations should be abolished because even though such operations might prove to be useful, the danger of subversion of civil rights far outweighs that usefulness. Intelligence agencies should be subject to the same restraints we put on other areas of government, and protection should be given to those who reveal secret wrongdoing—i.e., “whistle-blowers.”

In reply to Mr. Halperin, William Colby said that while too much information was gathered on individuals during the war in Vietnam, this was done in order to determine whether any foreign countries were assisting the anti-war movement in the U. S. The CIA, he said, obtained presidential approval to conduct wiretaps “for foreign intelligence” under a provision of the wiretap law. Mr. Colby expressed confidence that the safeguards now being imposed upon the intelligence community will insure its fidelity to the Constitution.

Aryeh Neier then cited Mr. Colby’s statement that 5% of the CIA budget is spent on paramilitary operations. He asked “. . . 5% of what?”—noting that the CIA budget is kept secret. Mr. Neier observed that anyone who has dealt with budgets knows that specific items can be placed in different parts of an overall budget, and can be described differently. He stressed that we should not permit the intelligence agencies to tell us that although they have reformed, it is nevertheless impossible for them to tell us precisely what it is about their operation that has indeed been reformed.

Fresh Curbs Are Sung On Spying, Cover-Ups

By George Lardner Jr.
Washington Post Staff Writer

Sixteen House members introduced an omnibus bill yesterday that would put new controls on the FBI, the CIA and other government intelligence agencies and set up broad safeguards against government spying.

The sponsors included two members of the Intelligence Oversight Subcommittee of the Armed Services Committee, Reps. Ronald Dellums (D-Calif) and Robert Carr (D-Mich.), who said that existing controls are completely inadequate.

The 66-page bill, which has the backing of the American Civil Liberties Union, attempts to prohibit government cover-ups of illegal activities in the name of national security, seeks to protect government officials who "blow the whistle" on such undertakings, and calls for appointment of a special prosecutor to deal with violators of the proposed new law.

Other provisions of the legislation, which is expected to be split into sep-

arate bills so they can be passed by disparate committees, would:

- Abolish so-called "human espionage" in peacetime and convert the CIA into a "foreign information service" that would concentrate on information collected from overt sources or from technical devices such as spy satellites.
- Restrict government access to individual tax, bank, credit and telephone records except by court order or statutorily sanctioned subpoenas.
- Restrict the FBI to criminal investigations and prohibit "political surveillance" by any government agency that impinges on activities protected by the First Amendment.
- Reduce the secrecy sanctioned by so-called "national security" exemptions to the Freedom of Information Act and permit the release of "national defense" information if it "appears to relate to illegal or unconstitutional activities engaged in by any official of the federal government."

At a press conference with several other sponsors of the legislation, Dellums, who also served on the now defunct Intelligence Committee, said that "human espionage" provides very little information, perhaps 5 per cent or less of the intelligence gathered by U.S. agencies "in this technological era of satellites, hearing devices and high resolution cameras." He said the old-fashioned spynetwork also has "an extraordinarily corrupting influence," and is notably unsuccessful against major powers such as the Soviet Union and China.

Rep. Robert Drinan (D-Mass.) speculated that the section of the bill calling for appointment of a special prosecutor to deal with intelligence community abuses had especially good chances of passage. He also predicted that the proposed reforms of the FBI would get a thorough hearing by the Judiciary subcommittee in charge of FBI oversight.

The chairman of the Senate Intelligence Committee, Daniel K. Inouye (D-Hawaii), has told ACLU officials that committee-sponsored legislation to safeguard individual rights and draft new charters for the nation's intelligence agencies should be introduced by the end of the month. In addition, Inouye said a bill dealing with electronic surveillance is "vitaly needed."

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ON PAGE 9

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Correspondence

ACLU and CIA

To the editors:
Last October, the American Civil Liberties Union sent a letter to colleges calling their attention to a passage in the Final Report of the Church committee. It noted the existence of long established clandestine relationships between the CIA and members of college faculties. The letter urged that the problem be publicized on college campuses and that Congress should enact a legislative prohibition on "the operational exploitation" of college faculties by the intelligence agencies.

In the March 12 *New Republic*, a sidebar from the editors that accompanied an article by Diane Ravitch ("Brouhaha in Brooklyn") implies—without ever quite saying so—that this letter shows the ACLU will not defend college faculty members whose academic freedom or right to due process is violated in the name of antagonism to the CIA.

The record belies any such inferences. To cite just one example, in the 1960s the ACLU issued a statement condemning actions by students on college campuses interfering with the free speech of others. Subsequently, the ACLU undertook the defense of a great many students either improperly charged with interfering with the free speech of others or disciplined through the use of improper procedures.

Ms. Ravitch, in her article, makes the point that it is improper to punish people for conduct that was deemed innocent at the time it took place. The ACLU agrees. But that hardly argues against the circulation of a letter such as the ACLU sent to colleges last October. It is by calling attention to a problem such as clandestine relationships with the CIA that one gets rules made proscribing it. The ACLU is continuing its consideration of this matter, and we expect to suggest specific rules to colleges.

The Michael Selzer case at Brooklyn College was the focus of the Ravitch article and the accompanying editorial sidebar. As the editors note, Selzer has

York Civil Liberties Union. Selzer did make some preliminary inquiries of NYCLU before any proceedings were instituted against him. He was advised to get back in touch with us if some action were taken against him, but has not yet done so. If he does seek our help, the New York CLU will determine whether to represent Selzer on the basis of its evaluation of the case, and nothing more.

*Aryeh Neier
American Civil Liberties Union
New York, New York*

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and the ACLU will present him, at least up to this time. If he does seek representation by us, as is our practice, the matter would be dealt with by the

February 22, 1977

parts concerning grand jury investigations and the use of immunity orders. Requires reports in eight specified areas, set forth according to judicial district.

EVIDENCE

Requires the government to introduce all evidence in its possession tending to prove the innocence of a potential defendant.

Prohibits the grand jury from returning an indictment on the basis of hearsay evidence alone.

UTILITY BILLS SQUEEZE CONSUMERS

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1977

Mr. HARKIN. Mr. Speaker, we must not forget the consumer in our discussions of the present energy crisis. Many consumers who have heeded the pleas to conserve energy have done a magnificent job only to find that their utility bills continue to climb.

One of my constituents, Mrs. Mary Ellen Godbout of Red Oak, Iowa, has written a most eloquent letter to President Carter about the need to give consumers a break.

The Godbouts have taken many steps to conserve energy, such as adding insulation and storm windows to their home and lowering their thermostat. The proof of their success is that last December they consumed 13 percent less electricity and 49 percent less natural gas than they had 3 years earlier—all this in the face of a severe winter.

Despite their heroic efforts, their energy bill was higher in 1976 than it was in 1973.

Mrs. Godbout's letter speaks for itself. I commend it to the attention of my colleagues:

DEAR PRESIDENT CARTER: I have never before written to a President but I feel so strongly over my concern about our natural gas crisis that I'm praying you will give this letter much consideration. When is somebody going to start looking at the consumers' side of this crisis? I realize we need to seek new ways and means for new energy and this takes money, but the consumer can't pay for it all. Why can't some Federal money be made available for this? The average and below income families cannot continue to pay prices such as we are now for gas much longer. From all indications the price of gas will go even higher and it will soon be impossible to pay our bills—what do we do then? Another year or so like this and I'm sure many people will have to consider going on welfare rolls or have some assistance available to keep warm. We have no choice as to where to buy gas, other than from monopolies such as Iowa Power & Light and they continue to impose rate increase upon rate increase upon us. Plus they are allowed to pass along to the consumer energy cost adjustments.

This hardly seems fair to me. Seems to me that when something is sold to me at a set amount that's what I should be expected to pay, but this energy cost adjustment varies from month to month and is passed along to the consumer. I'm very depressed over the future outlook. I feel like I'm backed in a corner with nowhere to turn for help so I'm taking this message to you and other heads of Energy. We are constantly being asked to conserve (and

believe me we have conserved) and for our efforts and sacrifices we are thanked by having to pay these high prices for gas and told it will go even higher.

We have done everything possible in our home to conserve energy and I don't know of anything further we can do. Is it fair that I have to continue to pay even higher prices for gas? Listed below are some of the means we have taken.

1. Insulated attic, all side walls and put on storm windows in 1974.

2. We have caulked around all window and door casings.

3. We have gradually dialed down—as of this winter (76-77) the thermostat is set at 64-66. (your pleas to the nation to dial down to 65 didn't affect us—I already know how uncomfortable that temperature is)

4. At night we dial down to 58.

5. I pull shades and close drapes at the windows at night on days the sun doesn't shine.

6. We have steam heat and we shut off upstairs radiators when we get up in the mornings and turn them back on at night.

7. We have shut off and don't heat rooms we don't need.

8. I dry about half of our laundry on lines in the basement and I wash in cold water.

9. We keep high humidity in our house because we have health problems that require this.

10. I don't have a dishwasher or self cleaning oven, etc.

What more can be expected from a consumer?

Next are some facts and figures which will prove that I have conserved. This is taken off our Iowa Power and Light bills.

December 1973 (before we took steps to conserve):

Used, 912 kwh; cost, \$25.37.

Used, 635 ccf; cost \$66.83.

December 1975:

Used, 913 kwh; cost \$36.13.

Used, 320 ccf; cost, \$48.16.

December 1976:

Used, 791 kwh; cost \$32.25.

Used, 333 ccf; cost, \$61.79.

You can see that we used nearly half as much gas this December as we did in 1973 but the cost is nearly the same. It would be impossible for me to pay the bill if I had used the same amount as I did in 1973 at the current rates. Also notice that we used only 3 ccf of gas more this December than in 1975 and the Iowa Power representative commented to this fact that we had conserved because this December 1976 was 20 percent colder than December 1975. I also paid a difference of \$13.63 for those 3 ccf in a year's time. When I see increases like that on 3 ccf it makes me shudder—what justifies increases like that? How can anyone be expected to keep up with rising costs such as these? My combined bill with sales tax was \$98.87 for this past December. I have to cut down on food in order to pay it and I cannot continue to pay such prices. Mr. President, what am I to do if gas continues to rise?

For these reasons, President Carter, I plead with you to set up some kinds of programs that would give the consumer that conserves a break in the cost of gas. I don't see how it is humanly possible for me to conserve much more or for my husband to increase our income anymore. He is a teacher and he supplements our income by coaching during the school year and painting houses in the summer. Yes, there are people who have not done their part in conserving but as a whole most families have taken means to conserve, so why not introduce a program that would benefit the conserver and let those who don't pay the consequences.

Excuse this poorly written letter but I have lost my touch and it is difficult to type with cold hands.

I am praying for some action to benefit families across the nation such as us. May God direct you, Mr. President, to help people like us—your people. I must say I am happy about the steps you have taken to cut energy cost and consumption since you've taken office. I'm disturbed with our local state in the fact that they say they will not dial down to 65 in the State Office Building. Why should the householder then? I pray God will send some answers to this problem.

Yours truly,

Mrs. MARY ELLEN GODBOUT.

BLINDING JUSTICE: THE CAMPAIGN TO OUTLAW THE U.S. INTELLIGENCE AGENCIES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1977

Mr. McDONALD. Mr. Speaker, on February 15, three organizations working to extinguish America's foreign and domestic intelligence-gathering capability held a Capitol Hill press conference to publicize proposed Federal legislation which they drafted to outlaw domestic intelligence-gathering. The three organizations are the American Civil Liberties Union, ACLU, the Fund for Peace's Center for National Security Studies, CNSS, and the Committee for Public Justice, CPJ.

The three groups were presented in the media account of the press conference as "civil liberties" organizations. In fact the three are civil liberties groups only in the sense that they are working to set up conditions under which the civil rights guaranteed under our Constitution will be destroyed. The draft legislation, for which congressional sponsors are being sought, will be considered separately. First, a review of the organizations and individuals sponsoring it is in order.

The ACLU was founded by socialists who, though preferring nonviolence themselves, cooperated for decades with totalitarian Marxist-Leninist organizations under the direction of the Soviet Union. Although professing concern for individual liberties, the ACLU continues to have among its leaders and membership Communist Party, U.S.A. activists, and other Marxist-Leninists who can under no circumstances be considered civil libertarians.

In its 1970-71 annual report, the ACLU announced:

The ACLU has made the dissolution of the Nation's vast surveillance network a top priority. The ACLU's attack on the political surveillance is being pressed simultaneously through a research project, litigation, and legislation action.

The ACLU's Project on Privacy and Data Collection, called more accurately the "ant-surveillance project" by activists, is headed by Frank J. Donner, identified in sworn testimony by three witnesses as a member of the Communist Party, U.S.A. For 20 years, Donner has been a leader of the Communist Party's efforts to end all investigation of subversive activities.

The Committee for Public Justice was founded in 1970 by Lillian Hellman who

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WASHINGTON POST

19 February 1977

Lawyers Ordered Not to Reveal Data Released by CIA

By Timothy S. Robinson
Washington Post Staff Writers

A federal judge here has issued an extraordinary gag order that prevents attorneys from releasing to the press certain unrestricted and declassified documents that were given to the attorneys by the Central Intelligence Agency in a civil suit.

The order, signed by U.S. District Judge June Green, was obtained by Justice Department attorneys nearly six weeks after the CIA material was turned over to American Civil Liberties Union lawyers.

The ACLU is representing numerous plaintiffs in the suit growing out of the "Chaos" program, in which the CIA and the National Security Agency agreed to monitor overseas telephone calls and cables of approximately 10,000 radical groups of individuals in the late 1960s and early 1970s.

Attorneys who have been involved in similar litigation said the order was extraordinary in that it applies to the plaintiffs in the suit as well as to attorneys, and because it was sought after the material was turned over.

They said they viewed the situation as one in which the authority of attorneys to release any materials they obtain through legal court processes in any litigation has been questioned.

The order can be circumvented at any time by merely attaching the documents to any material that the ACLU decides to file in court in the suit. It appears unlikely that the ACLU will take that approach, however, since such a filing might be seen as an act of bad faith and since the case is being viewed as a test of a judge's authority to gag lawyers and parties in a law suit.

John H.F. Shattuck II, director of the Washington office of the ACLU Fund, said that since he is a lawyer in the case he did not feel it was proper to comment in any detail on the order. He said, however, that the plaintiffs are preparing documents seeking to urge a higher court to reverse Judge Green's order.

In most cases where sensitive government documents may be involved, the agency makes a request at the time the material is turned over that the documents be withheld from the public. No such request was made in this case, and the Justice Department concedes it has no legitimate grounds to keep these documents secret.

In numerous other cases, the ACLU and other groups have released government documents at press conferences without facing any successful challenge by the agency involved.

As a part of the pretrial discovery in the chaos suit, the CIA turned over 55 documents concerning the program to ACLU attorneys on Dec. 30. At that time, according to ACLU attorneys, the CIA was told that the material also would be made public.

The CIA and Justice Department attorneys lodged no objection at the time, according to court records, and said merely they wanted advance notice when the material was going to be made public.

The ACLU then notified the Justice Department in a letter dated Jan. 24 that the documents would be released at a press conference on Jan. 31. A copy of a press release concerning the documents was prepared by the ACLU and attached to the letter.

Justice Department attorneys then filed a request for a protective order, saying such a manner of public release of the materials by the attorneys was improper.

The Justice Department attorneys cited general court rules and Code of Professional Responsibility rules that prohibit attorneys from making extra-judicial statements that might interfere with a fair trial. Included in the Chaos suit is a demand by the plaintiffs for a jury trial, although none has been scheduled and any trial would not occur for months or even years.

In addition, the Justice Department attorneys said the ACLU press release was a "characterization of the contents (of the documents) from which plaintiffs' counsel derive a variety of highly charged and colored conclusions."

When the documents eventually are filed in connection with a legitimate court proceeding, the Justice Department continued, "the federal defendants will have no objection to public access."

ACLU attorney Shattuck said in an affidavit filed with the court that the documents at issue "reveal aspects of Operation Chaos which have not heretofore been made public."

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PUBLISHERS WEEKLY
29 November 1976

The First Amendment

BRITAIN TO DEPORT PHILIP AGEE; U.S. NONCOMMITTAL ABOUT PROSECUTION

Following the British government's announcement that it intends to deport Philip Agee, author of "Inside the Company: CIA Diary," the American Civil Liberties Union again called on the U.S. Department of Justice to say whether or not it would prosecute Agee if he should return to the United States. In a telegram to Attorney General Edward H. Levi dated November 17, Melvin L. Wulf, legal director of the ACLU, declared that the Justice Department had "a special responsibility" to say whether or not Agee would be indicted because "any charge against him will implicate the most serious First Amendment issues. If Mr. Agee has committed any 'crime,' it consists of providing the American people with information they are entitled to have about the activities of the Central Intelligence Agency, many of which were illegal. To prosecute Mr. Agee for publishing his book would be extremely dangerous to Constitutional principles and extremely unfair to the American people."

Agee's book, which names agents and details the operations of his 12 years with the CIA in Ecuador, Uruguay, Mexico and Washington, was originally published in England by Penguin. It was issued in this country by Stonehill Publishing Company in August 1975 and has sold 75,000 copies. The paperback edition was released by Bantam in February of this year and, after three printings, has now a total of 256,000 copies in print.

Agee left the United States in 1971, and after stays in Havana and Paris, has been living in London since October 1972. In questions before the House of Commons, Britain's Home Secretary Merlyn Rees reportedly would not detail charges against Agee, but reiterated his claim that the writer was a risk to Britain's security. He is reported also to have denied that any American pressure was involved in the expulsion proceedings.

Wulf, who spoke to Agee by telephone after the deportation action started, reported that the Home Secretary may specify the country to which Agee will be sent. Agee may protest both the expulsion order and the specified destination before a government-appointed panel, but has no real right of appeal. Wulf released correspondence dating back to June 1975 in which the ACLU tried to learn if Agee would be indicted were he to return to the U.S. In the most recent letter to Attorney General Levi following the expulsion order, Wulf said: "To refuse to say whether or not Mr. Agee will be prosecuted means only that the government prefers to play cat and mouse games rather than to provide frank and straightforward information to an American citizen."

A Justice Department spokesman told *PW*: "The CIA referred the matter to us some time ago. We are looking to see if there have been any violations of federal law." Robert Stevenson, Department of Justice press officer, said the expulsion of Agee from England came as a surprise to U.S. officials.

A CIA official said the agency was "not involved" in the British action. "The British have their own laws and make their own decisions." In regard to possible civil action by the CIA, the spokesman said: "We don't know. We have no specific intention." He did say, however, that Agee, like other employees of the intelligence agency, had signed a secrecy oath at the time of his employment. Where the CIA can bring a civil suit, criminal proceedings fall entirely within the Justice Department's jurisdiction.

Agee is currently at work on a second book about the CIA under contract with Penguin. Jeffrey J. Steinberg, president of Stonehill, said, "We are obviously interested in the new book, but haven't come to terms yet." He said the new work gives an account of how CIA operations got started after World War II and how they contributed to the Cold War. "Agee has had discussions with ex-left wing leaders and current left wing leaders on their experience with CIA operations. The book contains first-hand information of a potentially explosive nature," Steinberg said.

"Agee wants to come back, it is his home," Wulf told *PW*. "We think it exquisitely paradoxical that someone who exposed the crimes and misdeeds of the CIA is now the only person under imminent prosecution—and the criminals in the CIA are home free."

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that if Agee does return, "he of course" intends to participate in the public debate on American foreign policy, as he now does from afar. To discourage his return in any way is to discourage the direct exercise of his First

ACLU Starts Campaign To Halt Official Spying

By William Delaney
Washington Star Staff Writer

The roughly 275,000 members of the American Civil Liberties Union will receive in this week's mail a four-page tabloid urging them to join the ACLU's new "top priority" — a Campaign to Stop Government Spying.

In the wake of congressional investigations last spring that failed to produce significant curbs on U.S. domestic or foreign intelligence gathering, and with the lengthy presidential campaign over, the ACLU is attempting to kindle support for a five-point legislative program being drafted by its attorneys. The goals are:

- To ban clandestine intelligence-gathering except in times of war and in the investigation of crimes.
- To make it a crime for government officials to lie to Congress or the people about illegal or prohibited activities.
- To reward government employees who blow the whistle on illegal and unethical goings-on and protect them from retaliation.
- To establish an independent special prosecutor to police the federal government's intelligence activities.
- To declassify much information now considered secret by the government; "no information should be classified unless its disclosure would cause immediate and irreparable damage to our national defense."

"THE MAJOR PUSH is going to be legislative," says director John H. F. Shattuck of the ACLU's seven-person Washington office, adding that the organization has prospective sponsors on Capitol Hill for the program it is drafting.

In addition to urging its members

to write congressmen, especially members of the Senate Intelligence Committee, supporting the proposals for stiffer intelligence controls, the ACLU is embarked on two similar lobbying efforts.

One is its participation in a still-developing coalition called the National Campaign to Stop Government Spying. According to Shattuck, other early groups in the coalition include the American Friends Service Committee, the Urban Policy Research Institute, the United Churches of Christ, the Public Education Project on the Intelligence Community and the U.S. Jesuit Social Apostolate.

THE OTHER EFFORT, jointly funded by ACLU and the Center for National Security Studies, is the Project on National Security and Civil Liberties, with headquarters near the coalition on Maryland Avenue NE. It publishes a monthly newsletter called "First Principles."

Shattuck said the decision to make government spying the ACLU's prime target was taken by its national directors at meetings last winter. It is being launched now, in the post-election lull, aimed at members of the new Congress and the incoming Carter administration.

At ACLU headquarters in New York, Executive Director Anyeh Neier said this week it is impossible to estimate how much of the organization's \$4 million annual budget (about \$2.5 million of which is controlled by state and local affiliates) will be expended in the antispying drive.

But he said he expects the affiliates to be involved in generating support for the federal legislative program. And he feels the drive may raise the ACLU's membership, which he said has "leveled off since 1974."

WASHINGTON BUREAU (GREEN LINE)
16 JULY 1976

'Operation Chaos' Files Ordered Held

"Operation Chaos" files compiled by presidential order on hundreds of thousands of dissident Americans in the past 15 years cannot be destroyed at present, according to a federal court ruling.

U.S. District Judge June Green ordered CIA Director George Bush not to destroy the files gathered by the CIA at the request of Presidents Lyndon Johnson and Richard Nixon, who feared extensive foreign influence on domestic unrest.

Green granted an appeal that the files be "protected" pending outcome of civil action by the American Civil Liberties Union demanding the material be made public.

The ACLU wants those in the Chaos files to get the information the CIA collected on them.

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MONTGOMERY, ALABAMA
JOURNALE - 25,921
MAY 28 1976

Suits Goes To FBI, CIA In Effort To Eradicate Peace Panel's Spy Work

Alabama Civil Liberties Union Executive Director Steve Suits has gone to the FBI and CIA in his continuing effort to eradicate the spy work of the Alabama Legislative Commission to Preserve the Peace.

A federal court in Montgomery put the commission out of business and ordered records impounded and sealed but Suits says misinformation may have been passed on to the federal intelligence-gathering agencies during the commission's 13-year life.

He is asking for information about himself and the ACLU under the federal Freedom of Information Act and said he expects replies from the FBI and CIA within 10 days.

According to depositions given by Edwin Strickland, former commission director, and two commission employees in connection with the federal litigation,

the ACLU and other civil rights groups were investigated and information passed on to federal agencies.

Strickland has criticized Suits for circulating what he calls "selected materials" from the files ordered sealed and says this may be a violation of the court order.

Suits is distributing "court-restricted material, carefully selected and out of context, to present an untrue and distorted picture of the commission's work and the defendants' motives," he said.

Strickland said "it is apparent" Suits, "or his agents," are acting out of malice "for the sole purpose of harassing the defendants."

—JUDITH HELMS

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FLINT, MICHIGAN
JOURNAL

E - 112,628
S - 112,151
MAY 10 1976

ACLU exec urges peacetime CIA lid

By DANIEL A. KOGER
Journal Staff Writer

The CIA must be stopped from using spies to gather information during peacetime, an official of the American Civil Liberties Union (ACLU) told members of the group here Sunday.

The CIA represents a second, secret government functioning alongside our democratic government, Jay A. Miller, associate director of the ACLU's national office in Washington, told 40 persons at the annual meeting of the group's Flint chapter at the Country Squire.

Miller said he was here to announce a major assault by the ACLU on covert intelligence gathering by the CIA.

The ACLU is seeking four reforms of the CIA. These include prohibiting use of spies to gather foreign intelligence during peacetime and forbidding CIA officials or senior non-elected policymakers from willfully deceiving Congress or the public about illegal activities by intelligence agencies.

The ACLU wants such deception to be made illegal.

The group also proposes criminal action against any federal official other than U.S. foreign embassy officers who "willfully fail to report

evidences of criminal conduct."

The ACLU also wants protection granted to persons who "blow the whistle" on intelligence officials who break the law in their information-gathering activities, Miller said.

Elected officials, especially members of Congress, are afraid to monitor the CIA budget, Miller said.

"If they ask how much the agency spends, that would make it a political question," he said.

Estimates are that the CIA costs taxpayers \$10 million a year, he said.

"How can you control them when you don't know how much money they spend or how they spend it?" he asked.

The CIA has made liars out of every president since Harry S. Truman because it is part of a secret government, Miller said.

SAN ANTONIO, TEXAS
EXPRESS
M - 82,774
EXPRESS-NEWS
S - 115,070

MAR 18 1976

ACLU chief says CIA is berserk

By JESSE HENRY Jr.

The Central Intelligence Agency has become uncontrollable and President Ford and Congress are doing very little to publicly disclose workings of the covert group.

That assessment of the CIA came Wednesday from Aryeh Neier, executive director of the American Civil Liberties Union.

Neier will be keynote speaker at 7:30 p.m. Thursday at an ACLU meeting to be held at the First Unitarian Church.

His topic will be, "The CIA — A Government Agency Gone Berserk."

Author

The top ACLU official is the author of "Dossier: a recent book on government surveillance and recordkeeping of U.S. citizens."

"The reason the CIA has gone berserk is they've been too secret. They're out of control," Neier explained.

He added, "There isn't any need for government to have a secret operation which it keeps secret from the public."

'There isn't any need for the government to have a secret operation which it keeps secret from the public'

The ACLU director said the secretiveness of the CIA is alarming for many reasons — but mainly because it defeats the basic principles of a democracy.

Neier was critical of the President's treatment of the CIA and other similar government groups.

"It seems Ford would authorize intelligence agencies to do everything they did before without authorization — except assassinations."

He said one of the main objectives of the ACLU in its probe of the CIA is to get the agency to disclose its budget allocations.



ARYEH NEIER
... raps CIA work

He said the U.S. spends \$10 billion yearly for security and the CIA probably has a big chunk for its

operations throughout the world.

Neier also said the actual number of CIA agents is as elusive and covert as some of the activities of the controversial agency now headed by George Bush.

The ACLU spokesman suggested the CIA should be limited to collecting and evaluating foreign intelligence from open sources such as publications, announcements and observations. He said its hush-hush atmosphere is dangerous to the welfare of the U.S.

Sued

The ACLU now has damage action suits in federal court the CIA which challenge the agency's practices of opening personal mail and taping to overseas phone calls.

He claimed much of the CIA's operations, if revealed, would be utterly obnoxious.

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WASHINGTON POST

Colby Opposes Disclosure Of CIA's Annual Budget

By Timothy S. Robinson
Washington Post Staff Writer

Former CIA Director William E. Colby has testified that the disclosure of the agency's budget for a single year would set a precedent for an annual release of the figure and in turn would harm national security.

Comparing the dollar amount spent yearly on CIA programs to the "missing piece" in a jigsaw puzzle sought by intelligence agencies of other countries, Colby said foreign economic analysts could use the information to determine the CIA's spending priorities.

Colby also described as inaccurate published estimates of the CIA's budget as being \$750 million a year. His testimony came in a deposition taken in an American Civil Liberties Union lawsuit seeking disclosure of the intelligence agency's expenditures in fiscal 1974 and its budgetary spending authority in 1976.

Colby made it clear that disclosure of the budget would not reveal the full scope of its operation, since funds are often transferred to and from other government agencies to finance public and covert CIA projects.

However, he said he considered the CIA's budget alone important enough to be kept secret. He said the U.S. intelligence community had used similar figures

from other countries to make estimates of "certain important things," which he would not describe.

Colby's defense of the CIA budget secrecy was the strongest and most detailed he has made publicly, according to attorneys involved in the litigation. He said the agency's budget has been subject to "substantial" fluctuation over the last 15 years.

While saying that "intelligence today is more and more the study of open material" and that even the President's State of the Union message is useful to foreign intelligence agencies, Colby said the CIA still does "secret work."

"We are not just reading copies of Pravda around here," Colby said. "We are looking a little more vigorously than that for information held by closed societies."

"... I think we have a problem of protecting this democracy of ours and in the process we need to run some secret operations, and will in the future run them," he said.

