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THE STAFF

Undercover Slander

Does legal precedent or common decency give any government official the right to set out deliberately to destroy a man's reputation, and to do so with absolute impunity and absolute immunity? Joseph McCarthy thought there was such a right, and he exercised it. But at least he, as a senator, was not immune to political retaliation. His allegations could be challenged and were. He could be put on the defensive and was. What, however, if the slanderer is hidden and insists he is privileged not to disclose the evidence for his slanderous attack? That, at bottom, is the question that is being tried in Baltimore's Federal District Court.

The case involves a paid secret agent, working in Washington, D.C., who had been ordered to spread certain stories about an Estonian émigré whom the Central Intelligence Agency wished to discredit. In November, 1964, Eerik Heine, a resident of Rexdale, Ontario, and a naturalized Canadian citizen, filed a $110,000 slander suit against Juri Raus, a fellow Estonian émigré employed by the US Bureau of Public Roads. Heine asserted that on three occasions Raus had accused him publicly of being a Communist and an agent of the Soviet Secret Police. Raus answered on January 3, 1965 that he had had "responsible information" from "an official agency of the United States government" that Heine was "a Soviet agent or collaborator." Last January, Raus' lawyer filed an affidavit signed by Richard Helms, Deputy Director of CIA, stating that the information had come from the CIA and claiming for him the absolute privilege of remaining silent, since he was an official of the US government.

Three months later, the CIA entered the suit directly. "For a number of reasons," read the CIA statement, "including his past history and his position as National Commander of the Legion of Estonian Liberation, [Raus] has been a source to this Agency of foreign intelligence information pertaining *inter alia* to Soviet Estonian and to Estonian émigré activities in foreign countries *as well as in the United States* [italics added]. The Central Intelligence Agency has employed the defendant from time to time – concurrently with his duties on behalf of the Bureau of Public Roads – to carry out specific assignments on behalf of the Agency. . . . On these occasions . . . the defendant was furnished information concerning the plaintiff by the Central Intelligence Agency and was instructed to disseminate such information to members of the Legion so as to protect the integrity of the Agency's foreign intelligence sources. . . . It would be contrary to the security

interests of the United States for any further information pertaining to the use and employment of Juri Raus by the Agency in connection with Eerik Heine to be disclosed." That, so CIA presumably hoped, would close the case. The judge, however, has been described as not wholly persuaded.

Perhaps the CIA does have confidential information highly damaging to a Canadian citizen. If so, by what authority does it disclose this to an American citizen and instruct him to circulate it in the United States? The CIA is not empowered to propagandize in this country or to play politics inside American organizations – whether of émigrés or not. The National Security Act of 1947, which created the CIA, states specifically that the Agency "shall have no police, subpoena, law enforcement powers, or internal security functions." Moreover, if the CIA was convinced that a Canadian citizen was a "Soviet agent or collaborator," was that not a matter to be handled by Canadian officials, who surely would not be indifferent to such information supplied them by the CIA.

The history of this country has shown the wisdom of allowing responsible government officials a wide berth in what they may say openly without fear of prosecution for slander. Nevertheless, does an individual who believes he has been maliciously and falsely accused by another individual have no redress, simply because it is belatedly disclosed that his accuser is employed part-time by the CIA, which has supplied him with the slanderous information and told him to peddle it? If this is so, the government has almost unlimited power to hound at will, and in secret, and with no possibility of its being required to disclose its motives or its evidence of wrong-doing. This may be the Soviet way; it was certainly the Nazi way. But it has not been customary in the United States to allow a character assassin to do his work and to get away with it unchallenged and unanswered on the grounds that he was merely "following orders."

Certainly the security of the United States ought not to be compromised. But it does not follow that a formidable agency of the federal government should be permitted to wage an underground vendetta against a man and then remain silent when the victim protests in court. In the Raus case, the plaintiff faces a dumb accuser, who cannot inspect the evidence against him. He has no opportunity to vindicate himself. He cannot go "free," for his "innocence" is forever in doubt.

The Central Intelligence Agency Act of 1949 exempts the Agency from disclosing anything about its functions, organization and personnel. Moreover, Agent Raus was required to sign a secret agreement at the time of his hire in which he promised never to divulge information obtained in his work without CIA permission. The Agency says that its position in the Raus case is supported by two 1959 Supreme Court decisions which extended immunity to government officials. The conclusion we are thus asked to reach is that behind an impenetrable screen of official silence, any man's reputation, indeed perhaps his life, may be wrecked, and the only answer to which he is entitled is, possibly, "Sorry about that."

This is a monstrous interpretation of justice and a monstrous abuse of a federal power that is neither openly accountable to public opinion nor effectively supervised by the Congress.

Safety Standards

The President's original auto safety bill was a next to useless document which now is being rewritten to make some sense. Mr. Pat Moynihan, the former Assistant Secretary of Labor who has been after the automobile problem since the 1950's, was right when he told the House Commerce Committee last week that the point of this exercise should not be to establish another bureau whose function will be to cover up the mess.

It seems all but certain that an amended bill will direct the Secretary of Commerce to set mandatory safety standards for cars. He can only hope to do this if the government creates a research facility where traffic accidents and automobiles can be studied. This is not a job to be contracted out to the industry, or to universities under industry's thumb. In the past, the results of such research have been kept secret. A federal laboratory ought to be set up and its research should be conducted openly. One of its first projects could be building a prototype car. Only thus can the Secretary obtain full and reliable information to guide him in drawing up standards. But to accomplish this, Congress will need to provide much more than the $3 million requested in the President's original bill. In addition, the bill that is finally written should make it a criminal act for any manufacturer to fail to report to a car owner defects that make his car unsafe to operate.