

C.I.A. HEAD LOSES APPEAL TO JUDGE

Court Denies Him a Private Hearing in Suit Over Book Agency Seeks to Censor

By LESLEY OELSNER

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WASHINGTON, Jan. 10 — A Federal district judge has turned down the request of the Director of Central Intelligence for a chance to testify about a book that the agency is trying to censor. He also upheld a ruling that he had made earlier ordering the agency to turn over certain documents to the book's authors and publisher and their expert witnesses.

The book, whose co-author is a former employe of the agency, reportedly contends that the agency has been "absolutely unsuccessful" in gathering information about the Russians through traditional espionage techniques, but that it has been "very effective" in the so-called third-world nations.

The same Federal judge, Albert V. Bryan Jr. of the District Court in Alexandria, Va., ruled in 1972 that the former C.I.A. workers, Victor L. Marchetti, must submit his manuscript to the C.I.A. for approval before publication.

But both he and the United States Court of Appeals left open the possibility of challenging any changes that the agency might want to make, and last fall, after the manuscript had been submitted and the agency specified 225 deletions, Mr. Marchetti and his co-author, John Marks, filed their lawsuit.

Plea Made Last Week

The C.I.A. director, William E. Colby, made his request for a closed-door hearing last week, after Judge Bryan, at the request of the authors, had ordered the agency to provide certain material to the authors, their publisher and their expert witnesses.

The authors and the publisher had argued that they needed the material to prepare their lawsuit.

Mr. Colby told Judge Bryan, in a three-page affidavit, that the material covered by the ruling was "highly classified" and that the ruling could thus lead to "serious harm to the national defense interest of the United States."

He specifically objected to the fact that the judge had ordered the agency to turn over the classified material not only to the authors and their publisher, Alfred A. Knopf, Inc., but also to their security experts — a group including Morton H. Halperin, a former consultant to the National Security Council and a former Deputy Assistant Secretary of Defense.

The authors and the publisher had contended that they needed the experts' advice and opinions to contest the specific deletions that the C.I.A. demanded. Mr. Colby, however, said in his affidavit that if the experts were allowed to see the material, the information might be "leaked" to the public.

But Judge Bryan, in a decision filed in court yesterday and received by attorneys in the case today, stood by his original ruling requiring the production of the documents.

Request Is Rejected

In a two-page ruling, he rejected Mr. Colby's request for reconsideration of the matter and for a chance to explain his request. In addition, he denied C.I.A.'s alternative request that he allow the original ruling to be appealed.

Judge Bryan said that the authors and publisher needed the material to challenge "the fact" that the 225 items were, as the C.I.A. contends, classified material and also to determine whether information in the book, as the authors contend, has already been made public and is thus not properly classified as secret.

"The plaintiffs," he said, "may need expert assistance in inquiring into these matters."

Judge Bryan also said that the persons to whom the information was to be disclosed would be covered by a "protective order" forbidding them to make the material public. He pointed out that certain classified material had already been turned over during the litigation.

They, too, were covered by a protective order, he said, "and there is no sugges-

tion that any such orders have been violated."

Judge Bryan ordered Mr. Colby and the C.I.A. to comply with his order "forthwith." David Anderson, the Justice Department attorney who is now in charge of the Government's defense in the case, said this afternoon that he had not yet had a chance to study the ruling and thus could not say when the documents would be produced.

Judge Bryan's initial ruling ordering Mr. Marchetti to submit the manuscript to the agency before publication was based on a pledge of secrecy that he signed when he joined the agency in 1955.

Gov. Noel Asks No-Fault

PROVIDENCE, R.I., Jan. 10 (AP)—Gov. Philip Noel asked Rhode Island's General Assembly today to enact a no-fault automobile insurance bill that is virtually identical to one it rejected in 1973.