The Rockefeller commission that studied the CIA had recommended that portions of the CIA budget be made public. The House of Representatives last October rejected an attempt to make the appropriation public.

Colby was questioned by ACLU attorney John H. F. Shattuck at CIA headquarters in Langley, Va., on Feb.

17. Colby left the CIA Jan. 30 and was replaced as director by George Bush. The deposition was filed yesterday in U.S. District Court here in the Freedom of Information Act suit brought against the CIA by former National Security Council aide Morton Halperin. The former CIA director said he "hardened" his position against any disclosure of the agency's budget while he was serving as the director.

He cited the case of the Atomic Energy Commission, which issued a total budget figure in 1947 that amounted to one line and 25 years later was issuing 15 pages of detailed explanations of its budget.

Instead of starting a disclosure precedent, Colby said, he preferred that only the congressional oversight committees be kept aware of the agency's budget.

He added that he thinks the American intelligence community "is in great danger of too much exposure."

Colby, who is writing a book on his government service, said there probably would be no immediate effect on national security if the agency's budget for one year was announced. But, he added:

"I think they [foreign intelligence agencies] would just take that back and start doing some studying. They might study for three months or they might study

for six months and at that time they might start turning electronic gadgets on or off or they might start following people around, they might start covering things up that were left open.

"There are a whole variety of things. They might go out and sail around the sea in different places than they were in the past—various things."

Colby: Keep CIA Budget Secret

By Vernon A. Guidry Jr.
Washington Star Staff Writer

Former CIA Director William Colby maintains in court papers released today that publication of even one year's budget figure for the CIA would give foreign analysts a valuable "bench mark" against which to sharpen their estimates of American intelligence.

Colby argued against disclosure in a deposition taken in a suit in which the American Civil Liberties Union seeks to force disclosure of the intelligence agency's annual budget figure. The suit was filed last year on both Freedom of Information Act and constitutional grounds.

THE PLAINTIFF in the case is Morton H. Halperin, a former National Security Council aide and Pentagon official who also is suing former President Richard M. Nixon, Secretary of State Henry A. Kissinger and others for damages for what he alleges was an illegal, politically motivated tap on his home telephone.

In the deposition in the CIA budget figure suit, Colby was asked if he was contending that anything useful to a foreign analyst could also reasonably be expected to cause damage to the national security.

"Oh, of course not," he said. "I mean the State of the Union speech does that. It is enormously helpful.

No, it is a balance problem, of course," Colby said.

He also was asked what would happen if the CIA budget for one year were released, the total figure only.

"I DON'T THINK we would hear about it right away," Colby responded. "I think they would just take that back and start doing some studying."

"They might study for three months or they might study for six months and at that time they might start turning electronic gadgets on or off, or they might start following people around, they might start covering things up that were left open."

92 FEB 1976

25X1

A.C.L.U. IN DRIVE FOR SPYING CURBS

Favors Punishing Official Who Deceive Public About Illegal Intelligence Acts

By JOHN M. CREWSON
Special to The New York Times

WASHINGTON, Feb 21—The American Civil Liberties Union, in a move reminiscent of its campaign in 1973 for the impeachment of President Nixon, is initiating a national drive to generate public support for the reform of the American intelligence community.

The most radical of the organization's proposals, approved last weekend by a 32-to-18 vote of the union's national board, will be its call for legislation making it a Federal felony for a nonelected Government official knowingly to deceive the public.

Under draft statutes being prepared by A.C.L.U. lawyers, the penalty for such an offense would be the same maximum two-year jail sentence imposed on persons who falsify their Federal income-tax returns.

The 275,000-member civil liberties organization, which will push its drive with a national advertising campaign and lobbying of Congress, is also calling for the abolition of all covert intelligence activity and the appointment of a special prosecutor to watch over the dozen or so agencies that make up the Federal intelligence community.

Charles Morgan Jr., head of the union's national office here, conceded in a telephone interview that, judging by the reaction of President Ford's reorganization this week of the executive's intelligence command structure, he did not expect Congress or the public to accept readily the need for such radical reforms.

Protected Plan Proposal

Among other things, Mr. Morgan said, the new drive will call for statutory protection for Federal employees, such as Ernest Fitzgerald, who "blew the whistle" to Congress or the public about official wrongdoing. Mr. Fitzgerald, a Pentagon management expert, lost his job, and then regained it through court action, after he had disclosed a \$2 billion cost overrun on the C-5A airplane.

The prospective legislative package, for which Mr. Morgan said no Congressional sponsors had yet been found, would also make it a criminal offense for public officials below the "ministerial," or Cabinet level, to fail to report to the special prosecutor evidence of criminal conduct by intelligence agencies.

Asked why the union considered such matters to be civil liberties issues, Mr. Morgan said that voting for public officials was a constitutional right, that "people have to have information to vote," and that misstatements by public officials or cover-ups of official wrongdoing limited or distorted the information available to the electorate.

The proposal to "make it a crime for a Federal official to deceive Congress or the public willfully about official illegal activities would apply to every employee of the executive branch. It would have its greatest impact, however, on the battalion of public information officers who act as liaison between Federal agencies and reporters.

Such an official, Mr. Morgan said, "works for us."

"He's supposed to tell us the truth." He added, "If he can't tell us the truth, just say 'no comment.'"

The resolution approved last Saturday by the A.C.L.U.'s national board, meeting in New York City, declares the organization's opposition to "the peacetime use of spies in the collection of foreign intelligence," and calls for the ending of "clandestine governmental relationships" with private citizens and corporations.

The Central Intelligence Agency now has a number of "commercial cover" arrangements with American multinational corporations in which its operatives pose as businessmen, journalists and the like in connection with their work.

The union's resolution would not affect the collection of intelligence through conventional means, such as reconnaissance satellites, Mr. Morgan said.

The reforms made public by President Ford on Wednesday do not affect the clandestine collection of intelligence abroad, nor do they prohibit covert political or military operations aimed at influencing the internal affairs of another country.

Mr. Ford did, however, set up an Operations Advisory Group to approve and periodically review, at formal meetings of its members, any covert activities in progress.

The advisory group replaces in form and function the 40 Committee, which had essentially the same responsibilities. But a new organization established by Mr. Ford is the Intelligence Oversight Board, designed to monitor the C.I.A. and other intelligence agencies for signs of illegal or improper activities.

Mr. Ford met today for the first time with the three members of the oversight board—Robert D. Murphy, former Under Secretary of State, its chairman; Leo Cherne, an economist, and Stephen Ailes, a former Secretary of the Army.

First Principles

NATIONAL SECURITY AND CIVIL LIBERTIES

DECEMBER 1975

VOL. 1 NO. 4

In this Issue: **Controlling the Intelligence Agencies, page 3**
CHRISTINE M. MARWICK

Coming: JAN.: Local Red Squads:
The Report of the Cook County Grand Jury

October 31, 1975 Secretary of State Henry Kissinger told the House Intelligence Committee that during the six years he was National Security Advisor all covert operations had been approved personally by the President. The Committee also revealed that, under orders from Nixon over CIA objections, the CIA served as arms supplier to the Iraqi Kurds at the request of the Shah of Iran.

November 2-4, 1975 In a letter to the Senate Select Committee on Intelligence, President Ford requested that the Senate Report on *Alleged Assassination Plots Involving Foreign Leaders* be withheld from the public. Ford's letter stated that "publication will harm the national security and possibly endanger individuals." The Committee then voted to bring the matter before an executive session of the Senate; subsequently, the report was released on November 20, 1975. (See In The Congress, In The Literature and Point of View)

November 7, 1975 Witnesses testified at a Senate hearing that during the 1950's drug addicts at a federal rehabilitation center in Kentucky were "paid off" in narcotics for participating in CIA-funded experiments.

November 10, 1975 The Cook County Grand Jury released its report, "Improper Police Intelligence Activities." The Grand Jury found that the Chicago Police Department had both violated criminal law in its intelligence gathering activities and made indiscriminate use of undercover agents. This report will be the subject of the January issue of *First Principles*.

November 18, 1975 Senate Intelligence Committee investigators disclosed that the FBI tried to discredit the late Dr. Martin Luther King via undercover operations which included buggings and blackmail. Committee members were told that the late FBI director J. Edgar Hoover decided in 1961 to "smear King" and even decided on "a new national Negro leader to replace him." Other revelations included: Hoover's personal files were largely destroyed in 1972 either shortly before or after Hoover's death; and, obtaining NBC press credentials, the FBI conducted extensive spying of the Democratic National Convention at the request of the Johnson Administration.

November 18, 1975 A witness told the House Intelligence Committee that as an FBI informant he led a group of thirty antiwar demonstrators in a raid on the Camden, New Jersey draft board which resulted in arrests by federal agents. In other testimony, a retired FBI agent said he refused an assignment to obtain a handwriting sample of Andrew Young who was then a black Georgian candidate for Congress (he was elected in 1972 and re-elected last year) because it would be used for counterintelligence purposes.

November 19, 1975 Citing what they described as official sources, the *New York Times* reported that the \$90 billion military budget approved for this year concealed within it \$4 billion for the intelligence community's programs.

November 25, 1975 The Justice Department waived more than \$23,000 in search fees for releasing under the Freedom of Information Act more than 30,000 pages of FBI material on the Rosenberg espionage conspiracy case.

In The News

It is at all times necessary, and more particularly so during the progress of a revolution and until right ideas confirm themselves by habit, that we frequently refresh our patriotism by reference to first principles.

WASHINGTON STAR (RED LINE)
12 DECEMBER 1975

Justice Hires Lawyers for CIA Suits

Outside Help Is Provided
Officials in Mail Opening

By Orr Kelly

Washington Star Staff Writer

Nine private lawyers have been hired by the Justice Department to represent 34 present and former government officials who are being sued for damages because of their alleged participation in CIA mail-opening programs.

The lawyers will be paid from \$50 to \$75 an hour under contracts negotiated by the department.

Some of those involved in the mail-opening program are also the subjects of a criminal investigation, a department spokesman said today. If any of those under investigation should be indicted, their government-sponsored representation in the civil suits would be cut off.

THE DEPARTMENT announcement said the decision to hire the private attorneys is consistent with a policy under which present and former employees are represented in cases involving actions they took while they were federal officials.

The decision to hire the private attorneys was made after Asst. Atty. Gen. Rex E. Lee, who is in charge of the civil division, determined that it would be a conflict of interest for the department to represent the individuals in civil cases while a criminal investigation is under way.

The CIA has confirmed that it opened mail between the United States and Communist countries for about 20 years, from 1953 to 1973. The largest single recipient of information from the opened mail — 57,846 items — was the FBI.

Those named in lawsuits filed in Providence, New York City and San Francisco include CIA Director William E. Colby, his immediate predecessors, James R. Schlesinger and Richard Helms, and a number of other CIA officials. Also named in the suits are top postal officials of the Kennedy, Johnson and Nixon administrations as well as Justice Department, FBI and White House officials of those administrations.

THE WASHINGTON lawyers are Jon T. Brown and J.R. Weill, of the law firm of Duncan, Brown, Weinberg & Palmer; Plato Cacheris, of the firm of Hundley, Cacheris & Sharp; Alan Y. Cole, of the firm of Cole & Groner; Charles R. Donnenfeld, of the firm of Arent, Fox, Kinter, Plotkin & Kahn, and William E. Nelson.

The lawsuits were filed by the American Civil Liberties Union and Grove Press after the Rockefeller Commission and the Senate Intelligence Committee revealed that the CIA had carried on a long-term mail-opening operation in which thousands of letters to and from the Soviet Union and China were opened and their contents photographed.

NEWSWEEK
10 November 1975

INVESTIGATIONS:

Project Minaret

With a domestic staff of 20,000 people, a network of 2,000 communications-monitoring stations around the globe, a sprawling headquarters full of Orwellian hardware at Fort Meade, Md., and a budget estimated at more than \$1 billion a year, the National Security Agency has nonetheless remained the most secret of the nation's secret services. Its charter is classified, and for a time the government refused even to admit NSA existed. But ever since it was set up in 1952 to coordinate the government's code-breaking activities, the NSA has grown steadily in size and importance, and last week, over White House and its own objections, the agency was brought to its first-ever public accounting for surveillance activities that have intruded—possibly illegally—on communications of U.S. citizens.

The agency is capable of scanning millions of telephone and cable communications at once and plucking out those which may have a bearing on national security. Its computers are programed to print out any message containing certain key words, such as "Mideast" or "assassination." But according to NSA director Lt. Gen. Lew Allen Jr., who testified

before the Senate Intelligence committee last week, the NSA has turned its technological eye on American citizens as well as foreign targets to an extent only recently reported on (NEWSWEEK, Sept. 8) and never before confirmed.

From 1967 to 1973, he said, the NSA monitored the overseas telephone calls and cables of perhaps as many as 1,650 Americans and U.S. organizations—as well as those of almost 6,000 foreign nationals and groups—at the behest of a half-dozen other Federal intelligence agencies. Among those targeted on the various agencies' "watch lists" were narcotics traffickers, suspected terrorists and assassins and domestic antiwar dissidents. Allen admitted that Project Minaret, as it was called, had never been formally authorized by a President or Attorney General.

Messages: The single largest and most controversial undertaking of Minaret was the attempt to ferret out links between U.S. antiwar protesters and foreign governments. Allen testified that the NSA had got one watch list of more than 1,000 Americans from the FBI alone—and other lists came from the Army, the Pentagon and the CIA's investigation of antiwar groups, Operation CHAOS. The NSA never eavesdropped on any purely domestic message, Allen testified; at least one end of every oral or written communication intercepted was always on foreign soil. Information from Minaret, he said, had led to several important achievements: it had helped to thwart one major terrorist plot and several large-scale narcotics operations.

When Elliot Richardson became Attorney General in 1973, he told Allen that the watch-list program raised "serious legal questions" and ordered it suspended. It was, but Minaret was not the only NSA operation involving United States

citizens. The committee had hoped to hold hearings on Project Shamrock as well—a 30-year program that ended only six months ago in which, according to Congressional investigators, government agents visited the cable offices of ITT and RCA in Washington every day and, with company permission, photocopied or borrowed any overseas cables they wanted.

'Secure': In recent weeks, however, the White House has put pressure on committee chairman Frank Church and his colleagues not to hold the Shamrock hearings. Attorney General Edward Levi said hearings could jeopardize national security, and several committee members agreed. As Texas Sen. John Tower put it: "I do believe the people's right to know should be subordinated to the people's right to be secure." After heated debate in executive session, the committee decided to clear its Shamrock report with NSA before voting on whether to release it.

Still, the hearings on Minaret alone created doubts about the propriety of the NSA's surveillance techniques. Democratic Sen. Walter Mondale of Minnesota said an operation like Minaret "discourages political dissent" and Church said both Minaret and Shamrock "appear to be unlawful." The American Civil Liberties Union apparently agrees; last week, it launched a multimillion-dollar suit against officials of the CIA, the NSA and the cable companies, charging them with violations of anti-wiretap laws and constitutional rights.

The dilemma is that the NSA's technology appears to have far outrun the law. While tapping into a line with alligator clamps without a court order is clearly illegal, monitoring microwave transmissions may or may not be. If it were, as one committee staffer put it, NSA would "have to have warrants for 200 million Americans. They'd have to close down operations, and nobody has any wish to see them do that." A handful of top Justice Department lawyers are trying to devise legislation that would permit such monitoring without a court order—but require approval of the Attorney General before the agency "could keep an intercepted message.

—JAMES R. GAINES with ANTHONY MARRO in Washington.

25X1

Ford Asks Senate to Bar Release of Death Plot Data

By NICHOLAS M. HORROCK
Special to The New York Times

WASHINGTON, Nov. 2— President Ford and the Department of Justice are moving to keep details of United States involvement in assassination plots against foreign leaders from being made public by the Senate or in a court case here.

A spokesman for the Senate Select Committee on Intelligence said today that late Friday each member of the committee received a "strongly worded" letter signed by President Ford urging the member not to make public the committee's forthcoming report on the Central Intelligence Agency's involvement in plots to kill foreign leaders. The spokesman declined to make the letter public and said that the committee had called for a meeting tomorrow to discuss it.

A spokesman for the White House said it would not re-

lease the President's letter unless asked to by the committee. A White House source said that the three-and-one-half-page letter set forth "in great detail" the reasons President Ford believed the publication of the report would harm national security.

Senator Frank Church, the committee chairman, immediately rejected Mr. Ford's plea.

"I am astonished that President Ford wants to suppress the committee's report on assassination and keep it concealed from the American people," the Idaho Democrat said in a statement. "They have a right to know what their Government has done."

"The President himself asked the committee to investigate these charges. For months he has known of the committee's intent to publish its findings in

form of a special report." The statement added that Mr. Church would oppose Mr. Ford's plea in committee debate.

Also late Friday, in a case brought by the American Civil Liberties Union, the Department of Justice filed affidavits opposing efforts to make public Government documents on foreign assassination plots.

The Government affidavits disclosed for the first time that the C.I.A. and the State Department had discovered 62 documents on political assassinations spanning the terms of three Presidents.

In one series of "dispatches," according to the affidavit, is a communication from the C.I.A. dated "22 November 1963" and classified secret. That is the date President Kennedy was assassinated in Dallas. The communication is one of eight "dispatches" that a C.I.A. official said in the affidavit should not be made public because they "concern a sensitive covert operation."

Ever since the investigation of C.I.A. plots began, there has been a growing question of whether United States activities might in some way be connected with the shooting of President Kennedy. The dispatch on that date appeared to be connected with the activities of Lee Harvey Oswald, who the Warren Commission concluded was the assassin.

The C.I.A. also opposed the publication of a dispatch dated Oct. 11, 1963, which intelligence officers have said was the date the C.I.A. advised the Federal Bureau of Investigation that Oswald was in Mexico City.

The entire list of 62 documents indicated that planning of political assassinations, possibly the plot against Prime Minister Fidel Castro of Cuba, began as early as March 9, 1960, and apparently was discussed at the "first meeting of an agency task force." This was nearly a year before President Eisenhower left office and President Kennedy came in.

There are also numerous documents dated around the time of the Bay of Pigs abortive invasion of Cuba, in April 1961 and the murder of the Dominican Republic dictator, Rafael Trujillo Molina, on May 31, 1961.

Request for Information

The assassination documents have been sought under the Freedom of Information Act by Robert L. Borosage, director of the Center for National Security Studies, a Washington research group. The Civil Liberties Union is handling the case for Mr. Borosage.

Richard L. Thornburgh, Assistant Attorney General in charge of the Criminal Division, said in an affidavit that disclosure of the documents would "substantially harm" a criminal investigation begun by his office at the request of the President after the completion of the Rockefeller Commission inquiry on the C.I.A. He also opposed publication on the ground that it would deprive persons of a right to a fair trial because of pretrial publicity and would constitute "an unwarranted invasion of personal privacy of many individuals."

Eloise Page, a senior C.I.A. official in the covert operations field, said in an affidavit that "the disclosure of these documents would result in exceptionally grave damage to the national security because to officially acknowledge these plans would disrupt foreign relations vitally affecting national security."

The latter point has been an overriding consideration in the handling of the entire assassination matter by the Senate committee. Senator Church and his colleagues have avoided holding public hearings on the subject because they agreed with the Administration that the spectacle might harm the United States image abroad.

The committee also agreed to submit a draft of its final report to the various intelligence agencies, not for editing, but so the intelligence officials could point out sections that might disclose sources and methods. This was done last month and presumably the President's letter was the result of these reviews.

It was preceded last week by positions taken by Administration officials that Mr. Church construed as a hardening of Mr. Ford's posture against the entire investigation. He said at the time that he had had an earlier letter from Philip W. Buchen, Presidential counsel, that he believed was an effort to halt the publication of the report.

25X1

THE WASHINGTON STAR (RED LINE)
3 November 1975

25X1

Senators Flay Colby Fit As Part of 'New Cover

By Norman Kempster
Washington Star Staff Writer

Members of the Senate Intelligence Committee today angrily accused President Ford of attempting to cover up CIA wrongdoing by firing agency Director William E. Colby and attempting to suppress an already drafted report on assassinations.

"There seems to be a whole pattern developing of trying to thwart the committee's work and suppress its findings," Chairman Frank R. Church, D-Idaho, told reporters as his voice sometimes quavered with anger.

Church and several other members of the panel predicted the committee would make public its report on CIA assassination plans later this month in spite of Ford's efforts to keep it secret.

"THERE IS no question in my mind but that concealment is now the order of the day," Church said. "Hiding evil is the trademark of a totalitarian government."

Church and other committee members were at a loss to explain the direct connection between Ford's attempt to suppress the assassination report and the dismissal of Colby, but they said they were convinced the two events were linked.

Sen. Walter Huddleston, D-Ky., suggested that Colby was fired because he had been too willing to talk to the committee about CIA wrongdoing.

Huddleston called the President's efforts to suppress the report "an insult to the committee and an insult to the American people."

Sen. Richard Schweiker, R-Pa., told reporters, "I will not be party to a cover-up. I certainly will vote to make public that report."

Both Huddleston and Schweiker said there was a connection between Ford's effort to block the report and the President's decision to fire Colby.

HUDDLESTON SAID Colby had been cooperative with the committee and that that may have been the reason for his ouster.

"The whole lesson of Watergate has been lost on President Ford," Huddleston said.

Republican senators on the committee grumbled that they had received no advance notice of the shakeup.

Colby, meanwhile, left his home in a CIA auto for another day at the office. But in answering the questions of reporters, he left little doubt that he had been dismissed.

Ford on Friday wrote personal letters to each member of the Senate committee urging them to keep secret the assassination report, which was the result of a five-month investigation. The committee is nearing a vote on the final form of the document, which could be released in a week or two.

The President said that even though CIA involvement in efforts to kill Cuban Prime minister Fidel Castro and former premier Patrice Lumumba of Congo (now Zaire) is no secret, Ford argued that it would damage the nation's foreign policy to make the situation a matter of public record.

SEVERAL MEMBERS of the intelligence committee speculated that the dismissal of Colby and Defense Secretary James Schlesinger has enhanced the already considerable power of Secretary of State Henry A. Kissinger. "This is an admission that Secretary Kissinger is the real power in the administration, particularly now that the President is devoting so much time to his campaign," Huddleston said.

A Republican senator said, only partly in jest, that he understands "Kissinger took the crown from Ford's hands and placed it on his own head."

Late Friday each member of the committee received a "strongly worded" letter signed by Ford urging the members not to make public the committee's forthcoming report on the CIA's involvement in plots to kill foreign leaders.

ALSO LATE FRIDAY, the Justice Department filed affidavits opposing efforts to make public government documents on foreign assassination plots.

The affidavits disclosed for the first time that the CIA and the State Department had discovered 62 documents on political assassinations spanning the terms of three presidents.

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affidavit, is a communication from the CIA dated "22 November 1963" and classified secret. That is the date President John F. Kennedy was assassinated in Dallas. The communication is one of eight "dispatches" that a CIA official said in the affidavit should not be made public because they "concern a sensitive covert operation."

Since the investigation of CIA plots began, there has been a growing question of whether U.S. activities might in some way be connected with the Kennedy assassination. The dispatch on that date appeared to be connected with the activities of Lee Harvey Oswald, who the Warren Commission accused of killing Kennedy.

THE CIA also opposed publication of a dispatch dated Oct. 11, 1963, which intelligence officers have said was the date the CIA advised the FBI that Oswald was in Mexico City.

The entire list of 62 documents indicated that planning of political assassinations, possibly the plot against Prime Minister Fidel Castro of Cuba, began as early as March 9, 1960, and apparently was discussed at the first meeting of an agency task force. This was nearly a year before former President Dwight D. Eisenhower left office and Kennedy came in.

There are also numerous documents dated around the time of the abortive Bay of Pigs invasion of Cuba, in April, 1961, and the murder of the Dominican Republic strongman, Rafael Trujillo Molina, on May 31, 1961.

Continued

THE WASHINGTON POST
29 October 1975

25X1

\$500 Million Is Sought in U.S. Spying

By Timothy S. Robinson
Washington Post Staff Writer

A lawsuit was filed in federal court here yesterday charging the National Security Agency and the Central Intelligence Agency with conducting a massive, illegal spying campaign on antiwar activists in the late 1960s and early 1970s and seeking \$500 million in damages.

The suit was filed by the American Civil Liberties Union on behalf of 8,200 individuals and groups on whom the CIA and NSA reportedly maintained files, opened mail and intercepted messages and telephone calls.

The suit is based largely on information growing out of the Rockefeller commission's report in June on the U.S. CIA's domestic surveillance activities. The report confirmed the existence of a program known as "Operation Chaos." The groups and individuals listed as plaintiffs in yesterday's suit reportedly were watched as a part of that program.

Named as defendants are past directors and other top-ranking officials of both government spying agencies, as well as four international communications networks which supposedly aided in the illegal interception of messages being sent overseas by the plaintiffs.

The suit claims the plaintiffs became the topics of "watch files" or "subject files" in the CIA because of their opposition to the war in Indochina in the late 1960s. The CIA then supplied a "watch list" to the NSA so the NSA could intercept international messages and telephone calls placed by persons on the list, the suit continued.

According to the Rockefeller commission report, the CIA began "Operation Chaos" to gather information on the "foreign contacts" of American citizens here who were protesting the Vietnam war. As a part of that program, more than 40 undercover agents reportedly infiltrated domestic antiwar organizations.

The program also included illegal opening of first-class mail with the contents copied and placed in Chaos files, the suit alleged. Reportedly aiding NSA in the interception of overseas messages were Western Union Telegraph Co., RCA Global Communications, Inc., American Cable and Radio Corp., and ITT World Communications, Inc., according to the suit. The four companies were named as defendants.

NSA turned over to the CIA more than 1,100 pages of summarized conversations that had been illegally overheard, the suit claimed.

The suit seeks \$50,000 in punitive damages for each plaintiff, as well as \$100 a day for the duration of any illegal interceptions of wire or oral communications.

RUTLAND, VT.
HERALD

M - 21,834

OCT 29 1975

Vermont Residents Vs. CIA

State Citizens Are
In Suit Against
Federal Agency.

By GREGG BLACKBURN
(Vermont Press Bureau)

WASHINGTON — Several Vermonters were among 8,200 anti-Vietnam War activists represented in a \$500 million class action suit filed here Tuesday against the Central Intelligence Agency and the National Security Agency for alleged illegal activities including opening of mail, monitoring of overseas cables, and wiretapping.

The suit was filed by the American Civil Liberties Union alleging intelligence officials in the CIA and the NSA authorized illegal surveillance activities as part of operation CHAOS, an intelligence program dating back to 1967.

The Vermonters taking part in the suit include Goddard College faculty member Steven E. Halliwell, a former officer in the Students for a Democratic Society, and Donald Luce, a former agricultural consultant in Vietnam who later became an anti-war activist.

Operation CHAOS was originally set up to uncover a suspected foreign influence behind civil anti-war activities in the United States, according to the report of the Rockefeller Commission, which earlier this year completed investigations into allegations of illegal activities by the CIA. The Rockefeller Commission said operation CHAOS files later became the repository of information on the domestic activities of American citizens, "not directly related to the question of the existence of foreign connections with domestic dissidents."

The suit was filed on behalf of about 8,200 dissidents who were the subjects of CIA operation CHAOS files, and who believe their overseas mail, telephone calls and cables were illegally monitored without court orders in violation of their rights to privacy.

One of the anti-war activists who believes his overseas communications may have been illegally monitored is Goddard College faculty member Halliwell. He said Tuesday that while a graduate student at Columbia University in New York he was a national officer in the Students for a Democratic Society (SDS) and frequently sent telegrams overseas to arrange conferences of student groups opposed to the war.

Halliwell said he was involved in arranging trips to European cities and to North and South Vietnam for Americans in the anti-war movement to meet with North and South Vietnamese. He said he was also

a member of the Committee of Liaison, an activist group which served as a communications link between American prisoners of war and their families when the North Vietnamese refused to deal through the American government. Halliwell said in those activities he frequently sent cables to organizations in North Vietnam such as the Student Union of North Vietnam and that he and other activists were "systematically harassed" by the government.

Halliwell said he was "gratified the surveillance we were aware of is now being made public. We all knew we were subjects of illegal surveillance, but the public at large was not ready to believe that yet."

Halliwell was doubtful the \$500 million suit would be completely successful in the courts, but said, "It will continue to open up the fact that what is classified as intelligence work, is often really a political effort to harass and deny the rights of citizens who disagree with the government." Halliwell said he was hopeful it would, "bring the intelligence agencies and the military into line with Democratic ideals."

Another party to the ACLU suit is Donald Luce, who grew up in East Calais and who spent over 14 years in Vietnam beginning in 1958. Luce has a degree in agriculture from the University of Vermont and first went to Vietnam as an agricultural consultant. Luce eventually became an active dissident opposing the war in Vietnam.

