

## Marchetti Appeals to High Court

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The Supreme Court was asked yesterday to decide whether the Central Intelligence Agency has broad power to suppress writings of former employees about what they learned while working for the CIA.

Victor L. Marchetti and John D. Marks, coauthors of the partly censored book, "CIA and the Cult of Intelligence," joined publisher Alfred A. Knopf, Inc., in seeking a high court hearing.

The Fourth U.S. Circuit Court of Appeals last month sustained the CIA's right to enforce its secrecy agreement with Marchetti, a former high-ranking agency employee, and relaxed the CIA's burden of proving that deleted passages from the book contained classified information.

The lower court "prostrated itself before the totem of national security," the petition said, "and completely ignored the compelling claims of free speech and free press, which



JOHN D. MARKS



VICTOR L. MARCHETTI

... coauthors challenge CIA censorship

are guaranteed by the Constitution."

In addition to the constitutional attack, the petition challenged the CIA's right to obtain an injunction preventing publication of the disputed passages on grounds that Congress had not authorized such court orders despite the agency's requests.

The authors and publisher had won a significant victory last year when District Judge Albert V. Bryan Jr. in Alexandria rejected the CIA's claim that more than 200 items of information had been classified. Bryan said the agency appeared to classify the information on the spot when it screened the manuscript.

But the court of appeals held that information should be deemed classified if it was "classifiable" and appeared

anywhere on a government document bearing a classification stamp. The court said there was a "presumption of regularity in performance by public officials," safeguarding government secrets, so that if an item could have been classified it was in fact classified.

Melvin L. Wulf and Floyd Abrams, attorneys for the authors and publisher, said the appellate court ignored evidence that government classifying officers do not classify everything that could be classified.

The book has been published with numerous blank spaces marking CIA deletions.

If the court decides to hear the case, oral argument would be in the fall. If the court rejects the petition, the appellate court ruling will stand.