Luce said he was not surprised to learn he had been the subject of surveillance efforts by American intelligence agencies, and said he had long

suspected his telephone was tapped.

Luce was a witness in the Pentagon Papers trial of Daniel Ellsberg, and said he found the government prosecutor in the case seemed to know more about his past whereabouts and the contents of his conversations than he himself could recall. Luce said he suspected then the government probably had a well stocked file on him, but that he was nonetheless angered on learning from the Rockefeller Commission report he was among those allegedly the object of illegal surveillance.

Luce said when he learned through the Rockefeller report he had been watched, he was revulsed at the thought that "not only was my government spying on other Americans, but it was spying on me." Luce said he was offended to think he would be spied on for exercising his rights to protest what he considered wrongful American policies such as "bombing villages in Vietnam and using American tax money to build prisons in Vietnam to hold Vietnamese."

Luce is currently on a tour in Vermont with the Indo China Mobile Education Project, which is showing a photographic history of the Indo China war. Luce expects to be around the Barre-Montpelier area late this week.

In addition to intelligence officials the suit names as defendants Western Union, RCA World Communications, American Cable and Radio, and ITT World Communications for allegedly supplying the NSA with intercepted messages of cables and telephone calls.

The intelligence agency officials named are CIA Director William Colby, former directors James R. Schlesinger, now secretary of defense, and Richard M. Helms, now ambassador to Iran. Also named are Lt. Gen. Lew Allen, director of the NSA, and two former directors, Vice Admiral Noel Gaylor, and Lt. Gen. Samuel C. Phillips.

CIA, NSA Sued for Surveillance

From Inquirer Wire Services

WASHINGTON — A suit seeking about \$500 million in damages was filed in federal court yesterday against present and former officials of the CIA and National Security Agency (NSA) for their surveillance of anti-war radicals and other dissidents.

The class action suit was filed by the American Civil Liberties Union (ACLU) on behalf of nearly 7,200 individuals and 1,000 organizations who were the subject of files kept by the CIA as part of its Operation CHAOS, an intelligence program begun in 1967.

The suit alleges that the CIA and NSA illegally opened the mail and intercepted the overseas phone calls and cables of American dissidents. It seeks damages of \$50,000 for each of the individuals and organizations. The suit also asks for \$100 a day in damages for each day that their communications were intercepted.

In addition to the intelligence officials, the suit names as defendants Western Union, RCA World Communications, American Cable and Radio, and ITT World Communications. The suit charges that those firms supplied NSA with intercepts of

overseas phone calls and cables.

Intelligence officials named in the suit include CIA Director William E. Colby; former CIA Directors James R. Schlesinger, now secretary of defense, and Richard M. Helms, now ambassador to Iran; Lt. Gen. Lew Allen, director of the NSA, and two former NSA directors, Vice Adm. Noel Gayler and Lt. Gen. Samuel C. Phillips.

Rockefeller Commission, which investigated the U. S. intelligence community, said that Operation CHAOS was started in 1967 in an effort to uncover what was suspected to be a foreign influence behind U. S. unrest. The commission said the operation became "a repository for large quantities of information on the domestic activities of American citizens," much of which "was not directly related to the question of the existence of foreign connections with domestic dissidence."

The commission's report did not mention names of individuals subjected to surveillance but listed a number of organizations, including the Black Panther Party, Students for a Democratic Society, Grove Press, the American Indian Movement, and Clergy and Laymen Con-

cerned about Vietnam.

The ACLU suit mentions a number of individuals who allegedly were targets of CIA and NSA surveillance, including Cora Weiss, former head of the Committee of Liaison With Families of Servicemen Detained in Vietnam; Mary Chandler and Adele Halkin, members of Women Strike for Peace; and Sidney Peck, former head of the National Mobilization Committee to End the War in Vietnam.

Elsewhere in the capital yesterday, Chairman Frank Church (D., Idaho) said his Senate Intelligence Committee would hold public hearings on the NSA today despite White House pressure to keep the agency's activities and other sensitive topics secret.

Expressing impatience with the White House attitude, Church said that the administration opposed publishing a panel report on foreign assassination plots, that it had asked that hearings on operations in Chile by both NSA and CIA be held in private.

THE CHICAGO TRIBUNE
29 October 1975

\$500 million asked in spy suit

WASHINGTON [AP]—A suit seeking some \$500 million in damages was filed in Federal District Court Tuesday against present and former officials of the Central Intelligence Agency and National Security Agency for their surveillance of antiwar radicals and other dissidents.

The class action suit was filed by the American Civil Liberties Union on behalf of 8,200 individuals and organizations who were the object of files kept by the CIA as part of its Operation CHAOS, an intelligence program begun in 1967.

The suit alleges the CIA and NSA illegally opened the mail and intercepted the overseas phone calls and cables of American dissidents. It seeks damages of \$50,000 for each of the 8,200 individuals and organizations. The suit also asks for \$10 a day in damages for each day their communications were intercepted.

IN ADDITION TO the intelligence officials, the suit names as defendants Western Union, RCA World Communications, American Cable and Radio, and ITT World Communications for allegedly supplying NSA with intercepts of overseas phone calls and cables.

Intelligence officials named in the suit include CIA Director William E. Colby; former directors James R.

Schlesinger, now secretary of defense, and Richard M. Helms, now ambassador to Iran; Lt. Gen. Lew Allen, director of the NSA; and two of his predecessors, Vice Adm. Noel Gayler and Lt. Gen. Samuel C. Phillips.

The suit is believed to be the first ever filed against the NSA and the first arising from the CIA's surveillance of U.S. dissidents.

ACCORDING TO the Rockefeller Commission, Operation CHAOS was started in 1967 in an effort to uncover a suspected foreign influence behind unrest at home, but became "a repository for large quantities of information on the domestic activities of American citizens," much of which "was not directly related to the question of the existence of foreign connections with domestic dissidence."

The commission found that Operation CHAOS:

- Developed personality files on 7,200 individuals and 1,000 organizations.
- Developed a list of names of U.S. citizens who became targets of the CIA's mail-opening program.
- Received reports from NSA on the overseas communications of American dissidents.
- Infiltrated protest organizations.

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THE BALTIMORE SUN
29 October 1975

ACLU suit asks \$410 million for U.S. spying on activists

By THOMAS PEPPER

Washington Bureau of The Sun

Washington—A suit seeking at least \$410 million in damages was filed in federal District Court here yesterday against the Central Intelligence Agency and the National Security Agency for their allegedly illegal surveillance of anti-war radicals and other Vietnam-era dissidents.

The class action suit was filed by the American Civil Liberties Union in behalf of 12 individuals and 3 organizations, plus any other persons or organizations similarly affected by CIA and NSA surveillance activities.

The suit estimates that at least 7,200 individuals and 1,000 organizations were subjected to illegal surveillance between 1967 and 1974.

Such surveillance involved the opening of mail, the monitoring and intercepting of international cable communications and the infiltration of lawfully constituted domestic political organizations in violation of legal and constitutional rights, the suit alleges.

It seeks \$50,000 in punitive damages for each person and organization affected, \$100 a day in each case of an intercepted cable, compensatory damages and lawyer's fees to be determined by the court, and an injunction against any such illegal activity.

Seventeen government officials were named as defendants. They included William E. Colby, director of the CIA; Richard Helms and James R. Schlesinger, former CIA directors; Lt. Gen. Lew Allen, director of the NSA; Lt. Gen. Samuel C. Phillips, Adm. Noel Gayler, and Lt. Gen. Marshal Carter, USA (Ret.), former NSA directors.

Also named as defendants

were four international cable companies—Western Union Telegraph Company, RCA Global Communications, Inc., American Cable and Radio Corporation, and ITT World Communications, Inc. The suit alleges that these firms co-operated with NSA monitoring of overseas cable traffic.

Plaintiffs include Cora Weiss, prominent anti-war activist who opened a non-government channel of information to North Vietnam in behalf of American prisoners of war; Ethel Taylor, National Coordinator of Women's Strike for Peace; Sidney Peck, former co-chairman of the National Mobilization Committee to End the War in Vietnam; the American Indian Movement, the American Friends Service Commit-

tee, Clergy and Laity Concerned and the Committee of Concerned Asian Scholars.

Morton H. Halperin, ACLU project director, and John H.F. Shattuck, an ACLU lawyer, said the facts alleged in the suit were gathered in large part from disclosures in the Rockefeller commission report on domestic intelligence activities of the CIA, issued last June.

Mr. Halperin said the plaintiffs would seek, through discovery orders, to learn still more about CIA and NSA activities to see if other alleged illegalities have been committed.

CIA, NSA, and other intelligence agencies are already under investigation by two congressional committees. Yesterday's suit makes them subject to judicial review as well, at least on the specific points alleged in the suit.

Meanwhile, the Senate Select Committee on Intelligence Activities held a closed session on covert activities in Chile, with Mr. Colby, among others, as a witness.

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White House Pushes Effort to Keep Intelligence Inquiry Secret

By NICHOLAS M. HORROCK
Special to The New York Times

WASHINGTON, Oct. 28—The Ford Administration is increasing pressure to keep the hearings of the Senate Select Committee on Intelligence behind closed doors, the committee's chairman said today.

The chairman, Senator Frank Church, Democrat of Idaho, said "pressures are mounting on a broadening front" that indicated the intelligence community and the Ford Administration were "more and more opposed to public hearings on anything." The senator made his comments after a two-hour closed briefing on covert activity by the Central Intelligence Agency.

Intelligence community officials have said on several occasions that they are against disclosure of details of present and past covert operations.

"Just how do you have a public hearing on a covert oper-

ation without endangering individuals?" one official asked.

The dispute now centers on the issue of whether the committee can hold a public session on the C.I.A.'s operations in Chile. Mr. Church and other members of his committee have said they believe a portion of the discussions can be held in public without compromising national security. Moreover, they point out, much of the activity has already been reported in the press.

Leaks Are Charged

Senator Gary Hart, Democrat of Colorado, charged in a speech today that the Ford Administration and the intelligence community "were deliberately leaking secret information about abuses under investigation by the Senate Select Committee on Intelligence."

He cited a dozen news articles that had the effect, he said, of pre-empting the committee hearings and putting Ad-

ministration explanations in a favorable light. He said the committee had made a major effort to remain "leak proof."

There is no record that the Administration has publicly charged the Senate committee with leaks, but William E. Colby, Director of Central Intelligence, has said that disclosures concomitant with the entire Congressional investigation of the intelligence community had undermined the agencies' effectiveness.

Senator Church said that after today's meeting Mr. Colby would seek guidance from the White House on whether he would be permitted to testify before a public session. Mr. Church also made public a letter from Philip W. Buchen, counsel to President Ford, it was the "general view of the executive branch" that if the committee issued an "Official" report on plots to assassinate foreign leaders, it might da-

mage United States foreign relations.

Senator John G. Tower, Republican of Texas, who is vice chairman of the committee, said he was also opposed to public hearings on covert activities.

Tower Also Opposed

Meanwhile, antiwar and religious organizations filed a \$500,000 suit against the C.I.A., the National Security Agency and four major cable communication companies. The suit, filed in Washington's District Court, charged that the Government agencies had deprived some 8,200 persons of their constitutional rights.

The plaintiffs sought \$50,000 in damages for each of the 8,200 persons as well as \$100 for each hour they were subjected to illegal electronic eavesdropping. The suit is based on disclosures in a Rockefeller commission report of a domestic surveillance operation in

which files were prepared on antiwar radical leaders and in which the N.S.A. conducted cable and overseas telephone monitoring on some 1,000 persons.

The suit was filed by the American Civil Liberties Union as a class action in behalf of those affected by the program.

CIA, NSA Sued Over Radical Watch

Associated Press

A suit seeking some \$500 million in damages was filed in federal court today against present and former officials of the Central Intelligence Agency and National Security Agency for their surveillance of anti-war radicals and other dissidents.

The class-action suit was filed by the American Civil Liberties Union on behalf of 8,200 individuals and organizations who were the subject of files kept by the CIA as part of its Operation CHAOS, an intelligence program begun in 1967.

The suit alleges the CIA and NSA illegally opened the mail and intercepted the overseas phone calls and cables of American dissidents. It seeks damages of \$50,000 for each of the 8,200 individuals and organizations. The suit also asks for \$100 a day in damages for each day that their communications were intercepted.

IN ADDITION to the intelligence officials, the

suit also names as defendants Western Union, RCA World Communications, American Cable and Radio, and ITT World Communications for allegedly supplying NSA with intercepts of overseas phone calls and cables.

Intelligence officials named in the suit include CIA Director William E. Colby, former directors James R. Schlesinger, now secretary of defense, and Richard M. Helms, now ambassador to Iran; Lt. Gen. Lew Allen, director of the NSA, and two of his predecessors, Vice Adm. Noel Gayler and Lt. Gen. Samuel C. Phillips.

The suit, filed in U.S. District Court here, is believed to be the first ever filed against the NSA and the first arising from the CIA's surveillance of U.S. dissidents.

According to the Rockefeller Commission, Operation CHAOS was started in 1967 in an effort to uncover a suspected foreign influence behind unrest at home, but became a repository for large quantities of

information on the domestic activities of American citizens," much of which "was not directly related to the question of the existence of foreign connections with domestic dissidence."

THE COMMISSION found that Operation CHAOS:

- Developed personality files on 7,200 individuals and 1,000 organizations.

- Developed a list of names of U.S. citizens who became targets of the CIA's mail opening program.

- Received reports from NSA on the overseas communications of American dissidents.

- Infiltrated agents into protest organizations.

The commission's report did not mention any names of individuals subjected to surveillance, but listed a number of organizations, including the Black Panther Party, Students for a Democratic Society, Grove Press, the American Indian Movement, and Clergy and Laymen Concerned about Vietnam.

The ACLU suit mentions

a number of individuals who allegedly were targets of CIA and NSA surveillance, including Cora Weiss, former head of the Committee of Liaison with Families of Servicemen Detained in Vietnam, Mary Chandler and Adele Halkin, members of Women Strike for Peace, and Sidney Peck, former head of the National Mobilization Committee to End the War in Vietnam.

PROVIDENCE, R. I.
BULLETIN
E - 146,481
JOURNAL-BULLETIN
S - 205,067

OCT 22 1975

No halt in suit vs. CIA

By HAMILTON F. ALLEN
Journal-Bulletin Staff Writer

PROVIDENCE — After a four-week pause, the case of the Central Intelligence Agency and a Rhode Island man is ready to move ahead.

A federal judge has turned down requests to stop proceedings in a case that claims the CIA opened, read and copied the mail of tens of thousands of individuals.

Chief Judge Raymond J. Pettine denied motions filed by a Brown University professor and U. S. government lawyers to stay court action. The motions claimed that many past and present government officials named in the lawsuit are, or soon may be, subjects of a criminal investigation.

The U. S. Department of Justice told the court the department is conducting a preliminary investigation into the CIA's "East Coast Mail Intercept Program." The outcome could be criminal indictments, the Justice Department said.

Besides the Justice Department, a motion to stay proceedings had been filed for former CIA official Lyman B. Kirkpatrick Jr., now teaching at Brown. The possibility was raised by the motion that Kirkpatrick may be subject to criminal indictment as a result of the Justice Department investigation.

Kirkpatrick, who gave secret testimony last winter in the Rockefeller Commission's investigation of CIA spying activities, served in the CIA from 1947 to 1965. In his last three years there, he was executive-director-comptroller — the number three man in the agency.

The motions were denied, the judge wrote, because they failed to show that the need for a stay outweighed the harm to those who filed suit. The case was filed this summer by the American Civil Liberties Union as a "class action" suit on behalf of University of Rhode Island mathematics professor Rodney D. Driver and anyone else who believes he has reason to join Driver.

Driver charges that three of his letters to Moscow were opened, read and photographed by the CIA before being delivered. The letters were written, Driver said later, after he attended international mathematics conferences in the Soviet Union in the 1960s.

Driver has filed copies of the letters he says the CIA sent him after he requested them under the Freedom of Information Act.

One letter, in part, expresses Driver's condolences for the death of a professor's daughter, enjoyment of a visit to Kiev ("despite the inconvenience of my 4 days in hospital") and an offer to send a copy of Driver's paper on a problem in "classical relativistic electrodynamics."

In another letter, apparently to a couple, Driver's message is followed by comments from his wife, Carole. She expresses her thanks for "the very lovely necklace."

A third letter contains a list of publications in scholarly journals of mathematics.

As a class action, Driver's lawsuit has been joined by individuals in New York, Minnesota, California, and Connecticut.

Now that the stay has been denied, the next order of business appears to be the filing of replies by the 32 officials, past and present, who are being sued. A few replies had trickled in earlier, all denying knowledge or recollection of any mail-opening operation by the CIA.

However, Judge Pettine's law clerk, Lynette Labinger, won't be able to help with the case.

The judge has notified lawyers on both sides of the case that Miss Labinger, her parents and a grandmother, have traveled in and corresponded to and from the Soviet Union at various times between 1953 and 1973.

She therefore may be a member of the class of individuals on whose behalf the lawsuit was filed. "In view of her potential interest in the outcome of this case," the judge wrote, "I have instructed her to take no part in assisting me in my consideration of any aspect of these proceedings."

Miss Labinger, who comes from Los Angeles, became the judge's law clerk last year after graduating from New York University Law School at the head of her class.

First Principles.

NATIONAL SECURITY AND CIVIL LIBERTIES
IN THIS ISSUE SEPTEMBER 1975 VOL. 1 NO. 1

National Security and Civil Liberties:
The Situation, the State of the Current
Law, and Legislative Action
CHRISTINE M. MARWICK

The Principal Unlearned Lesson of
Watergate: The Need for a Responsible
Presidency
PHILIP B. KURLAND

Coming:
OCT./: Wiretapping
NOV./: Freedom of
Information Act

ALONG WITH THE CONCENTRATION of political power in the executive branch of government has come the claim that "national security" somehow dictates that we must give up some of our civil liberties in order to protect our freedoms. This claim has not been seriously challenged until the last several years; the veil of secrecy placed over the activities of the executive branch also served to protect these actions from effective public and congressional scrutiny.

With the unfolding of recent events, however, the myth of official benevolence, unanimity, and even expertise began to crumble. It began to emerge that for all practical purposes successive administrations had come to think of the Congress and the American public like a foreign power to be deceived and investigated in the interests of the nation's security. From the initial deceptions a ripple effect began as a system of secret actions were taken to reinforce breaches in secrecy — such as the wiretaps that followed news reports of bombing in Cambodia. Using the claims of "national security" as an incantation to overwhelm all logic, legitimate political controversy was cast into the mold of dissidence and disloyalty. As the trickle of information about illegal government activities grew into a river in Watergate, the credulity of the public changed into a healthy skepticism. But, as Professor Philip Kurland notes in his article in this issue, the executive branch still makes a plea to institutionalize the Cold War era's blind trust in the Presidency. For example, the Rockefeller Com-

mission Report, in spite of all its detailing of CIA abuses, calls for an expanded CIA charter which would solve the problem somehow by making many of its currently illegal actions legal. Likewise, the administration bill S. 1 (the reform of the federal criminal code) would define as unequivocal espionage the Ellsberg "offense" of releasing information to the public. The list of such efforts is a lengthy one — the article on page 3 treats more of them.

The focus of *First Principles: National Security and Civil Liberties* will be on following these issues and the many turns and twists taken in the conflict between expansive claims of national security and civil liberties. We hope to contribute to a return to *First Principles* — the necessary and vital right of full and informed public participation in government — by increasing public awareness of continuing threats and of opportunities to improve the situation.

Each monthly issue of *First Principles* will include an up-date on what has happened in the Congress, the Courts, and elsewhere that affects the conflicting claims of national security and civil liberties. There will also be a literature review keeping you abreast of relevant books, articles, and government publications. Each issue will also focus on a particular topic with guest articles, citations of leading cases, and analysis. In this inaugural issue we survey the field as a whole. Next month we will turn to national security wiretaps.

Why First Principles

It is at all times necessary, and more particularly so during the progress of a revolution and until right ideas confirm themselves by habit, that we frequently refresh our patriotism by reference to first principles.

THOMAS PAINE

In The News

July 1, 1975 President Ford directed the Justice Department to observe throughout the country the holding by the District of Columbia Court of Appeals in *Zweibon v. Mitchell* prohibiting warrantless wiretaps of Americans not agents of a foreign power.

July 9, 1975 Attorney General Levi states "there are no outstanding instances of warrantless taps or electronic surveillance directed against American citizens and none will be authorized by me except in cases where the target of the surveillance is an agent or collaborator of a foreign power."

July 16, 1975 An unidentified FBI official revealed that up until 1966 the FBI conducted dozens and sometimes more than a hundred burglaries a year. The break-ins were conducted in cases where it was not possible to obtain search warrants. The burglaries were directed not only at "national security" investigations (the Communist Party, embassies, etc.) but also at ordinary criminal cases. The burglaries were stopped in 1966 when J. Edgar Hoover failed to

get then-Attorney General Ramsey Clark's approval for the burglary of a consulate.

July 21, 1975 For at least the past 5 years, agents of the FBI and the NSA were "authorized" by U.S. Attorneys General to monitor overseas cable traffic in violation of the Federal Communications Act, which makes divulging the "existence or contents" of telegraph and telephone messages a federal crime. According to a copyright story in the *New York Daily News*, federal agents, however, paid the employees of at least one company for their assistance in gaining access to the cables.

August 4, 1975 The House Intelligence Committee under new chairman Otis Pike launched its investigation with a series of public hearings focused on intelligence community budgets. CIA director William Colby gave the committee a budget run-down in secret but refused to make the numbers public primarily on grounds that once the overall numbers are public additional information would be demanded. (The Project has a lawsuit pending

under the Freedom of Information Act demanding public release of the CIA budget.)

The Committee took the first public testimony ever given by a Director of the still super secret National Security Agency. General Adler told the committee that NSA was not governed by the *Zweibon* decision which bans warrantless wiretaps of American citizens not agents of foreign powers since his Agency was gathering foreign intelligence information. Colby conceded that NSA may inadvertently intercept the overseas communications of American citizens.

August 13, 1975 Attorney General Edward Levi in an address before the American Bar Association Convention revealed that a Justice Department committee was developing guidelines for FBI operations in various areas including investigations to obtain domestic intelligence. He stated that "the proposed guidelines would limit domestic intelligence activities to pursuit of information about activities that may involve the use of force or violence in violation of federal law in specified ways."

In The Courts

July 22, 1975 *Driver v. Helms*, Civ. Action #75-0224. The American Civil Liberties Union filed a class action suit in the U.S. District Court in Providence, Rhode Island on behalf of Rodney Driver and other Americans whose mail to and from various foreign countries had been opened by the CIA.

July 23, 1975 *U.S. v. Grunden*, ACM 21679, on appeal to the USAF Court of Military Review was filed by the ACLU. Grunden was tried and convicted by general court martial for espionage under 18 U.S. §793(d). The appeal asks for reversal on several grounds including: whether the espionage statute is unconstitutionally vague and overbroad in general or in this case because the judge failed to instruct the jury that conviction requires a showing of intent to injure; that the judge failed

to instruct the jury that whether classified documents actually related to the "national defense" could not be based on the fact of classification; and whether defendant was denied due process because of restrictions on his attorneys' access to classified material.

July 28, 1975 *Washington Mobilization Committee v. Wilson*, Civ. Action #779-70(D.D.C.). U.S. District Judge Waddy held that the D.C. police department has consistently engaged in a pattern of unlawful arrests, unjustified violence, unlawfully prolonged detention, and denial of access to phones, counsel, and medical care. The Court declared unconstitutional (1) the use of the police line ordinance and police sweeps and (2) arrests without contemporaneous recording of time, place, reasons, and arresting officer.

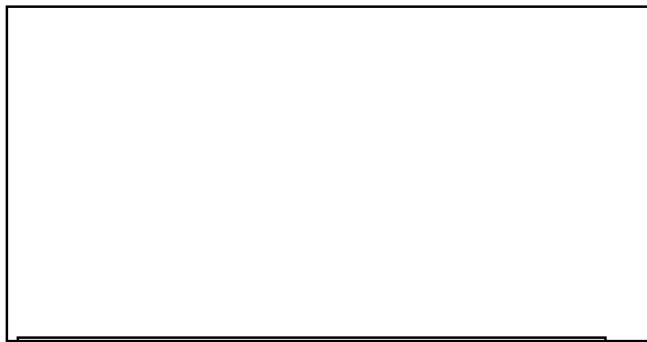
Aug. 11, 1975 *Algonquin SNG, Inc. v. F.E.A.*, #75-1202 (D.C. Cir. 1973). Held that Congress had not delegated authority to impose a fee on oil imports and that in the absence of such delegation the President lacks authority to require license fees. "Neither the term 'national security' nor 'emergency' is a talisman, the thaumaturgic invocation of which should, *ipso facto*, suspend the normal checks and balances on each branch of government. Our laws were not established merely to be followed only when times are tranquil. If our system is to survive, we must respond to even the most difficult of problems in a manner consistent with the limitations placed upon the Congress, the President, and the Courts by our Constitution and our laws." The Justice Department has appealed to the Supreme Court.

In The Congress

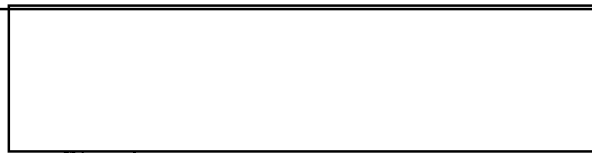
The current status of relevant legislation is described in the article on p. 3.

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National Security and Civil Liberties: The Situation, The State of the Current Law, and Legislative Action

BY CHRISTINE M. MARWICK

THE ALMOST OVERWHELMING DOCUMENTATION of abuses of power at home and abroad, justified by "national security" claims and covered by a cloak of secrecy, is far too extensive and too well-known to be more than mentioned in passing here. Our focus in this first issue of *First Principles* is instead on a general overview of the situation and current law, with a look at some of the legislative action currently under consideration. The major civil liberties issues fall into three general and often overlapping areas. First, the right of citizens to be informed about what is actually going on; second, the right of citizens to follow their informed political opinions to lawful political action; and third, to do so free from government surveillance and interference.

CLASSIFICATION: THE SECRECY SYSTEM

There is said to be a sign hanging in the offices of the Justice Department reviewing Freedom of Information Act requests which reads: "When in Doubt/Cross it Out." Apocryphal or not, this sign is representative of the current classification system — arbitrary and arrogant of the public's right to an informed opinion.

The authority to classify currently rests on Executive Order 11652, which was issued by Richard Nixon after the publication of the Pentagon Papers brought the fact of massive over-

classification to public awareness. The Executive Order does not, however, change anything. There is no recognition of the public's right to know or of the need in a democracy for informed public debate on policy. The standards are extremely vague as written and nebulous as practiced. As some of the FOIA litigations brought on behalf of the Project on National Securities and Civil Liberties is bringing out, executive branch officials themselves have only vague notions of what the classification criteria in E.O. 11652 are. In practice, the fact that the system rests on an executive order seems to imply a carte blanche executive discretion rather than an affirmative obligation to the public to release information — the operative principle seems to be whether or not the information will encourage public support of an agency's policies.

It is acknowledged that the system cries out for reform. The discussion turns on what those reforms should be. Given that secrecy frees the executive branch from having to defend its policies, it is difficult to accept at face value executive claims that it is the only competent judge of what must be kept secret. A classification system, that would accurately reflect the national interests must not only keep secret that small amount of information whose release would damage the national security. It must balance against claims of secrecy the need of the Congress and the public for information that is necessary for

Hallucinatory Drug Formula



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meaningful public debate. Most importantly, there must be a return to the principle that the people are not anti-government agents — they are the nation.

There is a growing consensus on the need for a legislated classification system. The Commission on the Organization of the Government for the Conduct of Foreign Policy (also known as the "Murphy Commission"), which draws very conservative conclusions on other foreign policy issues, advocates in its report that Congress legislate a classification system which would include a review of classified material by a group independent of the executive interests and which would require the mandatory release of certain categories of information.

Thus far, congressional action on the issue has not gathered momentum. Responsibility for reform of the classification system is in the Muskie subcommittee of the Senate Government Operations Committee and the House Subcommittee on Government Information and Individual Rights of its Committee on Government Operations, now chaired by Rep. Bella Abzug. The latter subcommittee is focusing its energies for the time being on oversight of the Justice Department and privacy issues. Neither Chairman has introduced a bill or scheduled hearings.

THE FREEDOM OF INFORMATION ACT

The amendments to the Freedom of Information Act, which went into effect on February 19, 1975, make it possible for the first time to use the FOIA to request information kept secret by the national security agencies. Upon receiving a request for a particular file, the agency must conduct a declassification review to determine if the information is currently classified, it must respond to any request which reasonably describes a document, and it must release "reasonably segregable" portions even if there is some properly classified information in the document. Responses to requests must be within a brief specified period and fees may not be charged for reviewing a document to determine which parts may be withheld. (Fees may still be charged for searching and copying.)

If an Agency refuses to release a requested document, a suit may be filed in federal district court. The court must determine for itself that the information is properly classified and may examine the document to make that decision.

The (b) (1) exemption which permits the withholding of national security information now reads that such information may be withheld only if it is:

- (a) specifically authorized under criteria estab-

lished by executive order to be kept secret in the interests of national defense and foreign policy, and (b) are in fact properly classified pursuant to such executive order.

The criteria in Executive Order 11652 is whether disclosure "could reasonably be expected to cause damage to the national security." While this is a great improvement over the provisions of the 1967 Act which permitted the withholding of any document stamped classified regardless of its contents, nevertheless it does not permit weighing the public's needs to know against the asserted damage. The degree of possible damage is not taken into account — any amount or any kind of "damage" is enough to keep the information secret, even in situations where there is a very strong need for public debate.

The most popular use for the Act has been asking for personal files, mainly from the FBI and the CIA. The Project has published a pamphlet to guide people in using the Act to request their files. Agency costs generally range between \$10 and \$50, depending on whether you ask only for your own file or also for cross references of your name in other people's files. The CIA waives fees in most cases of requests for personal files.

The Justice Department has recently suggested that it is going to interpret the Privacy Act, which goes into effect on September 29th and which exempts the CIA or all investigatory files, as precluding the use of the Freedom of Information Act to request personal files. This extraordinary exegesis runs counter to the intent of the Privacy Act. The Freedom of Information Clearinghouse, a Nader group, plans to make an early court test of this if the agencies follow through on this interpretation.

One major focus of the Project on National Security and Civil Liberties has been using the FOIA to obtain national security information, especially as it relates to the secrecy system itself or to threats to civil liberties. Some forty-plus requests have been made by the Project. A number of important documents have been released, including the Negotiating Volumes of the Pentagon Papers (in part), the Colby Report to President Ford on CIA domestic activities, and other CIA documents on the Agency's domestic activities. A listing of "Abstracts of Documents Released" to the Project and a selection of documents released to others is available for \$1.40. The Project's pamphlet on using the Act to obtain information relating to national security, "The New Freedom of Information Act and National Security Secrecy," is also available. An order blank has been included in the newsletter for Project publications.

To date, six lawsuits have been filed on behalf of the Project under the provisions of the FOIA to compel the release of information (suits are brought by the ACLU unless otherwise indicated):

Halperin v. State, Civ. Action #75-0674, to compel the release of deletions from a Kissinger press backgrounder dealing with SALT; *Halperin v. Colby*, Civ. Action #75-0677, for the Colby Report to President Ford on CIA activities, filed by William Dobrovir; the suit has been largely successful and is now being pressed for legal fees and possible sanctions for arbitrary withholding; *Halperin v. Colby*, Civ. Action #75-0676, to release the CIA budget figures for FY 76 and expenditures for FY 74; *Halperin v. National Security Council*, Civ. Action #75-0675, to release the titles of National Security Study Memoranda (NSSMs) and Decision Memoranda (NSDMs) (Freedom of Information Clearinghouse case); *Borosage v. CIA*, Civ. Action #75-0944, to release the materials given to the Rockefeller Commission on CIA assassinations; *Klaus v. National Security Council*, Civ. Action #75-1093, to release National Security Actions 10 and 10/2, the presidential memoranda establishing the National Security Agency, and all NSCIDs (National Security Intelligence Directives) since 1948.

The Freedom of Information Clearinghouse, in addition to handling the *Halperin v. NSC* suit above, has also filed two other suits for which the (b)(1) national security exemption was claimed:

St. Louis Post-Dispatch and Richard Dudman v. FBI, #75-1025, to release information about FBI counterintelligence activities over the past 10 years which were directed at the Post-Dispatch or Dudman personally; *Phillipi v. CIA*, #75-1265, a *Rolling Stone* reporter's suit for records of the CIA personnel suppressing information on the Glomar project (the CIA insists that they can neither confirm nor deny their role).

All the FOIA cases are in various stages of discovery; First Principles will cover their progress through the courts.

ESPIONAGE

Buried within S. 1 — the massive administration bill intended to codify and reform the present hodge-podge of federal criminal statutes — are a series of provisions which, if enacted, would radically broaden the scope of the espionage law and produce an Official Secrets Act.

That the present espionage law is in desperate need of clarification is undisputed. As the Ellsberg indictment showed, it can be interpreted to mean virtually anything. The espionage provisions in S. 1, however, deal with the problem not by tightening the statute but by broadening it to include almost everything: "A person is guilty of an

offense if, knowing that national defense information may be used to the prejudice of the safety or interest of the United States, or to the advantage of a foreign power," he "obtains or collects such information, knowing that it may be communicated to a foreign power." The full scope of such vague and expansive phrases as "may be used to the prejudice . . . of the United States" and "may be [ultimately] communicated power" is such that virtually any discussion which included any information, however harmless but which might somehow "prejudice" the "interests" of the national defense and foreign policy, could be prosecuted as espionage.

The espionage section is followed by three additional offenses which add up to an Official Secrets Act: Disclosing National Defense Information, Mishandling National Defense Information, and Disclosing Classified Information. Taken together, any government official communicating "classified information" or "information relating to the national defense" to anyone not authorized to receive it, whether or not the information was properly classified or could potentially injure the United States, would be guilty of a felony.

At this point the future of S. 1 is unclear. In the House, H.R. 3907, an identical bill, is sitting in Subcommittee on Criminal Justice; no action pending or scheduled as of yet. In the Senate, a report is expected from the Subcommittee on Criminal Laws in September, with the bill then going before the full Committee.

In August, two major shifts in the support behind S. 1 took place: Sen. Roman Hruska came out in favor of revising the provisions of the bill to require an intent to injure and to cover only vital information; Sen. Birch Bayh, citing the same criticisms as well as others, withdrew his sponsorship of the bill.

An alternative to S. 1 and H.R. 3907 has been submitted by Rep. Robert W. Kastenmeier in H.R. 333 which is the reform of the federal criminal code as proposed by the Brown Commission itself. It has, however, no companion bill in the Senate and no action has so far been scheduled.

PRIOR RESTRAINT

The right of the government to impose prior restraints on publication of material dealing with political issues has become a reality in the little-publicized case of Victor Marchetti, a former CIA official.

In *U.S. v. Marchetti*, 466 F.2d 1309 (4th Cir. 1972), the District and Appeals courts held that Marchetti had waived his First Amendment rights for life in his employment contract with the CIA. A permanent injunction has been issued against him which requires that he submit to the CIA for

ensorship "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 activities, or intelligence sources and methods."

Following this injunction, Marchetti and his co-author, John Marks, submitted their book, *The CIA and the Cult of Intelligence* (Knopf: New York, 1974), to the CIA — the result is the first politically censored book in the history of the United States.

In *Knopf v. Colby*, 509 F.2d 1362 (4th Cir. 1975) the Fourth Circuit had ruled that Marchetti and Marks were not entitled even to write about matters which had already entered the public domain; such a discussion might constitute a "confirmation" of what had been merely rumor and speculation before. It was decided, however, that the FOIA could provide relief: "these plaintiffs should not be denied the right to publish information which any citizen could compel the CIA to produce and, after production, could publish." The case has now been sent back to Judge Bryan of the District Court for consideration under the provisions of the FOIA; no order has been issued yet.

In response to the Marchetti cases, Rep. Jonathan B. Bingham introduced on July 21st a bill to control this new encroachment on First Amendment freedoms. H.R. 8791 provides that no contract can be the basis for curtailing free speech. The only criteria for prior restraint would be if "such matter will surely result in direct, immediate and irreparable damage to the security of the United States or its people."

On the other side, the Director of Central Intelligence, William Colby, threatened to seek a court order preventing the publication of Philip Agee's account of his career as a CIA operative, *Inside the Company*. That threat failed and the book is now available (see review on p. 13), but the threat of injunction or indictment has thus far prevented Agee from returning to the United States. Colby also has had legislation drafted which would authorize prior restraints on CIA officials. This bill, however, is still waiting for approval in the Office of Management and Budget and has not yet been sent to the Congress.

NATIONAL SECURITY SURVEILLANCE

National security wiretaps and other forms of surveillance are another area in which the needs of national security and civil liberties have yet to find a balance.

In *U.S. v. U.S. District Court*, 407 U.S. 297 (1972), generally known as the *Keith* case, the Supreme Court held that the President had no

right to wiretap without a warrant in domestic security cases. It left open the question of surveillance of foreign powers and their "agents," defining the latter as those with a significant connection with foreign powers.

On June 23, 1975 the Court of Appeals for the District of Columbia held in a case involving the Jewish Defense League that: "A warrant must be obtained before a wiretap is installed on a domestic organization that is neither the agent of nor acting in collaboration with a foreign power, even if the surveillance is installed on presidential directive in the name of foreign intelligence gathering for the protection of national security." *Zweibon v. Mitchell*, 516 F.2d 594.

President Ford directed the Justice Department to obey this decision throughout the country pending a decision on whether to appeal to the Supreme Court. Attorney General Levi has since stated that there were no surveillances without warrants directed against American citizens and that none would be installed except against agents of foreign powers. There is however considerable ambiguity about the definition of "agent," and warrantless taps continue against embassies and alien employees of foreign governments. The *Zweibon* court suggested that such taps would require a warrant but two other circuit courts of appeals have held that they do not. This subject will be treated in more depth in our next issue.

There are two bills currently on the Hill which are focused at providing legislated safeguards on wiretapping and other surveillance. The Kennedy-Nelson Bill, S. 743, would limit wiretapping of American citizens to situations in which a warrant has been issued based on a showing of probable cause. Taps on embassies and foreign personnel would also require warrants, but under a more relaxed standard. Hearings on S. 743 are scheduled for Fall, 1975. The Bill of Rights Procedures Act, introduced in the Senate by Sen. Mathias as S. 1888 and in the House by Rep. Charles Mosher as H.R. 214, is a more comprehensive effort to protect Fourth Amendment rights and also has the support of Senators Kennedy and Nelson. Its provisions include not only wiretapping, but also mail opening, third party records (bank, credit, medical, etc.), entry of dwellings, and other aspects of surveillance. It does not cover, however, the use of informers and agent provocateurs. To enforce these restrictions, the Mathias-Mosher bill provides for individual culpability of officials. The Bill of Rights Procedures Act is expected to have House Subcommittee hearings in September and Committee action in October.

COVERT OPERATIONS

One of the starkest threats to civil liberties at home has been the domestic use of the tactics

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(We list here only two general works. As we discuss each topic in detail we will provide a bibliography of major works).

developed in covert intelligence operations abroad. While everyone knew that the government over-classified information and had some "national security wiretaps," the full range of covert action at home and abroad came as a shock to the public.

A series of Supreme Court decisions over the years have made it clear that the constitutional protections do not apply to foreigners abroad. With Congress' Cold War attitude of abdicating much of its responsibility in foreign affairs, the intelligence agencies were virtually given carte blanche to conduct secret, extensive operations which at home would have violated constitutional rights.

What did come as a surprise to the public, however, was that the techniques perfected against foreign powers had since been turned to covert operations in the United States. Civil liberties are especially vulnerable — there are neither laws nor judicial decisions controlling the use of informers or operatives even in domestic situations, cf. *Hoffa v. United States*, 385 U.S. 293 (1966). Both informers and agent provocateurs have been used repeatedly, systematically, and flagrantly by the CIA's Operation CHAOS and the FBI's Cointelpro. Nor has any distinction been made between the investigation of specific crimes and the investigation of lawful political activities. And, ultimately, it has turned out that the attitude toward elections in

foreign nations was extended to the electoral process at home; the FBI's Cointelpro made use of a variety of techniques to influence elections at home. Watergate merely extended this attitude into the White House and against a major political party.

Both the Senate and the House have select committees investigating the activities of the intelligence agencies — the CIA, the FBI, the NSA, and others. Thus far the Senate Select Committee has been holding hearings in executive session investigating the assassination of foreign leaders; a report is scheduled to be issued in September. Its mandate, which originally was to run to the end of August, has been extended to February 29th, which will allow it to turn to covert operations abroad and presumably to other aspects of its very broad charter.

The House Committee has held public and secret hearings on the budgets of the intelligence organizations; these hearings will eventually be printed. What it will turn to next is not yet determined.

When these committees finish their investigations Congress will be faced with the question of how to control future abuses by intelligence community. First Principles will keep you informed.

The Principal Unlearned Lesson of Watergate: The Need For a Responsible Presidency

BY PHILIP B. KURLAND

We are beginning to celebrate the bicentenary of the Declaration of Independence. But I would remind you that this nation was not born in 1776, it was born in 1787 with the American Constitution. And before we can celebrate the bicentennial of the American Constitution, we must successfully get past "1984." If I were in charge of some bicentennial celebration this year, I would require the participants to read George Orwell's "1984" to show what the new nation was created to avoid. I would be fearful, however, that some of our leaders might treat it as the Germans did "Mein Kampf," as a blueprint for action rather than as an *Inferno* to be avoided.

It is hard for me to accept the fact that it was a bare ten months ago that a President of the United States was forced to resign his office because of abuse of power by him and his administration. The successor in office, after pardoning his predecessor, has behaved as if the events of Watergate never occurred. Except that he did refer to them, though not by name, in his recent speech at Brussels, treating Watergate as if it were Yorktown or Gettysburg or Okinawa, as a great battle thought to have been won.

Like Nixon, President Ford has asked us to look forward and not backward, to forget — indeed, to ignore — the evils that occurred, to view the pardon he so generously granted to Mr. Nixon as if it wiped out not only the former President's criminal liability but also the deeds that gave rise to that liability.

Unlike Mr. Nixon, President Ford has been rather successful in this effort. So successful that he has invoked the same processes with respect to the Viet Nam war as with Watergate. And, I expect this success is due to the fact that none of us likes to recall pain and unpleasantness. Moreover, the press, the mother of Watergate, has lost interest in it, for its primary concerns, as always, are not with the principles of government, but with scandal. This leaves a large responsibility to attend to the problems of the governance of a nation dedicated to "liberty and justice for all." For nothing is clearer than the fact that the events of Watergate demonstrated real and continuing dangers to American freedom and justice.

There were two principal aspects of Watergate: one personal, the other institutional. The first was concerned with the removal from office and punishment of those who committed Watergate crimes. Since almost all of the Watergate culprits from Mr. Nixon down have been granted clemency, I would say no more of those personal derelictions than to quote John Stuart Mill's dictum: "As for charity, it is a matter in which the immediate effect on the persons directly concerned, and the ultimate consequences to the general good, are apt to be at complete war with one another."

Watergate, however, revealed more than the weaknesses of evil men in high places. Watergate revealed basic institutional deficiencies that have not and will not be corrected unless and until an

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aroused American public or an aroused Congress demands and secures reform.

I must concede that there are many whom I respect who would deny even the existence of institutional problems, who believe that the transgressions of "the White House" and the Nixon Administration, were merely personal malfunctions and that the removal and replacement of evil men has cured the disease. That is what the Attorney General of the United States said, in effect, to a University of Chicago Law School Alumni meeting. He spoke of Watergate — without ever mentioning the word — as if it were a series of minor peccadilloes by slightly aberrant officeholders demonstrating a few errors of judgment that had been blown out of proportion by a sensational press. Trust us, was the message, for we truly have your interests at heart and unless there is faith in government, government cannot function.

Certainly that last proposition is right, but the implied equation of government with the executive branch or the Presidency is in error. Indeed, it is the error on which Watergate was predicated. And if there is to be a return of faith in government, it will come only after it is earned, not merely because it is solicited.

There are others than Administration spokesmen who think Watergate was a problem of deficiencies of men and not of institutions. Lawrence O'Brien is typical of some political attitudes on the Democratic side, and a myriad of newsmen, including the prestigious James Reston, seem to think the same. They would have us believe that the abuses were idiosyncratic to the Nixon regime and will not be repeated so long as the proper men exercise the presidential prerogatives. But they do not tell us how to choose these Platonic Guardians.

Perhaps they should read Ben Bradlee's book about Kennedy, or, more to the point, George Reedy's morality tale about the White House, introduced with these words:

It is not that the people who compose the menage are any worse than any other collection of human beings. It is rather that the White House is an ideal cloak for intrigue, pomposity, and ambition. No nation of free men should ever permit itself to be governed from a hallowed shrine where the meanest lust for power can be sanctified and the dullest wit greeted with reverential awe . . . It is not enough to say that the White House need not be like this if it is occupied by another set of personalities . . . The fact remains that the institution provides camouflage for all that is petty and nasty in human beings, and enables a clown or a knave to pose as Gallahad and be treated with deference.

Article II, §1 provides that: "The executive power shall be vested in a President of the United States of America." From these few words, the incumbents of the office have constructed a license for power and authority that would have astounded a medieval king of England, no less a Stuart or a Hanover. Certainly, from Franklin Delano Roosevelt to Gerald Ford, the Presidents of the United States have found in these words an ever broadening charter to be the sole legitimate custodian of national sovereignty. And when the origin and meaning of the words cannot be construed to this end, reliance is placed on successful usurpations by their predecessors which, like bricks and mortar, have been put together one by one to build the magnificent edifice that is "the Presidency." It is not only an edifice but, as George Reedy has said, a shrine, at which all of us are expected to pay homage and fealty, as most of us have in fact done.

Of course, I do not deny the importance of the individual qualities of the officeholder to the performance of his task; I would not deny Burke's statement that "The laws reach but a little way. . . . Constitute a government how you please, infinitely the greater part of it must depend upon the exercise of the powers which are left at large to the prudence and uprightness of ministers of state." But I would qualify it, the way Madison did when he wrote the familiar words of the 51st *Federalist*:

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity for auxiliary precautions.

The real problem of the post-Watergate era, however, is not to assign blame for the creation of the imperial presidency. Nor should the objective of reform be the destruction of legitimate and necessary presidential power. The problem is, rather, to provide those "auxiliary precautions" of which Madison spoke, that will make the exercise of presidential authority responsible to "We, the people." Some of these proposed "auxiliary precautions" are the subjects of my consideration here.

The first is the suggestion that responsibility to the people is fulfilled by the election process and tinkering with that will do the trick. The responsibility of a quadrennial election is not enough to assure such responsibility, for at least two reasons. First, the period between elections is too long, too

much damage can be done to the fabric of our society between elections. Certainly this is evident from the events of Watergate and of the Viet Nam war. Second, there can be no real accountability, even at an election, when the actions of the administration have been shrouded in secrecy, so that the public never knows what miners and sappers have been at work at the substance of a free society. This again is a clear lesson from recent events. But some would nevertheless tinker with the presidential election process by a constitutional amendment for direct popular elections, or a constitutional amendment for national presidential primaries, or a constitutional amendment to provide for election of the Vice-President by the people rather than by the Congress when that office becomes vacant, or any combination thereof. I don't believe that any of these addresses our fundamental problem. And, indeed, they may well divert attention from the real issues.

Legislation by way of a new reorganization act may be the appropriate answer to another problem of governmental irresponsibility. There is significance to the fact that the chief executive is no longer regarded as an individual but as a staff or an institution. The appropriate word is no longer "the President" but "the Presidency," which includes a very large number of individuals indeed. And once again the Watergate episode affords necessary information about the abuses that have resulted from this distortion of the constitutional concept.

There are at least two cancerous growths on the American body politic. One of these is the burgeoning power of the executive branch. The other has occurred within the executive branch itself, where power has shifted from the Departments and old line agencies to what is called "the Executive Office of the President." In fact, it is here that all government policy is made, and except for the President himself — and in the case of Mr. Ford, including the President himself — the wielders of that power are all unelected, and with little or no responsibility to Congress except through the appropriations processes. And in any event, the appropriations processes are under greater control of the Office of Management and Budget than of the Congress. Perhaps this will be changed through the new budget committees in the two Houses, but that remains to be seen.

The Executive Office of the President is made up first and foremost of "the White House," some three dozen-plus barons and their entourages, reminiscent of the "fourth branch of government" described by Bernard Bailyn as affording one of the primary causes of the American Revolution whose bicentenary we are now celebrating. The White House office is not merely an enlarged version of the six presidential counselors provided for by the Reorganization Act of 1939, although its

antecedents are to be found there. These officers are not merely means of communications between the President and the old-line agencies and departments. They are the overlords of the executive branch.

The White House office shares some power with other branches of the Executive Office, particularly the Office of Management and Budget, the Council of Economic Advisers, the Central Intelligence Agency, the Council on Environmental Quality, the Council on International Economic Policy, and the Federal Energy Office. It is here, in the Executive Office of the President, that "the Presidency" is to be found.

There are perhaps two ways of solving the problem of lack of responsibility of "the Presidency," of these governors of the American people. The first, which I would prefer, would be to dissolve these agencies and distribute their powers and authorities among the old-line agencies and departments which are creatures of the Congress and can be made accountable to the Congress. The second is to attempt to make these branches of the government directly responsible to Congress, although leaving them with their present authority. And among the ways to create such responsibility is to see that all the major domos in the Executive Office are required to have the approval of the Senate before they assume control of their fiefdoms.

If nonresponsibility is the basic problem, it is most seriously demonstrated by the so-called "intelligence agencies" of our government. Aside from the presidential tapes themselves, the most startling revelations of the Watergate period were the hints of the perversion of these intelligence forces into political police forces. And certainly twentieth century history suggests that the greatest threats to an open, democratic society derive from a political police and an irresponsible military.

It is of quintessential importance, therefore, that our intelligence and counterintelligence agencies be confined and restricted to the limited functions they were created to deal with. Once again we are met with the proposition that we should be satisfied that these agencies will exercise self-restraint so that no accountability is really required. But too much has been revealed of the activities of these forces to permit any confidence in that self-restraint. The very personnel of Watergate, connected as they were with the C.I.A., certainly raises doubts. And one need not treat as gospel such books as Wise & Ross, *The Invisible Government* or Marchetti & Marks, *The CIA and the Cult of Intelligence* to exacerbate those fears. Indeed, there is a work that purports to be fiction, Ward Just's *The Congressman Who Loved Flaubert*, that is sufficient to raise one's hackles.

There is, of course, at the moment a series of

Congressional and Presidential investigations into the activities of the intelligence agencies. One can have no confidence in the Rockefeller Commission's efforts which, so far, at least, have all the hallmarks of a cover-up. The Senate and House investigations have not even gotten off the ground and they are being frustrated by the refusal of the agencies to make available to Congress the data about their own activities. The cry is, as it was in Watergate, "national security." The argument is that the agencies feel that Congress cannot be trusted with the relevant data, but that Congress should trust functionaries of the agencies.

If oversight by Congress is not to be the answer, it is hard to conceive of an answer. The present pattern of disclosure is a familiar one. Facts slip out about malfunctions within the intelligence services. First, they are denied. Next, they are grudgingly conceded. Then, there is a plea for secrecy against further revelations on the ground of "national security." One may well ask whether the interests of the nation's security as a democratic polity are more likely to be protected by openness, at least with regard to past behavior if not present activities, than by a trust in the virtues of those who have proved to lack virtue.

It is only through an agile and exercised press that we have had any information about the scope of the efforts of our intelligence agencies. Grateful as we should be to the press, we must accept the fact that the press is a necessary but not a sufficient safeguard against a dreaded politicization of intelligence services.

This brings up the fact that in recent years the government cloak of secrecy has been erected into an impenetrable screen by the assertion of "executive privilege." One need not go so far as Prof. Raoul Berger did in his volume on *Executive Privilege*, to recognize that the doctrine, of recent growth, is a tool for the preclusion of the power of legislative oversight, which is the only real check on abuse of executive power. It is a real check, that is, to the extent that Congress is faithful to its task. Recent history — Watergate aside — doesn't suggest that this authority will necessarily be asserted.

Watergate has left us a legacy here, too. For the Supreme Court of the United States, in the form of a decision in *Nixon v. United States*, has created out of whole cloth a privilege of constitutional stature, a privilege apparently breachable only by the judiciary itself for the purpose of carrying on its criminal processes. Having created the privilege, the Court abstained from saying whether Congress could assert for its purposes the power to breach the privilege that the Court asserted for its own ends.

Again, Senator Ervin had, as chairman of the Separation of Powers Subcommittee, long before the events of Watergate, investigated the problem of executive privilege. Hearings in 1971, entitled *Executive Privilege: The Withholding of Information by the Executive*, addressed the problem of a statutory definition for a theretofore much-abused notion of secrecy. The subject of the hearings was a draft bill, S. 1125, which would have defined the conditions under which the privilege could be asserted.

Since I believe that there is no basis in the Constitution for such a privilege, and since I believe that there is no warrant in the creation of such a privilege by judicial fiat, and since I believe that there are times when such a privilege should exist, I believe that pursuant to its authority: "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof," Congress should provide a statutory definition of executive privilege and a statutory definition of the appropriate procedures. These are necessary conditions to the reality of responsibility of the executive branch to the people through the Congress.

The subject of executive responsibility is, of course, far too vast for resolution here. The subject is also far too important not to receive the attention of every organ of responsible scrutiny concerned with the maintenance of our democracy.

I am reminded, however, of a recent penetrating column by Russell Baker in *The New York Times Magazine* for May 25, 1975. It began with these words: "The Government is acting as if it wants a divorce. Signs of its disaffection have been multiplying ever since President Nixon said we had to be treated like children, and there is increasing evidence since the Vietnam collapse that unless we shape up soon the Government is going to pack up and move out on us, taking its talents to more deserving people elsewhere."

Baker's piece concluded, as I would conclude here: "We must be very careful about saying these things. The Government is nearing the end of its patience. It may become totally disgusted with us. We would not want the Government to pick up and leave us, would we?" Or would we?

King John had his Magna Carta; King Charles had his Bill of Rights; King George III had his American Constitution, and the Nixon Administration should have no less glorious a monument to reform.

Inside the Company: CIA Diary

BY PHILIP AGEE, STONEHILL, 639 pp., \$9.95

In The
Literature
BOOK REVIEW

IN THE ALMOST 30 years that the CIA has been sending agents abroad, only Philip Agee has come in from the cold. While Marks and Marchetti gave us in *The CIA and the Cult of Intelligence* a (literally) censored view from headquarters, it is only from this volume that we hear directly from a real agent what life is like in a CIA station in countries whose internal affairs we are bound by treaty to leave alone. We learn in devastating detail what is done in the name of the United States in the three Latin American countries in which Agee was assigned during the 1960's — Ecuador, Uruguay, and Mexico.

The book, to be sure, is long and sometimes tedious. It tells the reader more than he wants to know about the internal politics of Ecuador and Uruguay. Some will also be jarred by the author's gropings toward a socialist ideology as the diary unfolds. All this and more must be endured — for it is only by immersing oneself in the details of the book that one can come to an understanding of what it means concretely for the United States to recruit and send abroad a career covert intelligence service.

We learn, for example, how little control Washington — the Agency, the Forty Committee, and the President (in descending order of influence) — really has on what is done.

Take for example Uruguay, a country most Americans would be hard put to find on a map, a country with a relatively open and free political system, and a country which poses not the slightest threat to American security. What is done by the CIA in Uruguay is governed by the Related Missions Directive (RMD), which is apparently approved by the Forty Committee. When Agee was sent to Montevideo in 1964 the Uruguayan government had not yet fallen into line with the American policy of ostracizing Cuba. Thus the first priority in the RMD operations was directed at securing a break in Cuban-Uruguayan relations. Agee and his colleagues engaged in an incredible series of operations:

— The station penetrated most of the political organizations, including the Communist Party. It had a telephone tapping operation, a surveillance team following Cuban and Soviet diplomats, and an agent in the telegraph company who provided

copies of encoded telegrams sent by the Soviet bloc. A letter carrier was recruited to divert for surreptitious opening mail addressed to a suspected Cuban agent. A Foreign Ministry official provided copies of pictures of bloc diplomats.

— The station supported and directed the writing of articles published as unsigned newspaper editorials. When an attempt to recruit a Cuban diplomat failed, it was portrayed to the local press as a forced return to Havana. Fake documents were produced and leaked to the press. Phony reports were prepared for government officials to use as their own in "detailing" Soviet interference in Uruguay's internal affairs.

All of this and more was directed at breaking relations with Cuba and, when that was achieved, toward expulsion of the Soviet mission and preventing left wing parties from coming to power.

Much attention of late has focused on CIA operations abroad. But as Agee's study of activities in developing countries makes clear, the line between intelligence gathering and covert operations is a difficult one to draw, and the one tends to justify the other. Many of the worst actions are simple information gathering escapades which break the laws of the host nations as well as our own official commitment to stay out of their internal affairs. Agents recruited to gather information will seek and be given advice on what to do; even if covert operations as such were prohibited, agents realize that following this advice to its logical conclusion will help advance their careers.

It is impossible to read this book without coming to understand the origins of Watergate. Every dirty trick and illegal act which was turned on the American people had long been practiced on our allies.

The only way to stop all of this is to dissolve the CIA covert career service and to bar the CIA from at least developing and allied nations. Agee's account alone should be enough, but one suspects that Congress will want more before it is prepared to act. The special intelligence committees have been set to work at that task so that we all can understand what the Company does in our name abroad.

—Morton H. Halperin

In The Literature continued

Magazines

"The Kennedy Vendetta: An Account of the CIA's Secret War Against Cuba," by Taylor Branch and George Crile III, *Harpers*, August 1975, p. 49.

Government Publications

Colby Report to President Ford on CIA Activities Within the United States, December 24, 1974. Available from the Office of the Assistant to the Director, Central Intelligence Agency, Washington, D.C. 20505.

Report to the President by the Commission on CIA Activities Within the United States, June 1975 (Government Printing Office Stock Number 041-015-00074-8; \$2.85) (The Rockefeller Commission Report).

Electronic Surveillance for National Security Purposes, Hearings before the Subcommittees on Criminal Laws and Procedures and Constitutional Rights of the Committee on the Judiciary, United States Senate, 93rd Senate, 2nd Session, on S. 2820, S. 3440, and S. 4062, October 1, 2, and 3, 1974.

continued from page 16

When the Supreme Court refused to enjoin publication and the case moved into a criminal phase, I found myself more and more actively involved as a consultant to Ellsberg's defense lawyers. I ended up spending some five months in Los Angeles at the trial getting my first exposure (beyond Perry Mason) to a court of law and at the same time coming to understand how dangerous it would be to permit the government to monopolize all of the "national security" expertise in a case involving a clash of interests. From there it was a short step to becoming an expert witness and consultant in the *Marchetti* case.

Then came the news of the 21-month wiretap of my home telephone. In Washington it is a badge of honor to be wiretapped and everyone talks about clicks on the phone, but it was quite another thing to learn that day and night for almost two years the FBI had in fact listened to all that was said on my phone and reported the interesting tidbits to Henry Kissinger, H.R. Haldeman, and Richard Nixon.

Despite the tradition of the Eastern Establishment that one does not sue senior officials of the government, I saw no choice. My wife, my three sons (David, Mark, and Gary) and I filed suit against Kissinger, et al. — the full Watergate cast with Nixon added as a later addition. The suit is now slowly moving through the courts, producing on discovery much information about not only the 17 Kissinger taps, but the entire FBI program of warrantless surveillance. In the next issue of *First*

Principles, we will be drawing on much of that information on national security surveillance that is not under court seal.

More recently, through the Project on National Security and Civil Liberties, I have been involved in an effort to use the Freedom of Information Act to pry "secrets" from the national security bureaucracy.

From all of this, I have come to a belief that we need to return to *First Principles* — most of all to the notion that our system can and must function within the constraints of the Constitution, even when dealing with matters of national security. The United States is a strong and secure nation. We do not face the immediate threats to survival which confronted the Founding Fathers or which face some nations today. We can well afford to give our civil liberties the breathing space they need and deserve. We should not eliminate secrecy but reduce it to that bare minimum of information that genuinely requires protection, so that we can have the free and informed debate on national security that we need. We should restore the Bill of Rights to the favored position in our constitutional scheme that it was intended to have and to insist that national security objectives be pursued by all agencies of the government within the limits set by the Constitution.

The place to begin is with the CIA and the FBI. Next month in *Point of View* you can read one person's view of what to do about the intelligence community. Free. I promise you, of any more intrusions from an unwritten memoir.

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Point
Of View

Where I'm At

MORTON H. HALPERIN

Hanging, it has been said, clears the mind. So too, I have discovered, does being wiretapped. If Watergate, Vietnam and the scandals of the intelligence community have served to alert a great many people to how blind devotion to the shibboleth of "national security" can threaten our constitutional system and our Bill of Rights, my personal encounter with being wiretapped has no doubt sharpened my interest and influenced its content.

Since I will be contributing a monthly column to *First Principles*, I thought it might help both the readers and myself to devote this inaugural piece to a brief description of where I am at and how I got there. Thus warned, the reader can discount as he or she chooses the views which will follow.

First off, I come to the subject of national security and civil liberties from a background in foreign policy and national defense. I remember learning little or nothing about the meaning of the Bill of Rights during the educational process which focused increasingly on external threats to the security of the United States. Granted, one heard occasionally of the concern that the Cold War would destroy constitutional rights, but that was

rejected along with other theories which ignored American uniqueness and invincibility. The Supreme Court, it was said, would guard our rights — but in a way which did not interfere with the requirements of combatting world-wide communism.

Since then, so many seminal events have been crowded into the past few years that it is difficult to reconstruct the process by which I came to an understanding of the need to balance national security interests with constitutional rights and to do so in a way that preserves those rights while protecting us from potential threats from abroad.

The Nixon administration's attempt to prevent the publication of Pentagon Papers and then to put Daniel Ellsberg and Anthony Russo in jail was the first episode that threw me actively into this arena. Having had administrative responsibility for the production of the Papers, I knew they contained nothing which would cause serious injury to national security. I watched with amazement as the Justice Department, without knowing what was in the study, sought to persuade court after court that they should be suppressed.

continued on page 13

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Christine M. Marwick, Newsletter Editor
Florence M. Oliver, Administrative Assistant

*Perhaps it is a universal truth
that the loss of liberty at home is
to be charged to provisions
against danger, real or pre-
tended, from abroad.*

JAMES MADISON TO
THOMAS JEFFERSON,
MAY 13, 1798

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25X1

FOR PUBLIC AFFAIRS STAFF

PROGRAM Nine in the Morning

STATION

DATE August 1, 1975 9:00 AM

CITY

Washington, D.C.

SUBJECT An Interview With Agee and Phillip

RENE CARPENTER: ^{? why} Where are you in Canada, Mr. Agee?

PHILIP AGEE: It's the legal advice from the American Civil Liberties Union to stay out until they tell me to come back. They're checking right now on the legal situation vis-a-vis the Justice Department.

CARPENTER: Do you feel -- do they feel that the Justice Department is going to have a warrant for you? Are you under threat of indictment?

AGEE: I don't really know. That's what they're trying to determine.

CARPENTER: You [technical difficulty] I should tell you that we're talking to Philip Agee who is in Windsor, Canada, right over the river from Detroit. And with me here in the studio is David Phillips who resigned from the CIA to defend it.

DAVID PHILLIPS: To explain it.

CARPENTER: To explain it. And Philip Agee has written a book called "Inside The Company," in which he tells documents with names and operations, his twelve years of work as a CIA agent in South America. And I wonder, Mr. Agee, what operations did you engage in in South America? How many agents were involved, and how were you successful in disrupting the governments of the countries in South America that you've worked in?

AGEE: I think that I should say to begin with that I was only member of a team of people who were working. I didn't do anything which wasn't very carefully coordinated with the

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Around the Nation

ACLU Files Suit in CIA Mail Opening

PROVIDENCE, R.I.—Thirty present or former officials of the Central Intelligence Agency and other government agencies yesterday were accused in a class-action suit of illegally opening mail.

The suit filed by the American Civil Liberties Union in U.S. District Court here alleges that officials of the CIA, the FBI and the Postal Service opened the first-class mail of plaintiff Rodney Driver and other Americans.

Driver, a University of Rhode Island mathematics professor, said three letters he sent to mathematicians in the Soviet Union were opened and copied.

The Rockefeller commission, which investigated CIA activities, reported in June that the agency opened some mail to or from the Soviet Union from 1952 to 1973.

The suit asks the court to order compensatory damages of \$20,000 for each letter opened and read by the CIA and punitive damages of \$100,000 for each person whose mail was opened.

Among those named in the suit are former CIA officials Richard M. Helms and James R. Schlesinger, former FBI Director L. Patrick Gray III, former Attorney General John N. Mitchell, and former Postal Service officials Lawrence F. O'Brien and Winton M. Blount.

Hunts Blame CIA

DALLAS—Two sons of the late billionaire H. L. Hunt, claiming they were discriminated against because of their conservative views, charged that the Central Intelligence Agency infiltrated the family oil empire and used secret agents to help embezzle more than \$50 million from them.

The brothers said federal charges

that they tried to cover up a family wiretapping scheme also were a result of a CIA attempt to discredit the Hunt oil empire. Nelson Bunker Hunt and W. Herbert Hunt said they held the CIA responsible for earlier federal charges that they spied on aides of their late father.

The brothers said their refusal to allow the CIA to use their overseas Hunt Oil Co. affiliate for espionage led to the federal charges against them.

A federal grand jury Monday charged the Hunt brothers, criminal lawyer Percy Foreman of Houston, three other attorneys and a retired Texas industrialist with obstruction of justice for allegedly trying to thwart the wiretap investigation. The indictment charged that the men conspired to pay witnesses to go to prison to silence testimony about the wiretapping.

They are scheduled to go on trial Sept. 15 in Lubbock, Tex. A hearing scheduled Thursday was canceled at the request of Hunt defense attorney John Shapiro, who said motions would be filed on claims that the government made a deal with his clients not to prosecute them and on claims the government was discriminating against the Hunts.

UPS Explosion

NEW YORK—Police said they believe a blast that injured 17 workers in a United Parcel Service terminal Monday night was caused by a chemical and not by a bomb.

The substance, which had been commercially shipped, was tentatively identified as methyl nitrate, authorities said.

No clues have been found at the scene to indicate a bomb was involved. However, authorities found a package,

which contained a chemical, believed, to be similar to one that might have caused the explosion.

Coors' Back Taxes

DENVER — The 10th U.S. Circuit Court of Appeals said the Adolph Coors Co. owes \$5.1 million in back taxes for understating income in 1965 and 1966.

The court affirmed a federal tax court ruling against the Golden, Colo., brewery and said Coors did not prove errors it claimed were made by the Internal Revenue Service in computing the back taxes.

The court said Coors had deducted construction costs from its capital assets for two years, resulting in understatements of income.

Treasury Office Bombing

SAN FRANCISCO — An underground guerrilla group claimed responsibility for pausing \$250,000 in damage in a bombing Monday night at the offices here of the Alcohol Tobacco and Firearms Division of the Treasury Department.

A group calling itself the "Red Guerrilla Family" claimed responsibility for the blast, in which four persons were injured, none seriously.

The terrorist group said the action was in response to the slaying of a prison reform activist the group said Treasury agents killed.

"We take this action in response to the pig murder of Popeye Jackson," the terrorists said in a note police found in a telephone booth near the bombed office.

Wilbur (Popeye) Jackson, leader of the United Prisoner's Union, and a female companion were shot and killed in June by an unknown gunman.

From staff reports and news dispatches



CIA's Mail Trick Adds Up to Suit

Providence, R.I., July 22 (UPI) — The American Civil Liberties Union today sued 30 present and former federal government officials for allegedly conspiring to open the personal mail of a mathematics professor at the University of Rhode Island.

The suit said that the mail of Prof. Rodney Driver included correspondence with colleagues in other countries, including the Soviet Union.

File Class Action Suit

In the class action suit filed in U.S. District Court, the organization sought \$20,000 in damages for each person whose mail was opened by the CIA.

The suit also sought an order to have the CIA, the FBI and the Postal service produce for destruction any files, records,

computer tapes and other information gathered from opening the letters.

Michael Dollinger, the executive director of the Rhode Island ACLU, said that the total amount being sought cannot be determined. "If we knew how many letters the CIA opened, then we would know," he said.

Defendants included former

CIA director Richard Helms and William F. Raborn Jr.; Acting Defense Secretary James Schlesinger; FBI director Clarence M. Kelley and former FBI director Louis Patrick Gray 3d; former Attorney General John Mitchell; McGeorge Bundy, former assistant to the president for national security affairs; and top-level Post Office officials.

23 JUL 1975

25X1

Mail-snoop suit names CIA chiefs

Providence, R. I. (AP) — Thirty present and former officials of the Central Intelligence Agency and other government agencies yesterday were accused in a class-action suit of illegally opening the mail of Americans.

The suit filed by the American Civil Liberties Union in United States District Court here alleges that officials of the CIA, the FBI and the U.S. Post Office opened the first-class mail of plaintiff Rodney Driver and other Americans.

Mr. Driver, a University of Rhode Island mathematics professor, said three letters he sent to mathematicians in the Soviet Union were opened and copied. He said the letters contained personal and mathematical information.

At a news conference, Mr. Driver said he believed the CIA opened his mail because he obtained copies of the letters from the CIA when he requested them under the Freedom of Information Act.

The Rockefeller commission, which investigated CIA activities, reported in June that the agency opened mail sent to or by American citizens. The mail project began in New York in 1952, the commission said, involving mail to and from the Soviet Union.

The program ended in 1973 and the commission reported that during the last full year of the program the CIA handled 4,350,000 items, examined the outside of 2.3 million, photographed the outside of 33,000 and opened 8,700.

The suit asks the court to order compensatory damages of \$20,000 for each letter opened and read by the CIA and punitive damages of \$100,000 for each person whose mail was opened by the CIA.

Among those named in the suit are: two former CIA directors, Richard M. Helms and James R. Schlesinger; former acting FBI director, L. Patrick Gray 3d; former U.S. attorney general, John N. Mitchell, and former U.S. Post Office officials Lawrence F. O'Brien and Winton M. Blount.

Also named were the current director of central intelligence, William E. Colby, and the current FBI director, Clarence M. Kelley, whom the ACLU said were named in the suit because they are the officials presently responsible for maintaining the information obtained from the alleged illegal actions.

ACLU officials charged that these and other officials knew of and approved the illegal opening of mail and that they engaged in a conspiracy to cover up the violations.

The ACLU further asks the court to order records obtained through the opening of mail to be destroyed.

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16 JULY 1975

SUE CIA FOR FAILURE
TO RELEASE INFORMATION

The CIA and its director William Colby are being sued by the Southern California American Civil Liberties Union for failing to comply with a request to release files collected on Stephen May, a member of the Venceremos Brigade.

May organized a 1970 tour group to Cuba to help in the sugar cane harvest and the CIA collected information about him and his political activities. The CIA claims it cannot comply with the request, made under the Freedom of Information Act, for "national security" reasons.

25X1

Expose plot for murder by FBI-CIA

NEW YORK, June 27 — A report released by the American Civil Liberties Union charges that the FBI during 1971-72 set up and funded a Secret Army Organization (SAO) in San Diego to terrorize and assassinate anti-war activists during 1971-72.

The report, released yesterday by the ACLU Foundation of Southern California, said that the SAO made assassination attempts on two organizers of a demonstration on the eve of the Republican Party convention.

The report also offered evidence that the FBI set up the SAO to act as agents provocateurs, inciting disorders to trap "domestic radicals," mainly campus leaders who were protesting the Vietnam war.

The secret army "acted on instructions of FBI officials" to carry out espionage, vandalism, mail theft, bombings and assassination, says the ACLU study.

"Operation Hoodwink"

These revelations come a few days after the Communist Party demanded that the FBI open its files on "Operation Hoodwink," an FBI plan to incite organized crime leaders to assassinate CP leaders.

Gus Hall, CP general secretary, has demanded that Attorney General Edward Levi and the Justice Department release their information concerning forged letters sent to crime leaders to arouse them to murder CP leaders.

Speaking from Chicago, where the CP is holding its convention, Hall said that if an answer is not received by Monday from the Justice Department, the CP will file suit to gain the information.

Hall said that Levi admitted he knew of the FBI "Operation Hoodwink."

The ACLU report also reinforces testimony by Tom C. Huston, former Nixon aide, that he set up a nation-wide spy system to coordinate surveillance by the FBI, the CIA, and other secret police organizations in the name of national security.

The courts have so far shielded the details of the Huston plan, saying that the revelation would "expose confidential informants and investigative techniques and operations by which governmental decisions are formed."

The ACLU study follows the release of FBI documents to the Socialist Workers Party, which revealed that under the code term, Cointelpro, the FBI sent "anonymous" letters to employers of SWP members.

The CP was also listed under the FBI Cointelpro operation.

Book Ends

C.I.A. Story. An American publisher has been found for "Inside the Company: C.I.A. Diary" by ex-agent Philip B. F. Agee. Stonehill Books will publish Mr. Agee's unprecedentedly detailed account of C.I.A. operations in Ecuador, Uruguay and Mexico during his eight years there as a case officer. In view of the legal battle set off by the agency's efforts to block publication of "The C.I.A. and the Cult of Intelligence" by Victor Marchetti and John D. Marks, most American publishers have apparently been reluctant to touch the Agee book, even though the Marchetti-Marks effort went on to become a best seller. Mr. Agee has a British publisher, however, Penguin Books, which paid him an advance back in 1972. Penguin's paperback version came out in England and Canada in January of this year (copies of it have been illegally sold in at least two bookstores here). Penguin owned the world rights to the title and an arrangement was made with Straight Arrow Books to bring it out in this country in the spring. Straight Arrow recently went out of business, though, and Mr. Agee persuaded Penguin to restore the American rights to him, then retained Scott Meredith as his agent. Two large

publishers were initially interested, Mr. Meredith said, but later backed out. One was Simon & Schuster, which as distributor for Straight Arrow noted the 20,000 advance orders for the projected Straight Arrow version. An internal disagreement over the book caused the company to pass, however. Warner Paperback Library was also in the running, but when it learned that it could not get insurance to cover a possible legal imbroglio with the C.I.A., it also bowed out. That left an assortment of smaller publishers still interested, including Saturday Review Press, The New Republic's book arm and Grove Press. But Stonehill, a small, young New York firm, best met Mr. Meredith's conditions, which included quick publication to exploit the publicity Mr. Agee has received. For an advance of \$12,000 the book was theirs. Stonehill plans to have hardcover books in the stores by June.

Asked if he was worried about an extended legal battle similar to the one surrounding the Marchetti book, Stonehill president Jeffrey Steinberg said that he had a commitment from the American Civil Liberties Union, whose legal director, Melvin Wulf, represented Marchetti and is friendly with Agee, to defend him. He pointed out that Mr. Agee's standard agreement with the C.I.A. not to write about it did not apply to Stonehill as publisher and, since the book had already been published abroad, there were no national-security con-

siderations involved. Mr. Meredith thought that the reluctance among American publishers generally to take the book was not out of fear of losing a law suit but rather because the expenses in such a suit would be so great. In order to forestall any legal action against Mr. Agee personally that might delay the book, the author, who has lived abroad since he left the C.I.A. in 1968, will not return to this country to promote it until after publication date.

May. More May books. . . . Novels: "Native Intelligence" by Raymond Sokolow, "Money Is Love" by Richard Condon, "The Last Words of Dutch Schultz" by William Burroughs, "A Fine and Private Place" by Morley Callaghan, "Come Out to Play" by Alex Comfort, "The Sinking of Oradeck Stadium" by Harry Mathews, "The Straw Man" by Barbara Goldsmith, "Moise and the World of Reason" by Tennessee Williams, "The Medici Guns" by Martin Woodhouse and Robert Ross, "Local Lives" by Millen Brand (a long poem), "Are We There Yet?" by Diane Vreulis and "A Father's Love" by Jacques Chessex. Miscellany: "The Book" by Lothar Günther Buchheim, "After Babel" by George Steiner, "Pueblo" by Vincent Scully, "Bellevue" by Don Gold and "Threes on the Tower" by Louis Simpson. Oh yes, "The Save-Your-Life Diet" by Dr. David Reuben (a "long-form diet"—everything you always wanted to know about bran but were afraid to ask?).

Names/Faces

Just Plain Nelse

Vice President Nelson A. Rockefeller really is just like the rest of us: His favorite television program is being dropped. In an incredible, informal chat with UPI Reporter Clay Richards, Rocky confessed that when he relaxes at his Pocantico Hills pad on weekends he watches — are you ready for this? — "Man-nix."



"I'm crazy about Man-nix," said Rockefeller. "I watch all those mysteries (sic) when I can."

"You're kidding," said the reporter.

"No," said the vice president. "Columbo, he's great. How do you think I know all this stuff about the CIA?"

Rockefeller said he and his sons, Mark, 8, and Nelson Jr., 10, "watch 'Man-nix' together every Sunday night." The interview occurred shortly before CBS announced that it is dropping the violent private-eye show.

If your interest in the vcep's TV-viewing habits hasn't flagged yet, he disclosed that he also likes Cher Bono and never goes to movies anymore; he waits for them to come around on the tube. The last flick he saw, he said, was "probably 'Ben Hur,' but I don't remember."

Happy Ending for Ex-CIA Man

John Downey, the CIA spy who spent nearly half his life in Communist Chinese prisons, was married in New Haven to a Chinese woman, Audrey Lee, in a private ceremony on the campus of Yale University. Downey, now 44, was shot down over Korea in 1952 and spent more than 20 years in prison before he was released in March of 1973 after then-President Richard M. Nixon revealed that Downey had been, as his captors insisted, a CIA agent.



Nedzi Accused of Holding Up CIA Probe

The American Civil Liberties Union has accused the special House intelligence committee of dawdling in its probe of the CIA and said Chairman Lucien Nedzi, D-Mich., should resign if he does not intend to pursue an aggressive investigation.

Although the 10-member committee was created 2½ months ago, it has not appointed a staff director or chief counsel, the ACLU noted.

In a letter released Friday, Charles Morgan, the ACLU's Washington director, told Nedzi that if a thorough investigation of the CIA is not planned, "we suggest you resign your chairmanship."

Hersh Wins Hillman Award For CIA Story

NEW YORK (AP) — Seymour Hersh, a Washington-based correspondent of the New York Times, has won an annual Sidney Hillman Foundation award for his exposure of illegal CIA activities in the United States.

The award Friday was the second last week for his CIA stories. On Monday, he won a 1975 George Polk Memorial Award. As a free lance reporter, Hersh won the 1970 Pulitzer Prize for revealing the My Lai massacre.

Another recipient of the 25th annual Hillman awards was a team of reporters and editors of the Boston Globe, for "forthright and sensitive handling of the school integration crisis in that city."

The CBS documentary, "The Autobiography of Miss Jane Pittman," drew a Hillman award, as did Noel Mostert for his book "Supership," focusing on oil supertankers. Richard J. Barnett and Ronald E. Muller were cited for their book, "Global Reach," a study of multinational corporations.

U.S. BID TO CANADA SEEN IN SPY CASE

Request for Chinese Envoy's Removal Is Reported

Special to The New York Times

OTTAWA, May 2—A Chinese diplomat whose removal was ordered by the Canadian Government this week was ousted at the request of the United States after he was found picking up industrial and military information for his embassy on missions to Washington, according to Canadian newspaper and radio reports today.

However, Canada's Minister for External Affairs, Allan J. MacEachen, declared in the House of Commons today, in response to a question concerning the report of American involvement, that the Canadian action "was not taken at the request of any other government."

Mr. MacEachen declined to give further details of the allegations against the Chinese diplomat, who has been identified unofficially as Kuo Ching-an, a third secretary and press attaché at the Chinese Embassy. The minister had said earlier that the removal of the Chinese diplomat had been requested because of "activities incompatible with his status as a diplomat in Canada."

Members of the Chinese Embassy have refused to comment on the case, but in private have referred to the incident as a "misunderstanding," and had indicated that Peking would not expel a Canadian diplomat in reprisal, as is frequently done in such diplomatic interplay.

The Toronto Star and national radio network of the Government-owned Canadian Broad-

casting Corporation, quoting unnamed American sources, said that the United States had requested Canada to act because of Mr. Kuo's alleged spy missions to Washington.

According to the Toronto newspaper, the American sources said that Mr. Kuo had been "picking up industrial secrets and military information" in the United States and was taking them back to the Chinese Embassy in Ottawa for transmission to China.

The sources said that Kuo made a weekly journey between Ottawa and Washington, driving south alone on the eight-hour journey and then heading straight back to Ottawa after picking up his information, the account continued.

The paper quoted the American source as stating that the Federal Bureau of Investigation began investigating Mr. Kuo "in the course of monitoring the Chinese intelligence service."

HALPERIN'S SUIT ASKS SECRET C.I.A. REPORT

WASHINGTON, May 2 (UPI)

—A former National Security Council official went to court yesterday seeking release of a secret report to President Ford on domestic spying by the Central Intelligence Agency.

Morton Halperin, who was the target of government wiretapping when he worked for the Security Council, asked for the long secret C.I.A. budget in a series of suits filed

in United States District Court. The suits were filed after the C.I.A. Treasury Department and State Department turned down requests for the material under the Freedom of Information Act. Mr. Halperin is disyesterday seeking release of a report of the Project for Freedom of Information and National Security.

The secret report sought, the so-called "Vail report," was given by William E. Colby, Director of Central Intelligence, to Mr. Ford last December after the initial article in The New York Times charging the C.I.A. with massive illegal domestic spying.

A.C.L.U. Critical on Intelligence Panel

By JOHN CREWDSON

Special to The New York Times

WASHINGTON, May 2—The American Civil Liberties Union called today upon Representative Lucien N. Nedzi to affirm his intention to investigate activities of American intelligence-gathering organizations or to resign the chairmanship of a House select committee set up for that purpose.

In a letter to the Michigan Democrat and House Speaker Carl Albert, two A.C.L.U. officials pointed out that had passed since the House established the panel that Mr. Nedzi heads and that no staff counsel, staff director or staff member had been appointed.

The officials, Aryeh Neier, among the Democratic and the A.C.L.U.'s executive direc-

tor, and Charles Morgan Jr., who heads its national office here, asserted that Mr. Nedzi's "failure to staff the committee" raises grave doubts as to the ability "of the House of Representatives to oversee and investigate the Central Intelligence Agency."

A Senate select committee set up three weeks earlier for the same purpose, has long since retained officials and staff investigators and is interviewing prospective witnesses for the public hearings it plans to begin in June.

Mr. Nedzi, who also heads a separate House subcommittee that acts as a "watchdog" for the C.I.A., has reportedly been unable to obtain a consensus among the Democratic and Republican members of his panel

Publishing and the Law: Some Controversies, Some Optimistic Prospects

"I can't think of another industry as bathed in legal problems as the publishing industry," declared Ridley Enslow of William Morrow, chairman of the General Publishing Division of the Association of American Publishers, as he opened a Divisional seminar on "Publishing and the Law" in the McGraw-Hill auditorium April 3. The all-day session, which brought publishers and lawyers together for discussions of such matters as copyright, obscenity and pornography, contracts, libel and freedom of information, seemed to bear him out.

The keynote speakers, Random House president Robert Bernstein and lawyer (and *PW* contributing editor) Harriet F. Pilpel, both took a broad view of publishers' freedoms. Bernstein restated his view that doing business with Soviet publishers under UCC added legitimacy to Russian persecution of their own writers. Taking note of recent U.S. actions such as the CIA's suit against the Marchetti book published by Knopf, and the Justice Department antitrust suit against 21 U.S. publishers for participation in the British market agreement, Bernstein said that in such cases the government had unlimited resources with which to oppose private concerns. In the antitrust suit, the result was not of major importance to publishers or the public, and "discussions with government officials could have worked it out. Now it will be done with a vast expenditure of public money."

Mrs. Pilpel declared that the law itself is an abstraction—the rulings that interpret it are the most important aspect. In areas traditionally tricky for publishers and authors, such as heresy and sacrilege, there have been no problems lately: "sedition or obscenity are their counterparts now." Important rights that have to be safeguarded carefully today include the right not to speak (exemplified in the Caldwell case, where a reporter refused to reveal his source) and the right to send material through the mails—which could be regarded as speaking anonymously.

Charles Lieb, attorney and noted expert on copyright, discussed the current status of the photocopying issue. It was in the new library philosophy of "networking," with exchanges between "mother" libraries and satellites, that the chief photocopying threat lay, he said. It had not been possible to get librarians to discuss the issue in these terms so far, and it would not be resolved until they were ready to do so. Educators, he said, had also been unwilling to join with publish-

ers in search of a definition of "fair use" copying—probably because, as their funding was currently arranged, it was easier for them to use the money for photocopying equipment than for permissions fees.

He noted that the Supreme Court's recent split ruling on the Williams & Wilkins case was a ruling on that case only, and set no precedent; he also noted that the whole case, which has been the major one in the area, involved the copying of eight Williams & Wilkins journal articles, ranging in age from two to 10 years. One was copied three times, two twice and five once—therefore the Supreme Court ruling had been "as narrow an opinion on as narrow a set of facts as can be imagined."

In a discussion of the obscenity and pornography issue, Barbara Scott of the Motion Picture Association of America and Kenneth McCormick of Doubleday both outlined what they regarded as essential elements in any legislation on this subject: that it should be set at state or national level, and that it should always provide for prior civil action rather than outright arrest. McCormick also stressed the danger of the "chilling effect" of the threat of censorship of any kind, and pointed to the sums Beacon Press had to pay to defend its Pentagon Papers publication and Knopf its CIA book.

Esther Margolis of Bantam Books, reviewing the current thinking in paperbacks, said the new obscenity guidelines seemed to have had no obvious effect on the distribution of paperbacks so far. Perhaps some editors had been forced to look a second time at "marginal" books, but obvious best sellers had not been affected. "These days we talk more about the problem, but we don't really do anything more about it than we did," Ms. Margolis said. Thomas McCormack of St. Martin's Press devoted his time to a discussion of his forthcoming book "Show Me!," a frank photographic exploration of childhood sexuality. "It's a serious book, but I think we may have trouble," McCormack said. The plates from Germany had been stopped on their way in by U.S. Customs, and after that was sorted out, several printers refused to do the book. There had also been problems with advertising it, with some media declining to have genitals shown. What he called a false account of the book appeared in the *Los Angeles Times* and as a result he had petitions from California urging him not to publish it. "People may

disagree with it, but they shouldn't tell me not to publish it," McCormack said.

The panel on contracts opened with a careful examination of the tricky parts of author contracts by lawyer Paul Gitlin. The warranty clause, he said, is the hardest of all, but publishers require that protection. Delivery dates are also an essential element; they can be waived, but they are needed so publishers can put pressure on authors. As for the "acceptable manuscript" clause, he found this the hardest one to interpret; but an author should always be willing to make changes ("Even the Bible has been revised"). He found the recent decision in the William Safire case, in which arbitrators decided that William Morrow had properly rejected his book but allowed him to keep his advance anyway, "completely illogical."

Agent Roberta Pryor said she had been many years in the business and had never been in litigation; she urged the removal of the author's warranty clause from contracts.

Samuel Vaughan, Doubleday president, said Doubleday had a "long and sticky" warranty clause, but insisted on it. "We've lost books because of it, and I'm sorry." On deadlines, he said he once lost an author by letting the deadline go beyond the statute of limitations. He urged renewing a deadline if necessary—"Most authors like them anyway." In his experience, Vaughan said, it was amazing how seldom contracts were infringed. "Many are bent but few are broken." He said he had felt "schizophrenic" about the Safire decision (Doubleday eventually brought out Safire's book) but thought it was "very judicial."

Lawrence Hughes, Morrow president, got up from the audience to say that the key point the arbitrators in that case had to decide was whether the publisher had the right to say whether or not the book was acceptable. They decided in Morrow's favor. They felt, however, that the author had tried, and that "equity, as opposed to legality," suggested he should keep his advance. "I have had legal opinion that in a court of law Safire would have had to return the money," Hughes added.

Gitlin concluded by saying that arbitration proceedings nearly always favored the authors, "because it's always made to look like a million-dollar publisher against a poor little author who only wants \$100,000 or so."

After a lunch break the session resumed with a panel on libel, invasion of

privacy and plagiarism. Harriet Pilpel reviewed some of the legal prohibitions on invasion of privacy. Public figures can be written about "in good faith," but the names of living persons cannot be used in fiction except for background references. Nonfiction books about living people are also in trouble if they contain "substantial falsifications." In view of these restrictions, Mrs. Pilpel said, there are now only three entirely safe ways to write a book about a living figure: "Get permission first, make it entirely accurate if you don't have permission, or wait until the subject is dead."

Irwin Karp, counsel for the Authors League, said that authors and editors trying to guess in advance what will be found libelous "face a very difficult task that requires a lot of courage." The standards of liability, he said, are severe; sometimes even unwitting libel can be upheld, and truth is no good as a defense unless the court rules that proof is admissible. However, a recent ruling has held, said Karp, that punitive damages cannot be recovered without proof of actual malice. The risk of libel, he said, is greatly reduced in dealing with public figures, but only when they are being discussed in the area in which they are public figures.

Alan Williams of Viking said it was clear there was a need for a sense of danger about libel. Where should publishers learn to look for a red light? Mrs. Pilpel

said that official sources can always be checked, for a start—official documents, such as court records, are privileged. Karp said that in fact there are very few libel suits, and it is almost unknown for anyone to recover in a suit over a novel. How, asked Genevieve Young of Lippincott, are editors to deal with very thinly disguised novel characters plainly based on Mrs. Onassis and members of international society? Mrs. Pilpel said that such people are extremely unlikely to act unless their actual names or pictures are used, but it is always helpful to change names and physical attributes where possible. The panel closed with a discussion on how specific legal advisors should be in recommending whether or not to publish a dubious book. The consensus seemed to be that it is a matter of personal style; some lawyers are prepared to make an outright recommendation, others, in view of the fact that judges and juries constantly take different views of what constitutes libel, are inclined to leave it to the publisher.

Freedom of information occupied the last panel of the day. Melvin Wulf, of the American Civil Liberties Union, who acted on behalf of Knopf's CIA book, said the government suit against the book had succeeded in keeping some of its detail from the public, but that the publicity given the case had also helped the book to a greater success than it might other-

wise have enjoyed. He was now confident that the Supreme Court would hear the case, but not at all sure of how they would rule. He found it difficult, he said, to decide how far to tell publishers to go in incurring legal fees in face of government prosecution.

Charles Rembar, a leading attorney in matters of civil rights and publishing, said he thought Senate bill S-1 was bottled up at the moment, and publishers had plenty of time to write their Congressmen against it. He was pleased, he said, with the new Freedom of Information Act, which places the burden on the government of showing why information has to be classified, and demands a reply to queries on such matters within 10 days. "I think this Act will make possible a lot of good research, and will result in some good books that might not have been possible previously," Rembar said.

Ashbel Green of Knopf took note of the controversy over the publication of the Richard Crossman memoirs in England, where the government was trying to restrain publication not on national security grounds but because the "Civil Service has to be protected." In this country the chief roadblock to freedom of information is usually the government itself, he said, but fortunately the reporters covering government agencies are generally smarter than those trying to prevent them from learning anything. J.F.B.

ACLU ALLEGES 23 U.S. AGENCIES SPY ON CITIZENS

BY LINDA MATHEWS
Times Staff Writer

WASHINGTON—The American Civil Liberties Union said Wednesday that at least 23 separate agencies, ranging from the FBI to the Defense Mapping Agency, were conducting electronic surveillance of American citizens.

The ACLU based its conclusion on government affidavits produced last month in the West German court-martial of a young Army lieutenant charged with letting his hair grow too long. But the ACLU, which had defended the lieutenant, waited until Wednesday to release the list.

Besides the FBI, the list identified the Central Intelligence Agency, the Internal Revenue Service, the U.S. Postal Service and the Secret Service as among the agencies which engaged in wiretapping and bugging.

Also included were more obscure arms of the federal government with less obvious investigative functions, such as the Defense Mapping Agency, the Defense Contracting Audit Agency, the Army Criminal Investigation Command and the administrative services section of the Joint Chiefs of Staff.

The government affidavits on which the ACLU list was based did not explicitly admit that each agency spied. But in each case, the agency had said that records of electronic surveillance had been examined in drawing up the affidavits.

The government's disclosures led Charles Morgan Jr., director of the ACLU's Washington office, to charge that then-Atty. Gen. William B. Saxbe lied under oath last year about the scope of government eavesdropping.

Morgan referred to Saxbe's testimony at joint hearings of three Senate subcommittees last May 23, where he indicated that the FBI was the only government agency engaged in electronic surveillance.

In one exchange during those hearings, Sen. Edward M. Kennedy (D-Mass.) told Saxbe: "What we are trying to find out is whether there are any governmental agencies which are involved in any wiretapping whatsoever."

The answer, to the best of our knowledge, and we have made diligent search, is no," Saxbe replied.

Kennedy asked.
"Yes, sir," Saxbe said.
Kennedy pressed further, saying, "You can give that authoritative statement that there is no agency of government in the United States which is involved in electronic surveillance today?"

Again, Saxbe's response was, "We have made diligent search."

"Other than the FBI, is that correct?" Kennedy said.

"That is correct," Saxbe said.

Earlier in the same hearings, Kennedy referred to former President Richard M. Nixon's then-recent disclosure that the Secret Service wiretapped his brother, F. Donald Nixon, and quizzed Saxbe about whether the Secret Service had done further wiretaps.

"No," Saxbe said.
"And the CIA?" Kennedy asked.

"No, sir," Saxbe said.
"How about Army intelligence?" Kennedy said.

"No," the attorney general answered.

Although the senator clearly asked about all the wiretapping activity of government agencies, there were indications in the transcripts of the hearings that Saxbe and FBI Director Clarence M. Kelley may have thought that the inquiries concerned only surveillance carried on without a judicial warrant.

The Justice Department long has maintained that the attorney general, acting under the President's inherent authority to protect national security, is empowered to authorize some wiretaps without first obtaining the approval of a federal judge.

This contention met partial defeat three years ago in the Supreme Court, which ruled that national security cannot be invoked as an excuse to bypass normal warrant procedures where antiwar activists and other so-called "domestic subversives" are concerned. But the justices explicitly reserved for future resolution the question of whether warrants could be dispensed with when the government suspects foreign espionage.

The high court's action means that some warrantless wiretapping remains at least arguably constitutional, until the justices rule definitively on the question.

During the Senate hearings, both

Saxbe and Kelley occasionally focused on wiretapping conducted without a warrant. Their remarks could be taken to mean that it was only this kind of surveillance that was confined to the FBI.

Saxbe, for example, testified that he had "put out a questionnaire" to various agencies to find out the extent of their eavesdropping.

"Where we were concerned was on the national security level," Saxbe explained. "We were concerned that perhaps the Secret Service, perhaps CIA, perhaps the Department of Defense, were running national security surveillance. The answer is, no."

Earlier, Kelley had pointed out that the 1968 Omnibus Crime Control and Safe Streets Act permitted other federal agencies besides the FBI to seek judicial warrants to wiretap in connection with investigations of a long list of specified crimes. "Under (this act), there are some other agencies which seek and secure that right," Kelley testified.

Among the crimes for which wiretap authorization can be obtained, under the 1968 law, and presidential assassinations and assaults, various drug offenses, murder, kidnapping, robbery, bribery of public officials, theft and racketeering.

Most of these fall clearly within the jurisdiction of the FBI, which would mean that it should be the only agency conducting surveillance of those crimes, with or without warrants.

But, for several crimes listed in the act, the FBI shares responsibility with other federal agencies identified by the ACLU as active in eavesdropping. The Secret Service, for example, is charged with protecting the President and could be said to have acted properly if it obtained warrants to eavesdrop on would-be assassins. Similarly, the Drug Enforcement Administration could properly keep suspected drug offenders under surveillance.

It was impossible to tell late Wednesday whether, in fact, the eavesdropping activities of each agency had been tailored to its special interests. The ACLU list merely identified the bodies that engaged in snooping and did not disclose the extent or nature of those activities.

The ACLU compiled the list from affidavits made available to an affiliated attorney in Heidelberg, Germany, H. Christopher Coates, who had been representing Army 1st Lt. Matthew R. Carroll at a general court-martial.

The Army had been ordered, part of that court-martial, to disclose whether any of its agencies had eavesdropped on Carroll or two other side ACLU attorneys, John H. Shattuck and David F. Adelson, who had been helping with his defense.

What the government produced was a heavy sheaf of affidavits from officials in 23 different agencies, saying that they had searched their electronic surveillance records and could find no evidence that the three had ever been wiretapped or bugged.

The ACLU took that to mean that all 23 had at some time engaged electronic surveillance and distributed to reporters the list it had drawn up, accompanied by copies of the affidavits which ran 28 pages long.

Beside the agencies already named the following were listed as participating in some eavesdropping activities:

The National Security Agency; Treasury Department's Bureau of Alcohol, Tobacco and Firearms; the Naval Investigative Service; the Defense Intelligence Agency; the Defense Clear Agency.

Also, the Defense Security Assistance Agency; the Defense Support Agency; the Defense Civil Preparedness Agency; the Defense Advanced Research Projects Agency; the Defense Communications Agency; the Defense Investigative Service; the Department of the Air Force.

Under the Department of the Army, three small units were named: the 502d Army Security Agency Group; the Office of Deputy Chief Staff for Intelligence, U.S. Army; the 1st Army Security Group; and the Investigation and Police Information Division, U.S. Army, Europe.

The State Department's Office of Security was listed as receiving surveillance information from other agencies but not conducting its own

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Bundy Denies Any Assassination Plot

By NICHOLAS M. HORROCK
Special to The New York Times

WASHINGTON, April 7 —
McGeorge Bundy, President Kennedy's aide for national security affairs, said today that he had told the Rockefeller Commission that he had "no recollection" of plots to assassinate foreign leaders or of formal discussions of such plans during his White House tenure.

Mr. Bundy, in a brief meeting with reporters after a closed-door session with members of the commission, which is investigating the Central Intelligence Agency, said he could not exclude informal discussion in which White House aides "sat around and said how nice it would be if this or that leader of government did not exist."

This was the only area of his testimony that Mr. Bundy discussed.

There have been published allegations concerning a C.I.A. plot during the Kennedy Administration to have Premier Castro of Cuba killed. But Mr. Bundy, who handled sensitive foreign policy matters for President Kennedy, seemed to challenge the idea that any assassination plot was formally presented to the White House for approval or ever approved.

Meanwhile, in a separate development, the Government filed a brief in a Federal Court case that strongly implied that the Army had traced the route of documents stolen from military intelligence commands in West Germany to member of the press and possibly Senate aides.

The brief was filed in a suit by the American Civil Liberties Union against Secretary of Defense James R. Schlesinger on behalf of American antiwar groups in West Germany. The original suit, filed last year, attempted to bar the Army from surveilling United States

servicemen and civilians in West Germany.

The Army's tactics of watching anti-Vietnam war groups in West Germany came to light in the summer of 1973 when several news media published reports of military spying, including telephone taps, based upon documents apparently from military intelligence unit files.

At the same time Senator Lowell P. Weicker Jr., Republican of Connecticut, turned over similar documents from West Germany to the Armed Services Committee.

Judge Given Documents

The Army has placed a packet of documents in the hands of the trial judge, William B. Jones, in Federal District Court here, which its brief claimed contained "a full and complete disclosure of the actions of military intelligence personnel in connection with one aspect of this investigation. The complete reports of the investigative method used and the information received, with no deletions, are included in the submission."

Sources close to the investigation said the material given to Judge Jones would show that the Army investigators,

presumably using electronic surveillance, had traced a cache of custody of secret documents after they were taken from military files in West Germany. One source said this cache might well include "news lawyers and others."

The New York Times among the publications that had military documents not available to it. Senator Weicker is known to have sent a member of his staff to Germany to investigate allegations of military spying as an outgrowth of the Senate Watergate inquiry.

According to the Army's brief, which was prepared and submitted to the court by the United States Attorney's office here, "in early 1974, Army intelligence personnel in Europe received certain information which appeared to relate to the unauthorized release of these classified documents. This information suggested possible leads which, if pursued, might enable intelligence personnel to ascertain the identity of person or persons responsible for the theft and unauthorized release."

"In fact, these leads were pursued by means of certain intelligence collection methods and procedures, resulting in confirmation of some of the information received earlier," the brief said.

The A.C.L.U. is expected to seek access to the documents now held by the judge. The Army has asked the judge to review the material in secret and to decide whether it is relevant to the case. If he decided to rule it was relevant, the Army brief said, the Secretary of Defense would then decide whether to label the material a matter of national security and attempt to exert his "privilege" to have the material remain sealed.

Salvaging the Sub Story

One of the most intriguing aspects of last week's bizarre saga of the CIA and the Russian sub was the singular tale of how—and when—the story hit the headlines. During the past month, no fewer than eleven major U.S. news organizations have been piecing together reporting on the CIA's secret attempt to raise the sunken Soviet submarine from the Pacific Ocean last summer. Each time a news organization closed in on the story, a call from CIA director William Colby convincingly argued that going public would compromise national security. Thus, when syndicated columnist Jack Anderson finally broke the voluntary blackout on March 18, he also blew the lid off a provocative episode in the complex relationship between the government and the press.

New York Times reporter Seymour Hersh, who ultimately produced the most detailed account of Project Jennifer, was the first newsman to sniff out the story. Alerted by a tip in late 1973, Hersh dug in far enough to conclude that the salvage operation was over (it was, in fact, in preparation) and returned to his Watergate assignment.

Clues: A few months later, lawyer Charles Morgan, director of the American Civil Liberties Union's Washington office, began to hear talk of connections between the Howard Hughes mining ship and a CIA mission. He shared his limited information with reporter friends, including Jack Nelson of The Los Angeles Times. Then seven weeks ago, Nelson's paper followed up a courthouse leak on some papers which had been stolen from the Hughes-owned Summa Corporation that made sudden sense of Morgan's clues.

Last Feb. 8, the L.A. Times ran the first sketchy and somewhat inaccurate account of the salvage operation (the article erroneously put the sunken sub in the Atlantic). The L.A. Times story ran on page one under a splashy headline in the first edition, then was tucked inconspicuously on an inside page of the paper in later editions. The reason for the switch was an urgent appeal from the CIA to withhold publication altogether—a call that was placed twenty minutes after the presses began to roll.

When Hersh learned that the L.A. Times had broken the story, he recalled last week, "I hit my head and said, 'dumbbell.'" He promptly launched his own redoubled investigation.

The CIA's call to the L.A. Times was the first step in a fresh campaign by

Colby to persuade newspaper, magazine and broadcasting executives to embargo the story. The argument was essentially the same in each case: making the story public, Colby contended, would alert the Russians to a second attempt scheduled this summer to retrieve the sub's nuclear warheads and codes and thus abort an invaluable intelligence mission. Although it was not explicitly discussed, the news executives who went along with Colby took the position that they



Susan T. McElhinne—Newsweek

Hersh: "When he starts, he just goes and goes"

would delay publication until the operation was completed or dropped and then run now-it-can-be-told stories.

The speed with which Colby tracked down each new reporting foray (he called NEWSWEEK 90 minutes after its first digging began) was matched by the regularity with which he passed along project details unknown to his listeners—compounding the puzzlement over Colby's own motives. In each meeting he also made a point of identifying competing news organs who had agreed not to break the Glomar story.

'Pressure': When Colby made his appeal to New York Times publisher Arthur Ochs Sulzberger, the press releases were made, according to management, A.M. Rosenthal. Nor, said Rosenthal, "did I discuss this with Hersh. I

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Anderson, too, had been bearded by Colby ("the most candid CIA director I've ever dealt with"). But, he explained, "I had a different view of this one. I talked to Navy people of the highest possible rank who said that this obsolete sub had no real military significance."

Scuttle: "Every place we went," said Anderson, "Hersh had been there." As a courtesy, Anderson alerted The New York Times he was scuttling the embargo. "You've done a much better job," Anderson later told the Times Washington bureau chief Clifton Daniel. "You should break the story." Daniel's response, Anderson said, "was that they would not publish unless we went first."

It was a fair enough trade. Anderson took the ethical heat and scored yet another coup while The New York Times, from a stance of responsible citizenship, reaped recognition for the most comprehensive coverage. But once again, Hersh, 37, earned mixed reviews from other newsmen for his triumph. Some find the Pulitzer Prize-winning reporter arrogant and overbearing, with a penchant for verbose copy. "I don't think any of Sy's stories have been overplayed," said Rosenthal, springing to his defense. "I think the reaction to Sy and the Times seems sour. It's hard for him to come in under 5,000 words, he has so much good stuff." Even Hersh's severest critics, moreover, would agree with a colleague's assessment: "When Sy starts on a story, he just goes and goes and goes."

As for the Glomar affair, many newsmen believe that the most puzzling performance was turned in by the story's central character, Colby. By offering fresh information to news executives and meticulously telling them what rival organizations were doing, the CIA director helped spur an already highly competitive situation. "In a way, Colby stimulated pressure to get the story out," concluded CBS's Daniel Schorr. If that was his real design, he could scarcely effectively.

—ELIZABETH PEER with ANN RAY MARTIN in New York and DIANE CAMPER and TOM JOYCE in Washington

TIME

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COLUMNIST ANDERSON WITH MUCK RAKE

By early 1974, Colby knew what Hersh knew and privately cautioned the *Times* not to pursue the story. In September 1974, Lloyd Shearer of *Parade* magazine learned from a crewman on the *Gloria Explorer*, the Howard Hughes ship, about the quest and tried to confirm it through Hughes' Summa Corp., without success. Alerted by Summa, Colby some months later reached Shearer, confirmed the basic facts and persuaded him to keep mum, arguing that recovery of the sub might yield some "ultra-secret" Soviet coding equipment.

By midwinter, however, a number of other news organizations were on to the story. On February 8, the first edition of the *Los Angeles Times* carried a front-page article on the Jennifer mission, but it was incomplete and garbled the details (e.g., the paper placed the submarine in the Atlantic, not the Pa-

A.C.L.U. lawyer was about to break the secret, revealed on his radio broadcast the outlines of the salvage effort. At that point the *New York Times* ran a ready-to-go story by Hersh, devoting a full page to his reportorial details.

Was it right for the *Times* to rush the revelations into print? *Times* Managing Editor A.M. Rosenthal, who had originally postponed the story at Colby's request, had been willing to hold off until the mission was completed or called off, or until its cover was blown. Said Rosenthal: "The advantages of immediate publication did not outweigh the considerations of disclosing an ongoing military operation." But after Anderson's broadcast, he felt that the issue of publication was academic. "In future cases," says Rosenthal, "it's impossible to say how I would act. My answer is: show me the case, let me read the story, and then I'll come to a decision."

To some, like former California Governor Ronald Reagan, CIA operations are inviolate. Last week Reagan excoriated the press for being irresponsible in its revelation of the CIA operation. But most newsmen side with the Rosenthal "case by case" approach. Explains Benjamin C. Bradlee, executive editor of the *Washington Post*: "When you have these decisions, you have a balance. On the one side, there's a claim by a government of some standing that what you're about to print will harm the country's security. And on the other side you have the conviction that you're being conned." The burden, in short, is on the editors to make up their minds in each instance.

Watchful Press. George E. Reedy Jr., the onetime press secretary to Lyndon Johnson and now dean of Marquette University's College of Journalism, does not accept so balanced a view. Says he: "I don't think newspa-

Show and Tell?

For months, right up to last week, William E. Colby, director of the Central Intelligence Agency, spent a good deal of his time on an unusual undercover task. By phone calls, visits and through his emissaries, Colby made contact with a number of news organizations. His purpose: to persuade them, on national security grounds, not to print a story that they all knew about—the attempt by the CIA to raise a sunken Soviet submarine from the ocean bottom.

Colby's request immediately created a dilemma for the newsmen. Each organization had to decide whether to withhold knowledge from the public of a secret Government operation or publish a story that, as Colby argued, might damage the nation's defenses. In short, the press was face to face with an old question: When does the right of the people to know end and the need to protect national security begin?

Personal Plea. In the recent past the problem was simpler. Editors had few qualms about revealing CIA operations—like domestic spying—that were clearly illegal. But the case of the Soviet sub was different. The CIA was operating in its legitimate sphere—foreign intelligence; and the operation was still going on, Colby had personally pleaded for restraint, and there was in any disclosure a risk of severe damage to U.S.-U.S.S.R. détente. In hindsight, however, some journalists are wondering whether the CIA wanted the story out for its own reasons (see *THE NATION*).

For more than a year Colby was able to keep the lid on. Seymour Hersh of the *New York Times* first heard of the salvage operation's code name "Jennifer," but without details, in 1973.



THE NEW YORK TIMES'S SEYMOUR HERSH Taking off the hair shirt.

cific). A CIA official was quickly on the telephone to L.A. *Times* Editor William F. Thomas. Unable to get the story killed, he managed to talk Thomas into burying it on page 18 in later editions. Later Colby briefed Thomas, and, says the editor, "publication would have had some negative results." Shortly afterward, *TIME* learned about the story, but at Colby's personally telephoned request, decided not to run it because of the CIA's claim that it was a legitimate project involving national security. The *Washington Post*, NBC, ABC, *Newsweek* and the *Washington Star* all got wind of the project. In each case, after a call or visit from Colby there was a decision

to go ahead. Last week, however, Jack Anderson, claiming that newspa- pers should be in the business of deciding what should or shouldn't be in the national interest. They should print the news. If every newspaper decided what is or is not in the national interest, you soon wouldn't have any newspapers, you'd just have Government propaganda sheets." Jack Anderson, in his turn, claims that since Watergate, "a lot of editors and reporters are wearing a hair shirt, trying to prove too hard how patriotic and responsible we are. The country was better served by a watchful press." Adds Columnist Tom Wicker of the *New York Times*, who criticized his own paper's restraint: "It is hard to see how a news organization—let alone so many—could have thought such a story ought

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WASHINGTON STAR

21 MARCH 1975

Q and A

Approved For Release 2004/10/13 : CIA-RDP88-01315R000100140001-1

Libertarian Morgan Hits CIA Secrecy

Charles Morgan, Washington director of the American Civil Liberties Union, was interviewed by Washington Star staff writer Norman Kempster.

Question: It just has been reported that the CIA contracted for an underwater ship with a cover story that it belonged to Howard Hughes. You have been sharply critical of this arrangement. Why?

Morgan: The problem to me is that the executive contracted out the war-making power to private corporations. The press reports that we're training the army in Saudi Arabia. We've got a ship roaming around someplace out there. Well, good heavens, to turn a ship like that over to Howard Hughes! I should add one thing. These views are my own. There are folks in the ACLU that would disagree with me and on much of what I may say the ACLU has no position.

Q: You say the ship was turned over to Hughes. Wasn't the Hughes connection just a cover story to conceal CIA involvement?

A: How do I know it's not turned over to him? So, (CIA Director William B.) Colby says it isn't. Who can you believe in that agency? Twenty years they've spent learning to lie. They lie by rote. Is there a difference between Hughes and the CIA?

Q: Is there? Are you saying they are the same?

A: I don't know. We ought to look into it.

Q: Do you have any indication other than this recent situation with the ship that there is a connection?

A: Well, certainly, certainly. (Former Hughes aide Robert) Maheu testified, according to the Washington Star, in his depositions in his lawsuit against Hughes that in 1960 he was asked by Hughes to form a link between the CIA and Hughes Tool. He then went further and said that he did not do that. Secondly, he said that he'd been working on an intelligence mission in 1960 in Miami and Hughes had tried to summon him back to Los Angeles, or Las Vegas, or someplace and he refused to go. He did identify the agency — the Central Intelligence Agency. He wouldn't say what he'd been working on but I think the people of this country are

Q: But how much control does Howard Hughes have over what this boat does?

A: I have no way of knowing. I don't even know if there is a Howard Hughes. All I know is that I've got to make several assumptions about it. If there is a Howard Hughes, then I have to assume that he is either sane or insane or something else. If I assume him to be sane, then I have to assume him to be the most secure person in the United States. If I assume him to be insane, then we have turned a very highly risky operation over to a man who is an alleged nut. Now I don't want him out there picking up free hydrogen bombs, or walking around with anything else or risking that my country gets into

war. Now if it's not Hughes, and not Hughes' crew, and there is a risk that we may go to war over that ship, then that's even worse.

Q: Do you believe the CIA has a right to contract with private corporations to engage in any of the covert activities that the CIA engages in?

A: Let me go back just a little bit. In 1967, we were shocked when we found out the CIA was funding the National Student Association. Now I have an equal shock when I find out the CIA is funding Howard Hughes. Now when I look around at the kinds of things that have happened to Hughes that an average citizen couldn't get consideration on for the past several years: an antitrust exemption for the Dunes Hotel, a tax exemption for his medical foundation, non-extra-territorial from the Bahamas, great Justice Department efforts to keep a United States grand jury from indicting him in Nevada. I look at that and I say to myself, "What are we paying that fellow for?" Secondly, if you have covert operations through an American corporation, where's the check on that? Who runs the war? Does Hughes run the operation, or does the CIA? Or do their interests merge? What happens when they go off and get into trouble? Do we go out and defend them? Is it a war contracted for by the

CIA secretly,

their money
any control
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That's the pro

Q: You asking questions.
any of the ans

A: I think answer them
we should in
find out about

Q: Do you have any indication that the Glomar Explorer was engaged in any activities for the CIA other than the Russian submarine caper?

A: Well, I would say without any knowledge of anything other than the public documents and public records, we are putting a remarkable amount of American money into overseas ventures. We've got ships roaming loose, small submarines, tiny things built by corporations over here, the Defense Department and every place else. And I don't really know what we're doing in the sea. All I know is that we are doing something there. I assume we are doing it undercover and the reason that we're doing it undercover is because apparently we're doing something wrong. If we're doing something right then we ought to tell everybody about it and tell them what it costs.

Q: If we could get back to the Glomar Explorer. Do you know of any other covert operations conducted by that ship?

A: I just don't know about that. I read an article in the March 1975 American Legion Magazine. It's a perceptive article. It ends up saying that Hughes' ship is the only ship that's ready to go to mining underseas. If 75 percent or 80 percent of the mineral wealth of the world is underseas and if that ship does also mine, then have we financed a ship to mine underseas and violate a U.N. resolution as I understand it about the ownership of the underseas.

then it is worse than a Spruce Gander. The same sauce for the Spruce Goose was the sauce that got the Spruce Gander going, and that sauce is money.

Q: Why should the CIA be so concerned about underseas research?

A: I don't know what you do with all these nuclear submarines and all these scientific ships and ventures going on. Maybe we're just in collusion with private oil companies and private mining companies doing research for them and finding out where minerals and oil are.

Q: You've spoken informally of underseas explorer Jaques Cousteau in this context. How does he fit into this?

A: As I understand, Cousteau in November 1974 showed up in Pensacola, Fla. in his ship, The Calypso. He said he came for research into the red tide. The unfortunate part of that venture is the world's outstanding oceanographer got there at the season when the red tide isn't a problem. You go beyond that and he does say he is doing research on a U2 type of camera to be used in 1978. He's talking about electric sensors through the gulf, studying pollution. I didn't know that Cousteau worked for the government of the United States, but I do now. So, I can't answer the question. I just know the story's there.

Continued

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WASHINGTON POST
20 MARCH 1975

Withholding of Story I

By Stephen Isaacs
Washington Post Staff Writer

News executives who suppressed until yesterday accounts of the CIA's attempt to salvage a sunken Soviet submarine insist that their decisions to withhold stories on it were sound.

For instance, A. M. Rosenthal, managing editor of The New York Times, said, "We were told that this was an important, ongoing military operation."

"We believed in this case that the advantages of immediate publication did not outweigh the considerations of disclosing an important, ongoing military operation."

Seymour Hersh, an investigative reporter in the Washington bureau of The Times, had been working on the story on and off since late 1973.

"I wrote the story," said Hersh, "and the CIA came running in to stop it. I certainly got a commitment from Abe [Rosenthal] to keep working on it. My goal was to convince him that the national security wasn't endangered."

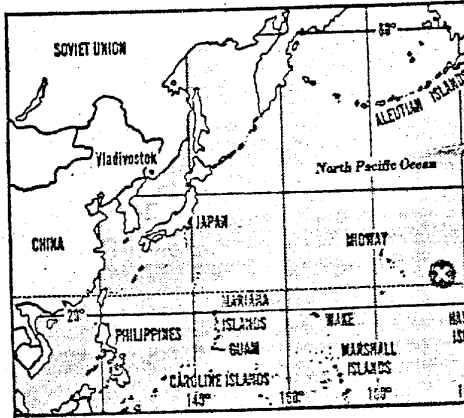
The Times, like The Washington Post and other newspapers that had been working on the story for shorter periods, published it yesterday after columnist Jack Anderson revealed some details of the project over his radio show.

Anderson said, "Since Watergate, the editors themselves are going along with the establishment. The establishment, the Cabinet, have been shaken with what happened, that the press can topple a President. The press itself is shaken by it."

"A lot of editors and reporters are wearing a hair shirt — sackcloth and ashes and lace and they're overdoing it a little bit, trying to prove too hard how patriotic and responsible we are, prove that we're not against the establishment, the government, that we're not all gadflies."

"The country," he said, "was better served by a watchful press."

CIA Director William F. Colby would not answer questions yesterday as to how many media organizations he had contacted to try to stop publication, but they included top executives of The Times, The Washington Post, the Los Angeles



Cross indicates site where Soviet diesel-power

CBS, National Public Radio, NBC, Time and Newsweek.

The nation's top intelligence official scurrying around Washington to see news executives is a highly unusual action.

On Tuesday evening, for instance, Colby and two aides visited the top brass of the National Public Radio network on M Street NW, which was readying a story on media suppression of the submarine story, then went across the street to the studios of CBS News.

"This happens more often than the public might think," said Benjamin C. Bradlee, executive editor of The Washington Post. "And when you have these decisions, you have a balance."

"On the one side there's a claim by a government official of some standing that what you're about to print will harm the country's national security."

"But on the other side you have the conviction that you're being conned, that what is at stake is not any national security, but just plain embarrassment."

"You're forced to make these decisions with incomplete information and with speed. This decision was made, and so be it. I do not today have information to know whether it's true or false that the national interest was harmed with the publication this morning. The only place where you could get that information is the CIA itself, and I'm not sure I'd believe them, anyway."

of other kinds of where stories are withheld, such as kidnappings, cases where justice might be impaired, and the like.

Post Publisher Katharine Graham, to whom Colby first made his plea to withhold at The Post, said, "People are coming to me with things like this all the time. In this case, it was very low key and very rational—not unlike many decisions that come to us of varying importance. Sometimes they come to the editors sometimes to me."

"... I think Colby used a rational argument and he laid out the facts as he saw them, and we evaluated the facts as we saw them," she said.

Editor Bill Thomas of the Los Angeles Times, whose paper originally published a brief version of the submarine project on Feb. 8, is fully confident he made the right decision not to go further until someone else published.

That night, CIA officials reached him a few minutes after an early edition was on the streets with a front-page story on the project.

The story did not have many details—and had some incorrect — and Thomas moved it to Page 18 in later editions, as much for that, he says, as for the CIA's plea.

After talking with West Coast CIA agents and with assigned reporters to further evaluate the story, eight reporters worked on

story in type several weeks ago, Thomas says, in the event that it was published somewhere else.

Colby's argument with all the editors and publishers he called was that other publishers had withheld, that the CIA wanted time to attempt to complete its operation, and did not want the Soviets to learn of it.

Columnist Anderson, said Thomas, did not have some of the facts that other reporters had that were more significant to the national security, including the fact that the submarine was equipped with nuclear-tipped torpedoes.

"If you compare what Jack Anderson based his story on with what the rest of us had who didn't publish, you might have some factors to consider," said Thomas.

Anderson said one factor involved in his decision to air the project was that someone else was planning to make public the story. The someone else identified himself as Washington American Civil Liberties Union Director Charles Morgan.

Morgan said he told his board last Friday that "if the American press is controlled by the CIA, I was not going to have the ACLU publish the story, not only on the CIA venture but on its control of the press."

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**C.I.A. Link Alleged
In a Plot for Mafia
To Kill 3 Dictators**

**6 DEMOCRATS HERE
CRITICAL OF C.I.A.**

**Representatives Draw 800
to East Side Meeting**

By PAUL L. MONTGOMERY

Six Democratic Representatives attracted an audience of 800 on the East Side yesterday for a town meeting on the controversy over the Central Intelligence Agency.

The Representatives, all of whom took anti-C.I.A. positions of varying severity, were peppered with questions from the audience about the current Congressional investigations of the agency, possible links between the C.I.A. and the assassination of President John F. Kennedy, and the 6.5-billion in Federal funds spent annually for foreign intelligence gathering.

Representative Bella S. Abzug, who found at a hearing last week in Washington that the C.I.A. had been keeping a dossier on her, was asked if the intelligence agency ought to be abolished.

'Government nto Itself'

"The C.I.A. has become a government unto itself," the Manhattan Congresswoman replied. "They seem to consider themselves above the executive branch of government, the judicial branch, the legislative branch and the Constitution. That is the question—whether the C.I.A. in its present form should exist at all."

The gathering at Julia Richmond High School, 67th Street and Second Avenue, was sponsored by the Committee for Public Justice, a part of the American Civil Liberties Union Foundation. It was founded in 1970 at the urging of Lillian Hellman, the playwright, to look into acts of the Administration of President Richard M. Nixon in domestic intelligence, secrecy in government and political trials.

Members of the audience paid \$10 for reserved seats or \$2 for general admission to the meeting. Warren Beatty, the actor, who is a member of the Committee for Public Justice, introduced the participants and apologized to Elizabeth Holtzman, the Brooklyn Congressman, for saying that she represented Richmond.

Time magazine reported yesterday that it had been told by "credible sources" that the Central Intelligence Agency had been "involved in assassination plots" against the Caribbean leaders Fidel Castro, Rafael L. Trujillo and Francois Duvalier.

The magazine said its "sources contend that the C.I.A. enlisted the hired-gun help of U.S. Mafia figures in several unsuccessful attempts to kill Cuban Premier Castro both before and shortly after the C.I.A.-planned Bay of Pigs invasion of Cuba in 1961."

It said the sources reported that the agency got the help of two underworld figures, Sam Giancana and John Roselli in efforts to kill Mr. Castro by poison, shooting or bombs. It said the Federal Bureau of Investigation later learned of these attempts while investigating a burglary of the comedian Dan Rowan's hotel room in Las Vegas. It said the F.B.I. learned "the arrested prowlers had been assigned by the C.I.A. as a favor to Giancana, who sought information to break up a budding romance between Rowan and Giancana's girlfriend, Phyllis McGuire."

The magazine said its sources asserted that the C.I.A. "backed the successful drive to overthrow" General Trujillo, whose 31 years as dictator of the Dominican Republic ended with his death by shooting in May, 1961. The sources said the agency thought President Trujillo was "getting too friendly with the Communists" and "nobody wanted another Cuba in the Dominican Republic."

It said the C.I.A. "collaborated with Haiti leaders of a group of at least 200 rebels" who tried unsuccessfully to overthrow Mr. Duvalier, dictator of Haiti, in 1963. It said the rebels were stopped at the Dominican border when they tried to invade Haiti.

Costa Rican Link

MEXICO CITY, March 9 (UPI)—José Figueres, former President of Costa Rica, said in a televised interview broadcast today that he worked for the C.I.A. in "20,000 ways" since it was founded. He said he believed other Latin American Presidents had also done so but did not mention any names.

Several questions from the audience concerned the assassination of President Kennedy. John D. Marks, co-author of "The C.I.A. and the Cult of Intelligence," said: "I don't think there's anybody in this room who believes that Lee Harvey Oswald acted alone." He said he had a "visceral feeling" that some figures in the murder had C.I.A. connections.

The Representatives on hand—Mrs. Abzug, Miss Holtzman, Herman Badillo, Mario Biaggi, Benjamin S. Rosenthal and Edward I. Koch—indicated they favored a resolution by Representative Henry Gonzales that the Kennedy case be reopened.

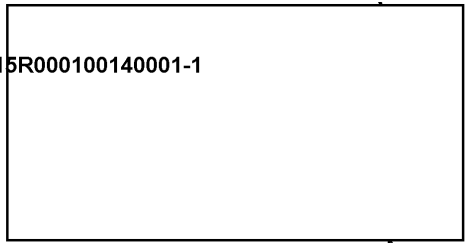
Former Representative Al-lard K. Lowenstein, who was in the audience, urged that the murder of Senator Robert F. Kennedy in 1963 be included in an re-examination of the assassination.

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TIME
10 FEB 1975

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Leapin' Johnson Lizards

Re CIA "Revelations and Resignations" (Jan. 13): Wow! For security reasons, in '62 during the Kennedy Administration a Domestic Operations Division (DOD) was set up in the CIA! Holy Democrat! And—wiretaps in the '60s! Leapin' Johnson lizards! Not only Watergates, but also Demogates!

*Will Bartlett
Dover-Foxcroft, Me.*

The information on citizens in the CIA and FBI dossiers [Feb. 3] gives these agencies power over Americans. At the same time, the secrecy with which these agencies operate denies citizens information, and therefore power, over them. In the case of the CIA, even its budget is secret. The Constitution's requirement that "a legal statement and account of the receipts and expenditures of all public money shall be published from time to time" has simply been disregarded.

We need two reforms. We need an end to all political dossier building by the FBI, the CIA and all other government agencies. We also need full information on what our agencies of government are doing.

A government with information about us that denies us information about it turns the very idea of a democracy upside down.

*Aryeh Neier, Executive Director
American Civil Liberties Union
New York City*

Deletions Allowed to Stand

CIA Wins Reversal o

By John P. MacKenzie
Washington Post Staff Writer

The Central Intelligence Agency yesterday won back the right—at least temporarily—to suppress classified information in a book about the CIA's covert activities.

Reversing a lower court, the Fourth U.S. Circuit Court of Appeals ruled that former intelligence officers Victor L. Marchetti and John D. Marks failed to prove that 168 deletions from their book, "The CIA the Cult of Intelligence," were improperly excised.

The burden had been placed on the government last April in a decision by U.S. District Court Judge Albert V. Bryan Jr. in Alexandria.

Bryan, who heard closed-courtroom testimony from former CIA Director William E. Colby and his four top deputies, disapproved all but 15 of the agency's deletions. He said the government had shown only that the disputed passages were "classifiable" and not that they had been properly classified.

But the court of appeals said the National Security Council and an interagency committee established by presidential order, "far more than any judge, have the background for making classification and declassification decisions."

For this reason, the court held that the burden of proof established by Judge Bryan "was far too stringent." It ordered the case retried under new ground rules.

Melvin L. Wulf, the American Civil Liberties Union lawyer who represents the authors, said he will seek Supreme Court review. A petition by the book's publisher, Alfred A. Knopf, Inc., appeared equally certain.

One issue the high court will be asked to decide is whether the Fourth Circuit correctly applied the newly amended federal Freedom of Information Act. Under the law the government must convince a federal judge that particular information was properly classified and the judge has clear authority to make his own secret examination and evaluation of the documents.

Chief Judge Clement F. Haynsworth Jr., writing for the circuit court, said the law should be applied to the CIA case but on the understanding that there was "a presumption of regularity in performance by public officials" who have the job of keeping government secrets.

Haynsworth, joined by Judges Harrison L. Winter and J. Braxton Craven Jr., said the government "was required to show no more than that each deletion item disclosed information which was required to be classified in any degree and which was contained in a document bearing a classification stamp."

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Center for National Security Studies

122 Maryland Avenue,
Washington, D.C. 20004
(202) 544-4000

February 7, 1975

On February 19, 1975 the recently passed amendments to the Freedom of Information Act go into effect. Among the important changes in the Act are the setting of short mandatory time limits for response to requests and a change in the wording of the exemption for national security information. These new provisions, particularly in light of changing attitudes about secrecy, should make it possible to secure the release of current newsworthy information about defense and foreign policy.

In order to assist journalists, scholars, and other citizens in using the amended FOIA, the ACLU Foundation and the Center for National Security Studies have established a Project on Freedom of Information and National Security. The Project has just published a pamphlet explaining what the Act means and how you can use it. A copy is enclosed. Please let me know if you would like additional copies or know of others who might find the pamphlet useful.

Remarks:

See pages 14 and 17 of the attached pamphlet "The New Freedom of Information Act & National Security Information" published this month by the Center for National Security Studies and the ACLU. The humiliation of it all -- to become both famous and obsolete at the same time.

information about the Act and 122 Maryland Avenue, N.E. on Monday, February 14th at 10:00 am. I am invited to attend.

I would like to assist you with the Act and would like assistance to call or write to me at

Sincerely yours,

Morton H. Halperin

		DATE
		8 FEB 1975
		SECRET

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A project of the Fund for Research and Education

STAT

3
 Nicholas von Hoffman

Congress could get itse

WASHINGTON—Since Christmas, the more prestigious organs of the mass media have been lathering themselves about allegations of CIA-FBI spying on some of the more influential power babes in the upper class. The evidence suggests that since the mid-1960s federal agencies have stopped confining their illegal intrusions to politically unpopular groups.

Millionaires, members of Congress even have become vulnerable, or so it appears. This last has incited an investigatory zeal for the protection of their own rights which had not been aroused for the defense of the rights of others.

Or am I being unfair? The other day the Washington Post ran a front-page story informing the world that: "FBI tapped King at 1964 convention." An article followed explaining that Dr. Martin Luther King's hotel room at the Democratic convention had been bugged and his phone tapped.

WHAT IS astonishing about this is that scores of mass media executives have known for years that Dr. King was the object of illegal surveillance. They knew it when he was alive. Nor was this information known indirectly thru secondary sources. They knew it because representatives of the FBI had come to them peddling eavesdropped recordings concerning Dr. King's sex life.

No newspaper, North or South, was going to print that kind of stuff and none did. Nevertheless they had been given incontrovertible proof by the government itself of the fact that the same government made it an ordinary practice to violate the civil rights of its critics.

If this knowledge caused the media to crank up its investigatory machinery, it has managed to keep news of it a closely held secret. The media performance is singled out here, however, only because it is so conspicuous. All the upper layers of power and influence have had hints for years that pariah groups, ranging from the John Birch

Society to the Socialist Workers Party, were probably being seriously infringed upon. Now the power babes and the big richies complain, and it's not difficult to surmise why.

Even at this date, tho, you don't hear a hue and cry about the treatment accorded even such innocuous groups as the Scientologists. These people have been raided by the Food and Drug Administration and had the accoutrements of their religion confiscated. They've been put on some of those nefarious government lists. They've had the tax exemptions of some of their churches snatched by the IRS, and lately they've been claiming that the CIA is spying on them—an accusation, given what we know about the CIA, that ought not to be dismissed out of hand.

The Scientologists have been harassed by the government for years. The legal fees they've been forced to pay to sustain their rights are so large they constitute a fine levied against them, tho they're guilty of nothing more than practicing their faith.

And it's their faith, not their politics, which gets them into trouble. Not only is it different, but it inspires in their adherents an irritating, evangelical tenacity that Americans are supposed to reserve for sports.

UNHAPPILY FOR the Scientologists, they have invented a religion with a special appeal for a certain sort of middle-class adolescent. You might call it an electronic Buddhism in which the divine computer frees the soul or "thetan" for Heaven knows what delicious reunions with the first principle of the universe. This amalgam of psychology, technology, sci-fi and ethics feitches young people; but, while we like our teen-agers to go to church, we also like them only to go thru the motions, so we assume when they get caught up in anything they're being brainwashed, and the full power of the centralized state may be invoked to stop it. Scien-

tology, of course, makes as much or as little sense as many another organized church, but since it's different and it hasn't been in business for 300 years, its members can be robbed of their First Amendment rights and no congressional investigations are convened.

The American Civil Liberties Union is making a major effort to use this bicentennial period to focus attention on the violation of everybody's rights in hopes of preventing the government from tattooing our Social Security numbers on our forearms. [They are having a national conference on the subject in Chicago at the end of this month.]

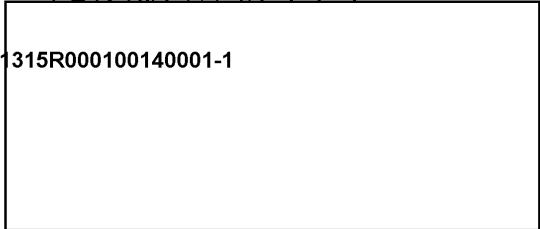
The ACLU understands that unless everybody's rights are protected, nobody's are. It was the failure to defend people like Dr. King and the Scientologists that led the government to violate the rights of the ultra-respectables and the power babes. So, if Congress thinks it can protect itself without protecting the rest of us at the same time, Congress is going to get itself bugged again.

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Approved For Release 2004/10/13 : CIA-RDP88-01315R000100140001-1



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5 November 1974



Washington, D.C.

Dear Les,

A chairperson has informed me that you are going to get an Edgerton Award for Civil Liberties for 1974. My congratulations.

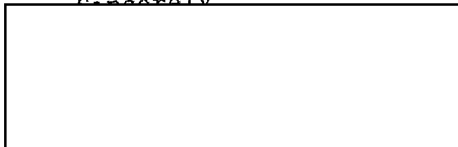
My education is so erratic and specialized on useless subjects that the only Edgerton I have ever heard of is the man who translated the *Bhagavad Gita* for the Harvard oriental series. He was an expert in Buddhist hybrid Sanskrit. I met him once in a first class compartment on a train going from Bombay to Aurangabad. He objected to our presence in his compartment. I gather he thought we were second class rather than first class. But as I say, this is probably not your Edgerton.

Unfortunately, I will not be able to grace -- or encumber, depending on how you look at it -- the Edgerton dinner even though the chairperson has given me the alarming news that the dinner may be over-subscribed and I better hurry to buy my ticket.

May I make a counter offer? Why don't you attend the Middleburg Players' rendition of "The Man Who Came To Dinner" (not to be confused with the Edgerton dinner) on the same night? I can get you a good price on a ticket.

In the meantime, continue your good work of resisting harassment.

Sincerely,



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Angus Maclean

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I have CIA asked me about my recent trek up the Everest Base Camp trail. I said it to say that upward mobility in Nepal is difficult.

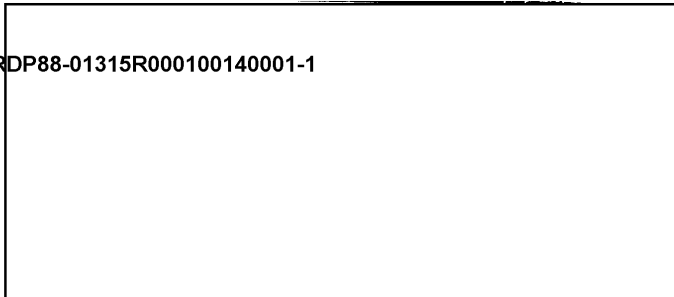
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RENO, NEV.
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Editorials

Secrecy abused

THE AMERICAN Civil Liberties Union, long criticized for suspected leftish leanings, nonetheless makes a point, sometimes, that goes beyond ideological lines.

It has a knack for identifying threats to freedoms that are precious to all — right wingers, leftists, or fence-straddlers.

Thus it is that the ACLU is embarked on a battle in court against the super-secret Central Intelligence Agency.

It disputes the spy organization's right to prevent publication of parts of a book on grounds they reveal secret and "top secret" information about CIA activities.

Of course, there's room for suspicion here that the Liberties union is off on another of its politically liberal causes.

The CIA has been taking much buffeting lately from that quarter.

Be that as it may, we're compelled to root for the civilians in hopes that from such actions, some needed reforms will derive.

This whole business of secrecy classification in government has gotten far out of hand. It's time that the trend was reversed in the interest of better government.

The CIA, other intelligence agencies, and the military can get away with unsupportable acts of secrecy under the guise of national security.

Of course, classification of certain sensitive material is necessary, the legitimate threats to the country's security being what they've been since this form of secrecy was pioneered back in World War Two days.

Some of the accounts, though, of governmental abuses are enough to make a citizen's blood boil.

We've seen accounts of accumulations of "classified" material stored in Washington in amounts so vast as to overload the imagination.

There've been many accounts, too, of officials hiding their mistakes through this device, and yet others of perfectly innocuous information being classified as too hot for the public's consumption.

A mountain of classified military information is on file, some still dating back to the Second World War, three decades ago.

Nor is the classification gimmick confined to the military. It's infected the civil bureaucracy, too, so that functionaries who aren't proud of some piece of work can in effect expunge it from the record, simply by classifying it.

Secrecy in government, to be sure, is nothing new. It's been a threat to the public interest since the nation was born. The classified stamp is a particularly sinister method, however, for it closes all the usual avenues of investigation.

So easy is it to mark something secret, it's now impossible for anyone to tell just how much legitimate public information has been withheld from the public by this devious method for the past 35 years.

And, since the official can, in this way, so easily shut off unfavorable information and publish only the favorable, it is impossible to trust completely anything he does say.

We believe secrecy is the worst enemy of the democratic way of government, and that the classified file greatly magnifies the threat.

The public must have its day of reckoning with this necessary, but abused, device. Perhaps the ACLU's action will touch off the debate.

ACLU Instructs Public on Impeachment

United Press International

The American Civil Liberties Union yesterday made public a handbook listing 17 things that citizens can do to bring about impeachment of President Nixon and six specific offenses against the President which it said could be substantiated.

The 56-page handbook, entitled "Why President Richard Nixon Should Be Impeached," is a followup to a resolution passed Sept. 30 by the ACLU directors calling on Congress to begin impeachment proceedings because of Watergate and the secret bombing of Cambodia in 1963 and 1970.

One goal of the handbook was to explain that impeachment is an indictment voted by the House that results in a trial, with possible conviction or acquittal, by the Senate. "Too many citizens believe that impeachment is an end of the process rather than the beginning," it said.

The checklist of 17 things that a citizen can do to bring about impeachment includes commonplace steps, such as making speeches, talking to clergymen and editors and writing to congressmen.

The ACLU argued its case

on the basis of these allegations:

- Watergate testimony of former presidential aides and White House statements indicate President Nixon approved domestic espionage against demonstrators and alleged national security threats. The ACLU said this violated First amendment rights.

- The President took personal responsibility for the decision to bomb Cambodia, which the ACLU said usurped the war-making power of Congress.

- Watergate testimony and other sources indicate some personal involvement of the President in setting up the so-called "plumbers" operation to plug national security leaks. The ACLU called it a "secret police"

that "engaged in criminal acts."

- The President offered a high federal post to the judge presiding over the trial of Daniel Ellsberg on charges of stealing and leaking the Pentagon papers and for a time withheld from the courts his knowledge of the burglary of the office of Ellsberg's psychiatrist.

- Mr. Nixon and his aides "interfered with and distorted the administration of justice" by seeking to limit the FBI investigation of the Watergate break-in.

- Mr. Nixon "has perverted and attempted to pervert" the Justice Department, the National Security Council, the Defense and State Departments and the CIA by "engaging them in political surveillance."

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Front Edit Other

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MAY 20 1969

Recruiters On Campus

The campus no-man's land between the militant peaceniks and the recruiters for the war-making establishment has been patrolled in a statement by the American Civil Liberties Union.

On-campus career recruitment should be open to all corporations and government agencies, if it is open to any the A.C.L.U. said.

The A.C.L.U. saw no civil liberties issue if a university decided to admit no recruiters. Recruiting programs were described as "essentially a service to students and not central to the educational purpose of the university." It is, we would add, a valuable service in that it familiarizes students with the many career opportunities available.

It was the possibility of permitting some recruiters while forbidding those who were politically controversial, which was criticized by the Union as violating the concept of the open university and the right of the students to have access to all points of view.

On-campus recruitment became an issue after violent demonstrations against recruiters for the Central Intelligence Agency, the armed services and Dow Chemical Co., a manufacturer of napalm. Some students and faculty spokesmen have said these recruiters should not be permitted.

The A.C.L.U. also described the rights of the protestors: "Free speech and academic freedom require that protests on campus relating to recruitment... should also be fully protected. This includes all forms of legitimate protest, such as speeches, peaceful demonstrations, picketing, rallies, etc."

But the A.C.L.U. warned: "Demonstrators who are moved by conscience or the intensity of their convictions to use means of protest which result in depriving others of the opportunity to speak or be heard, physically obstruct movement or disrupt the educational or institutional process cannot expect support on civil liberties grounds and must be prepared to accept the consequences of their action."

The guidelines suggested by the A.C.L.U. appear to us to show proper respect for the rights of the recruiters, the students and the universities.

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A.C.L.U. Backs Recruiting On Campus By Dow, CIA

By OSWALD JOHNSTON
[Washington Bureau of The Sun]

Washington, March 10—The American Civil Liberties Union has urged the nation's college presidents to respect the right of the Dow Chemical Company, the military and the CIA to recruit students on campus.

The action came in the face of growing protests against such recruitment by anti-war protesters; some of them violent. Agents of Dow, which manufactures napalm, have been particular targets of campus activists.

Violation Of Freedom

Several college and university administrations have considered closing their campuses to recruiters who could provoke trouble, but the union, in a letter sent out to some 200 institutions, has warned that barring some recruiters and not others would be a violation of academic freedom.

The group's action stemmed from a policy decision taken last month by its national board of directors. It was announced in a public statement today.

Disavows Behavior

The board action was thus another episode in the group's tortuous road to a policy position on the more extreme forms of dissent that have been mobilized against the Vietnam war.

Early last month, the national organization, after a fierce internal wrangle and over the protests of several of its local affiliates, issued a statement disavowing "civil disobedience" that violates constitutional laws of the land.

Specifically, the board said on that occasion union lawyers would not defend violators of the draft laws.

Last week, in a major reversal, the board voted narrowly to defend Dr. Benjamin Spock, the Rev. William Sloane Coffin, Jr., of Yale, and three other defendants in the most publicized of the draft-law cases so far inspired by anti-war dissent.

Between Positions

Today's announced decision on campus recruitment, which a spokesman said was adopted with little opposition and has met no dissent from local affiliates, appears to fall between the two positions.

The issue of the "morality" of Dow's manufacture of napalm and of the military's use of it was raised at the meeting—but a view that the function of the union is "to protect civil liberties, not morals" prevailed, the spokesman said.

All Or None

The resolution to defend Spock and his colleagues included an amendment noting that the organization had taken no formal position regarding the legality of the war or the moral issues raised by its conduct.

The letters to the university and college presidents, signed by John De J. Pemberton, executive director of the organization, essentially urges that either all recruiters should be banned or none.

It stresses the right of students to picket any recruiters they disapprove of, but then adds, in a statement strongly reminiscent of the group's tough stance on civil disobedience:

"Demonstrators who are moved by conscience or the intensity of their convictions to use means of protest which result in depriving others of the

opportunity to speak or to be heard, physically obstruct movement or disrupt the educational... process cannot expect support on civil liberties grounds."

"Accept Consequences"

Such disruptive dissenters "must be prepared to accept the consequences of their action," it warns.

Efforts to shout down recruiters with whose mission some student activists disagreed, or to keep them blocked in an office building, have been widely publicized in recent months. Such incidents have occurred at the University of Wisconsin, Oberlin, Harvard, New York University and Brooklyn College.

The letter, borrowing verbatim from a statement that its New York affiliate issued after police were called last December to Brooklyn College to suppress a disruptive demonstration there, also adds:

"Unless all other techniques have clearly failed and then only on the basis of rules made in advance with the participation, consultation and... concurrence" of students and faculty, outside police should not be summoned."

Sums Up

On the recruitment issue itself, the letter summed up:

"Any decision to exclude some recruiters, arising primarily from a political controversy, poses questions of civil liberties interest....

"The barring of accredited outside agencies strikes against the concept of the open university and the right of students to hear all points of view."

A spokesman explained it in blunter terms:

"We realized that if the union sought to recruit law students at a university and were picketed or shouted down by right-wing groups claiming we were leftists, we'd be the first to yowl about it."

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LIBERTY



In New York, a young man "confessed" to a murder charge under prolonged interrogation. His confession turned out to be false.



In Maryland, four young teachers at a State college were dismissed for lecturing on so-called "offensive" books.



Six witnesses were fired from their jobs in Buffalo after refusing to tell the House Committee on Un-American Activities about alleged Communist associations.



In Mississippi only 8% of adult Negroes have been able to register and vote in the face of official and private intimidation and obstruction.

Every time a constitutional right is denied a man or woman in America, a chip is knocked out of the edifice of our liberties. And it doesn't matter how humble, or eccentric, or even downright ornery that person may be. Only when government at all levels respects the rights of the dissident are the rights of all secure.

For 45 years the American Civil Liberties Union has been shoring up, rebuilding, and at times extending the structure of our freedom. Every day ACLU volunteer lawyers defend the constitutional liberties of all by battling for the rights of individuals. Members of our 34 state and city affiliates work around the clock in the courts, in the legislatures, and by standing up and being counted whenever freedom is under attack in their local communities.

You are invited to join this effort.

Join the American Civil Liberties Union. Over 75,000 Americans find that their membership in ACLU makes their voices count in behalf of our basic liberties. Today, when powerful forces are rallying to turn back the clock on many of the victories for freedom won over the past decade, we need at least 10,000 new members who will stand firm against any attempts on the Bill of Rights.

I hope you will join as a \$10 member, but join with whatever you can. By mailing the above envelope you will help keep America a home of freedom.

John de J. Pemberton, Jr.
John de J. Pemberton, Jr.
Executive Director

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(Over, please)

During the 43 years of its existence the American Civil Liberties Union has played a significant role in defending our basic democratic freedoms. Your voice has always been raised clearly and sharply when our liberties have been threatened. America is a stronger nation for your uncompromising efforts.

—JOHN F. KENNEDY

During the span of years covered by your organization, the American people have given increased attention to progress in the field of civil rights. . . . It is good to be reminded that the members of the American Civil Liberties Union and the overwhelming majority of my fellow citizens are working together in this field with steadfast vigor and understanding.

—DWIGHT D. EISENHOWER

The American Civil Liberties Union has an essential role at this critical time. It defends the rights of even the most despised to speak, to assemble, and to petition for redress of grievances. It protects the individual's constitutional guarantees of the right to counsel, to confrontation and to due process of law. It has come to symbolize racial justice and religious freedom.

—LYNDON B. JOHNSON

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This letter is being mailed to outside lists in an effort to enlarge the ACLU's membership. It is impractical to check such lists against our present roster. If you already belong, you could help the Union most by using this letter and enclosure to enroll a friend.

PLEASE Pull Out This Envelope—Enclose Your Contribution and Mail Today



Thank You!





At this moment, someone nearby has been deprived of his constitutionally guaranteed rights. He may be someone very much like yourself, a decent citizen, arrested unjustly or held without bail; perhaps a teacher whose job has been threatened because of less than orthodox political views; or a member of a minority denied the right to live where he pleases. He may be *you*, tomorrow.

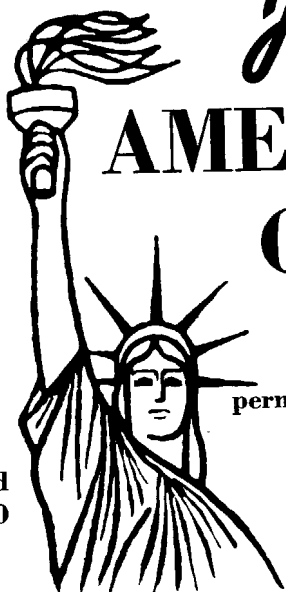
Learn here how you can help *all* Americans by taking an active part in protecting America's cherished liberties.

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“The American Civil Liberties Union has an essential role at this critical time. It defends the rights of even the most despised to speak, to assemble, and to petition for redress of grievances. It protects the individual’s constitutional guarantees of the right to counsel, to confrontation and to due process of law. It has come to symbolize racial justice and religious freedom.”

Lyndon B. Johnson

THE AMERICAN CIVIL LIBERTIES UNION



the nation’s only permanent nonpartisan organization devoted exclusively to the defense of the Bill of Rights for everyone.

**Founded
in 1920**

WHAT IS THE ACLU?

The purpose of the American Civil Liberties Union — and its only purpose — is the preservation and strengthening of the freedoms guaranteed to us under the Bill of Rights.

There are many government officials, special interest groups, and private citizens who think our constitutional guarantees of freedom of inquiry and expression, due process of law, and equality before the law should be denied to certain citizens whom they consider undeserving. They believe they have the right to decide who is or is not "deserving."

ACLU believes, as our nation's founding fathers believed, that no one should have the privilege of deciding who is deserving of the rights guaranteed to us under the Constitution. These rights belong to all—without exception.

WHAT WE DO

The Court

The everyday business of ACLU is helping people whose civil liberties have been violated.

Much of this work is in the courts. Each year, the ACLU enters into hundreds of court cases. We may supply counsel for the person whose civil liberties have been denied, or we may submit a "friend of the court" brief which argues the constitutional question at stake.

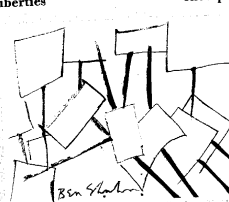
Many of the cases fought by the ACLU are of historic significance — such as the famed *Scopes v. State of Tennessee* "monkey trial." In recent years, ACLU and its affiliates have won many notable victories before the U.S. Supreme Court protecting rights of free speech, the right of peaceful protest, the right to counsel, freedom of the press and decisions banning religion in

the public schools and the widespread evil of introducing illegally seized evidence in state courts. Constant watchdog activities by ACLU affiliates across the nation are necessary to prevent unfair court procedures.

The Community

Through contacts with public officials, ACLU is frequently able to secure the adoption of enlightened policies designed to protect and extend constitutional rights. For example, the ACLU of Greater Philadelphia some years ago secured the creation of the nation's first Police Review Board, an official agency to obtain redress for citizens aggrieved by unlawful police action.

When officials fail to take corrective action, ACLU can often be effective by arousing public interest. A noteworthy example is the report issued by the Illinois Division on "Secret Detention by the Chicago Police."



The Legislature

Many issues affecting civil liberties arise before the U.S. Congress and the various state legislatures.

ACLU has effectively supported anti-discrimination laws, legal assistance for the poor, the rights of Indian tribes and legislation to provide improved court procedures and reapportionment of state legislatures.

We have opposed loyalty oaths, magazine and film censorship, constitutional amendments designed to cripple the U.S. Supreme Court, the use of public funds for sectarian schools and curbs on academic freedom.

The Public Forum

Educational efforts on behalf of the Bill of Rights are carried out through newspaper publicity, radio and TV appearances, pamphlets, and the regular bulletins of the ACLU. Many affiliates maintain active Speakers' Bureaus scheduling frequent appearances before church, civic, service and educational groups.

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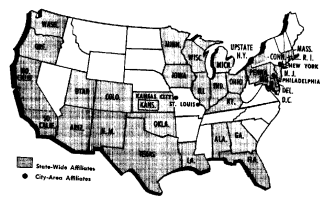
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The 35 State and City Affiliates of the ACLU



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ACLU'S STRUCTURE: The American Civil Liberties Union is a national organization with headquarters in New York. It was founded in 1920 to combat violations of the Bill of Rights resulting from post war hysteria directed against political dissenters. Among the founders were Roger Baldwin, Jane Addams, Clarence Darrow, John Dewey, Morris Ernst, Felix Frankfurter, Arthur Garfield Hays, Helen Keller, Rabbi Judah Magnes, Monsignor John Ryan, and Norman Thomas. Today there are 35 regional affiliates with over 75,000 members. Affiliate chapters carry the work into the local communities.

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MAY 19 1956

State Dept. Asks Outright Power on Travel Bans

By George Lardner Jr.
Washington Post Staff Writer

The State Department contended yesterday that it should have untrammelled powers to declare foreign countries off-limits to American travelers.

Phillip B. Heymann, head of the Bureau of Security and Consular Affairs, maintained that the Department's geographic travel bans—covering countries such as Communist China, Albania and North Vietnam—“should never be subject to court review.”

It was a stricter line than that taken by Sen. James Eastland (D-Miss.) Tuesday in opening hearings on his own travel-control bill.

Heymann indicated that the State Department would be willing to consider passport

denials and revocations the only fair game for court attack. Even here he appeared to have some reservations.

“On individual passports, that (judicial review) is a harder question,” he told Eastland's Senate Internal Security Subcommittee.

The State Department stand, on behalf of a travel-control bill it is seeking, was promptly assailed by the spokesman for the American Civil Liberties Union, David Carliner.

“I think the ACLU would feel your bill provides more safeguards from the view of civil liberties than the State Department bill,” Carliner told Eastland.

But, he added, the ACLU considers both bills “unconstitutional.”

He said the freedom to

travel was a basic American right that the State Department has been using “as a ploy in (conducting) foreign relations.” Carliner said this was no excuse for chipping away at the right to travel.

Under Eastland's bill, the Secretary of State would be authorized at any time to declare certain countries off-limits to all Americans — or “certain classes” of Americans. Travel permits would be required for trips to prescribed countries. Violators would face up to five years in jail.

Under the State Department proposal, travel could be banned to countries with which the United States is at war, or “where armed hostilities are in progress,” or where “the Secretary determines that travel must be restricted in the national interest because such travel would seriously impair the conduct of United States foreign affairs.”

Under questioning by Sen. Edward Kennedy (D-Mass.), however, Heymann acknowledged that the justification for the current ban on travel to Albania was “pretty thin.”

He described the ban as a device that enables the State Department to show “the more liberal Communist countries” its disapproval of Albania's hard-line communism. The State Department bill would also allow it to withhold passports from anyone whose activities abroad “are causing, or are likely to cause serious, damage to the national security or the foreign policy of the United States.”

It provides for only a one-year maximum jail term, but unlike the Eastland proposal, makes no mention at all of court review.

Heymann told the Subcommittee that the State Department might support Eastland's bill if penalties were reduced and other changes made.

WASHINGTON DAILY
NEWS

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JAN 4 1965

25X1

Trash-Snooping Probe Is Urged

The local unit of the American Civil Liberties Union has urged a House sub-committee to investigate trash snooping in the District as part of its probe into invasion of privacy by Federal agencies.

ACLU head David Carliner, who disclosed last autumn that a Georgetown housewife discovered her trash was being sifted by the District Sanitary Engineering Department, has written a letter to sub-committee chairman Cornelius Gallagher (D., N. J.). He said both the housewife and her husband had testified before the House Un-American Activities Committee.

He also charged the Sanitation Engineering Department has been segregating the trash of Black Muslim leaders and that of "selected aliens."

Mr. Carliner, in his letter to Rep. Gallagher, said he believes the snooping is being done on orders of a Federal investigative agency. Rep. Gallaher is chairman of a special three-man sub-committee of the Government Operations Committee.

He plans to look into Government agencies, investigative techniques, including the use of wire taps and hidden microphones, which he says violates the individual's right of privacy.

A sub-committee spokesman said the trash-snooping hearings may come as early as next month.

Mr. Carliner said District trash collectors were putting the

Georgetown woman's trash in a separate bag and then examined. He said he told Commissioner Walter N. Tohlner about it and gave him

the woman's name after the ACLU has verified her account. Engineer Commissioner C. M. Duke, however, has told Rep. Gallagher that the housewife's

story amounted to no more than "unsubstantiated allegations."

He said no trash in the District was segregated for investigative purposes but only

to find out who was violating the law by mixing garbage and trash in the same containers.

Mr. Carliner said the inspection of the Georgetown housewife's trash, and that of "a number of householders," was stopped after the ACLU complained to Gen. Duke.

DECEMBER 19, 1964

25X1

THE SNOOPS

Private Lives and Public Service

by James Ridgeway

Fear for the nation's security is not the burning issue it was in the 1950's, but the government is still prying into the remote reaches of people's private lives before they can be hired, then badgering them with all sorts of peculiar inquiries once they are. Investigators want to know about your parents' politics, whether you believe in God, how deeply involved you may be in the civil rights movement, and how often you sleep with your girl friend.

Job applicants and employees of various government agencies are run through batteries of psychological tests meant to reveal some latent sex deviation. The personnel people, who apparently have come to imagine they are psychiatrists, bother employees with silly, indecent questions about the workings of their private

parts. One woman's *risqué* comment at a cocktail party was questioned during a security interview as indicating a possible tendency toward loose morality.

A good deal of this is occasioned by the government's fear lest it hire a homosexual by mistake. Because they are believed to be especially susceptible to blackmail, homosexuals are supposed to be incapable of keeping a zippered lip. They are barred from all government work, even though many jobs have nothing whatever to do with national security; employment in them, one might hope, should depend on the individual's abilities to perform the work.

Sometimes, however, the hunters of homosexuals get caught up in their own machinery. Lie detectors, gadgets which register emotional reactions and are used

NOV 30 1964

Letters to The Times

Hoover Stand on Report

F.B.I. Head's Criticism of Warren Commission Is Defended

The writer is general counsel to the New York chapter of the American Civil Liberties Union.

TO THE EDITOR:

In the recent press conference held by F.B.I. chief J. Edgar Hoover he voiced resentment against the Warren Commission's criticism of the F.B.I.'s work in relation to President Kennedy's assassin, Lee Harvey Oswald. Mr. Hoover's resentment is, I believe, justified. The Warren Report itself shows that there was no reason to suspect that Oswald was a danger to the President and that, as Mr. Hoover says, only in a police state would there have been surveillance of Oswald on the basis of the available information about him.

In defining Oswald's possible motivation, the Warren Commission points to only one factor of which the F.B.I. could have been aware: "his avowed commitment to Marxism and Communism, as he understood the terms. . . ." The other factors mentioned by the commission are psychological tendencies, such as Oswald's "inability to enter into meaningful relationships." It also notes his attempt to kill General Walker, but this was revealed by Oswald's wife only after the assassination.

Facts on Oswald

We all can, with the Warren Commission, appraise the F.B.I.'s conclusion that Oswald was not a danger so long as he was working in a non-sensitive industry, for the report details the items which it says should have alerted the F.B.I.:

Oswald had gone to Russia at the age of 19 and unsuccessfully attempted to renounce his American citizenship; after about a year, however, he had become dissatisfied and had returned to the United States a year and a half before the assassination.

He distributed pro-Castro leaflets on the street in New Orleans and wrote to a pro-Castro organization in New York.

When he was arrested because of a scuffle with anti-Castroites while he was handing out leaflets, he asked to see an F.B.I. agent (agents had interviewed him several times on his return from Russia, and told him to inform them if he was approached by Russian intelligence agencies). After a self-serving explanation to the agent of the leaflet distribution, Oswald lied about immaterial points, such as where he was married.

The C.I.A. reported that Oswald had visited the Russian or Cuban embassies or consulates in Mexico City.

Oswald had an "aggressive" or "arrogant" attitude toward the United States in interviews in Russia and upon his return.

Secret Service Decision

The Warren Report also mentions that Oswald worked in a building on the President's motorcade route. However, since the Secret Service decided against a special check of the route, the location of Oswald's job does not enter into the issue of whether the F.B.I. should have warned Secret Service that he was a danger.

The Warren Report indicates that the F.B.I. may have used improper methods of surveillance—for example, how had it known that Oswald wrote from Texas to the Fair Play for Cuba Committee in New York? But even with this surveillance, no significant or violent political activity on Oswald's part, or involvement in violence of any kind, was discovered.

The Warren Commission engages in peculiar, find-some-culprit hindsight when it says the F.B.I. should have considered Oswald "a potential threat to the safety of the President." It would be repugnant and dangerous to our institutions if the F.B.I. drew such irrational and exaggerated conclusions from evidence of ideological sympathy.

NANETTE DEMBITZ.

New York, Nov. 24, 1964.

STRANGE GEORGETOWN CASE

City Snoops For Dirt in Trash, ACLU Charges

By SAMUEL STAFFORD
A Washington lawyer accidentally threw away his wife's address book the other day.

She asked District Sanitation Department employes if she could sift thru the trash to see if she could find the address book.

"Much to her surprise," said David Carliner, chairman of the local American Civil Liberties Union branch, "she found that the city's Georgetown trash collection depot had been saving her trash.

"In fact, they had four bags

there containing her trash for that week."

COMPLAINT

The woman complained to Sanitation division employes, who merely confirmed that they had, indeed, singled out her trash for special attention.

Yesterday, the ACLU, which had been informed of the incident by the housewife's lawyer, filed a "shocked" protest to Engineer Commissicner Charles Duke.

In the letter, Mr. Carliner said, "Instead of being slung into the trash collector's truck, and co-mingled with all the other trash, this woman's trash is placed in a separate container, sometimes alongside the truck, sometimes inside, and taken to the depot, where it is inventoried and thereafter apparently examined.

"The National Capital Area Civil Liberties Union is shocked by this information.

"No government agency, either Federal or District, has been given an all-seeing eye so that trash collectors, or whoever are the people who have undertaken this dirty job, can piece together our torn up letters, our doodlings, our canceled checks, our paid or perhaps unpaid bills, after we have

thrown them away for good."

"YOU WILL AGREE . . ."

"We are confident . . . you will agree, that the government has no more right to sift thru the trash of District residents, than it has to tap telephones, to intercept mail, or to peep thru windows."

Mr. Carliner said, "I assume this trash-tapping was done at the request of a Government agency."

"The lady's trash had been singled out and everybody at the depot knew it. I don't think the Sanitation Division would have condoned it unless it stemmed from an official request."

Mr. Carliner said he hadn't heard of any other cases of official trash-snooping, "but I assume that, if they do it with one person, they do it with others."

DRAWER

Asked if U. S. or city agencies ever ask the Sanitation Division to keep trash from certain homes or offices for later inspection, a division official said, "This is something that should be handled by the top echelon."

The ACLU letter said, "We urge that the District commissioners issue orders directing that the examination of the trash collections of District residents be stopped immediately."

Commissioner Duke was not available for comment, but it was understood he has ordered

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AUG 31 1964

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Letters to The Times

Cuban Travel Ban Assailed

TO THE EDITOR:

The Times is to be congratulated for its Aug. 20 editorial deploring once more the legally and tactically questionable State Department ban on travel to Cuba. As you have pointed out, "the primary victim of Washington's policy is the academic world of the United States."

As an anthropological specialist in the Caribbean area, I have been engaged in research on the Antilles since 1948. Over the past few years I have made repeated attempts to secure State Department permission to visit Cuba for entirely legitimate scientific purposes. In spite of some show of interest by Washington officials, I have never been granted permission to go.

The alternative, as you make clear, would be to pass oneself off as a "journalist," and in this way, perhaps, to obtain permission. While this alternative might work, it is a sorry substitute for the legitimacy of scientific interest. One need hardly add that the State Department "regulation" severely restricts the flow of information concerning Cuba to scientific centers in this country.

The State Department would be well advised to reconsider its quaint approach to the movement of persons and information before the American Civil Liberties Union tests the legality of the ban in the courts this fall.

SIDNEY W. MINTZ
Professor of Anthropology, Yale University.

Boston, Aug. 20, 1964.

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Walter Winchell OF NEW YORK

Man Mumbling to Himself

THE COMMITTEE TO ABOLISH the House Un-American Activities Committee plans a big conclave in Chicago next month . . . Why doesn't the American Civil Liberties Union protest when people want to get rid of a Congressional Investigating group



that seeks info which may protect all Americans? . . . Why don't the same Civil Liberties people send pickets to the nearest Soviet Embassy or Consulate and stage demonstrations against Khrushchev's government which persecutes minorities in Russia? . . . Why are members of the Progressive Labor Party planning to picket draft board depots on the West Coast? . . . When California comreds held their annual picnic the other day, why did "party faithfuls" hide in bushes until TV camera crews left? . . . What sort of a peace group is that women's peace outfit now demonstrating "to bring our troops

home" from Viet Nam? Why don't they demonstrate outside the Soviet's HQ in N. Y. C. (and other cities) and demand that the Red Viet Conguerrillas stop shooting at our men?

WHY HAS THE CIA decided that all applicants must hold a Masters Degree? Until this year, all you needed was a B. A. . . . Why did the Goldwater forces decide not to root for Rep. Halleck for next year's Speaker of the House job? His successor may be Rep. Laird of Wisconsin . . . Izzitroo that the White House confided to inner-circlers that "we are disappointed" in the way Sargent Shriver carried the ball in the anti-poverty Congressional fight, "But that the public image made it necessary to give him the job?"

NEW YORK TIMES

APR 28 1964

SECURITY BATTLE WON BY ENGINEER

Bar on Son of Ex-Communist Is Reversed in Washington

An electronics engineer has won a Defense Department security clearance after a three-year fight based on charges that his father had a Communist background.

The victory went to Charles Irwin Zuckman, now 27 years old, who had insisted he knew nothing of any Communist activity by his father, had no political interests himself and had left home at 18—four years after his father's last such alleged activity.

A Defense Department spokesman in Washington confirmed yesterday that the Central Industrial Personnel Access Authorization Board had decided that access for Mr. Zuckman to information classified as secret was "clearly consistent with the national interest" in a statement dated last Thursday.

The spokesman said the decision had been based on the request for review of the board's earlier denial of such clearance.

The appeal was pressed on Mr. Zuckman's behalf by Montague Casper, a lawyer long active in civil liberties problems here. He was associated in the case with Nathan Langsam, another lawyer.

Appeal in February

Mr. Casper submitted an appeal to Secretary of Defense Robert S. McNamara on Feb. 10, insisting that the record showed "nothing derogatory" against his client. The charges, he went on, failed to allege any acts "other than association with his father," whom the engineer saw about four times a year and talked with by telephone about once a week.

Even if the father had remained involved in Communist activity, Mr. Casper argued, the clearance board would have been required to explore "motivations and implications" of such contact. Mr. Casper protested that the board had failed to cite any of its reasoning, and questioned whether it might have considered data outside the record in violation of current security regulations.

The father, Morris Zuckman, an Albany lawyer, once ran for Mayor of Albany on the American Labor party ticket.

To Keep Present Job

The son, who lost a job working on navigation radar after the earlier denial, said he planned to continue in his current work, designing electronic equipment for the medical industry. He said he felt "lucky to have had the resources" to win the case.

His counsel, Mr. Casper, voiced concern that "so long as association remains a ground for denial of security clearance in the Defense Department di-

rective, the central board unfortunately will again and again misinterpret its own regulations when it suits its purpose."

Mr. Casper said he had been told that changes were under consideration in the Defense Department's regulations and criteria. He expressed hope that lawyers for the American Civil Liberties Union would be consulted before any "long-overdue changes" were put into effect.

NEW YORK POST

MAR 26 1964

ACLU Asks Veto of Bill On Security

The American Civil Liberties Union has appealed to President Johnson to veto a bill permitting the Secretary of Defense to dismiss summarily employees of the National Security Agency. ACLU executive director John deJ. Pemberton Jr. wrote Johnson that an NSA staff member faced with dismissal could be suspended or shifted to a non-sensitive position pending a "fair hearing" of charges.

The bill, approved by the House last year and adopted by the Senate last week, would permit firings without hearings, without the right of cross examination, without information on charges and without appeal.

HUMAN EVENTS

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Dwight MacDonald, one of the more honest of the left-wing journalists, has chastised fellow-intellectuals for attempting to pin the assassination of President Kennedy on the lunatic right.

"Oswald is our baby, not theirs," says MacDonald.

As a result, MacDonald will undoubtedly suffer the slings and arrows of certain know-it-alls who cannot bring themselves to believe that someone of the "progressive" faith might have brutally murdered Mr. Kennedy on the streets of Dallas.

Naturally, to their way of thinking, the foul deed had to have been perpetrated by an evil rightist.

The left wing is not of one mind about Lee Harvey Oswald, however. The pro-Castro weekly *National Guardian*, for example, is arguing that the accused assassin was apparently the victim of a rightist-engineered frame-up. Of course, this argument presupposes that the FBI and the Secret Service are involved in a monstrous plot to cover up for the real assassins.

On the other hand the Communist party *Worker* acknowledges that Oswald may have been the killer, but the Khrushchev organ vehemently denies Oswald's connections with the left. In fact, the *Worker* has suggested that Oswald was, in reality, a right-wing agent in the employ of the FBI and the CIA.

Meanwhile, the Warren Commission has decided to probe the activities of a so-called right wing group recently accused of having threatened the lives of 20 congressmen who had voted against appropriations for the House Committee on Un-American

Activities. Counsel J. Lee Rankin said the Commission would explore any relationship between the Minutemen, a para-military group, and the events of last November 22.

But the FBI report on Oswald, now in the hands of the Warren Commission, in effect fully exonerates the so-called right wing from any involvement in the President's assassination. In fact, the FBI report fully explores Oswald's direct links with leftist-liberal groups such as the Fair Play for Cuba Committee and the American Civil Liberties Union.

The FBI report also makes it clear that, in all probability, the assassination was not the product of a conspiracy, but rather the end product of a tortured, psychopathic mind. Oswald's psychiatric history, ranging from the streets on the Bronx through service in the Marine Corps and defection to the Soviet Union, is thoroughly explored.

Dwight MacDonald's remark came as a result of a column by "TRB" (actually Richard L. Strout of the *Christian Science Monitor*) in the *New Republic*. Strout, alias "TRB," concluded an item on the broadcasting network of the so-called right as follows: "They are the kind of programs . . . that the brooding Oswalds of the left or right wing listen to and sometimes act on."

MacDonald, one of our liveliest intellectual journalists, took umbrage. In a letter to the *New Republic*, MacDonald observed that "the awkward

thing for liberals about Oswald was that he was a crackpot leftist—it now appears he did take an unsuccessful shot at General Walker." And MacDonald concluded:

"There may be 'brooding Oswalds' of the right, but so far they have not taken action, which, as an old-fashioned believer in the Bill of Rights, I think is the important thing. The only Oswald we have had was on the left, and I think there's enough to criticize in the broadcasting activities of Messrs. Hunt, Hargis, et al., without smearing them with the Dallas horror. That's what we Trotskyists in the 'thirties used to call 'an amalgam,' and a dirty word it was. I agree it was a great pity that the assassin turned out to be not a lunatic Birchite, as we all assumed in that first hour of shock, but a lunatic 'Marxist.' But such was the fact. Oswald is our baby, not theirs."

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Attack on U.S. Job Bar To Homosexuals Slowed

The American Civil Liberties Union has lost the first round in its test case to remove homosexuality as an absolute bar to Government employment.

United States District Court Judge George L. Hart Jr. ruled that the Civil Service Commission laws and regulations were constitutionally reasonable in denying all government employment to a male homosexual.

"Homosexuality," noted Judge Hart, "is immoral under the present mores of society and is abhorrent to the great majority of Americans."

"Maybe it shouldn't be," he added, "but it is."

The ACLU, through attorney David Carliner, has decided to make a frontal assault on the Civil Service Commission's absolute disqualification of homosexuals.

The ban is based on Civil Service regulations which give the Commission discretion as to an applicant's "moral character," and whether his employment will hinder "the efficiency of the Service."

The ACLU argued that a homosexual's character is a private affair in which the Government should have no

interest unless he is in a job where his sexual attitudes might affect his work.

One example of this, Carliner noted, would be the possibility of blackmailing a homosexual who holds a security position.

The ACLU attorney argued that the only criteria for government employment should be the applicant's ability to do his work.

The government, through assistant United States Attorney Gill Zimmerman, maintained that homosexuality is "so patently immoral" that the Commission was clearly within its discretion.

Carliner answered a contention by Zimmerman that so many employes consider homosexuality personally repugnant that its presence in an office makes for an efficiency problem, with the suggestion that a prospective employee's moral character should be considered only in relation to the job to be done.

The case arose through a suit by Bruce C. Scott, 42-year-old job applicant whom the CSC had turned down on homosexual grounds. It asked the Court to force the Labor Department to hire him.