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## COMBATING TOTALITARIAN PROPAGANDA: THE METHOD OF ENLIGHTENMENT\*

By THE INSTITUTE OF LIVING LAW†

IN RECENT years the American public has become increasingly aware of the dangers which totalitarian propaganda presents. Investigations by Congressional committees, popular exposés, and reports of "fifth column" activities in foreign lands have combined to produce a widespread and uncomfortable awareness of the realities of propaganda warfare directed against our democracy. There is much that the propagandas of Communism and Fascism have in common: each seeks to undermine faith in democracy by portraying our form of government as inherently inefficient, hypocritical, and corrupt; each utilizes, to impress this portrayal upon American minds, a vast solar system of organizations dominated by totalitarian loyalty and discipline, ranging from those that are outrightly or obviously under foreign control to those peripheral organizations where foreign control, exercised at third or fourth

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\*This article is one of a series of studies prepared by the Institute of Living Law on the subject "Legal Weapons Against Totalitarian Propaganda." Companion studies which have already been published, are: *Combating Totalitarian Propaganda: The Method of Suppression* (1942) 37 Ill. L. Rev. 193; *Combating Totalitarian Propaganda: The Method of Exposure* (1943) 10 Univ. of Chicago L. Rev. 107. The present study represents the work of Lucy M. Kramer and Felix S. Cohen.

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hand, is hidden from all the membership except for a few key officials and only careful objective analysis of the "line" followed can demonstrate the true character of the organization.

What we have to deal with in the propaganda that emanates from such sources is not free opinion struggling for acceptance in the competition of the market-place, but rather a form of warfare conducted by a foreign power. In its most dangerous form today, this warfare attacks our society at its nerve centers, seeking to paralyze our powers of coordination by sowing hatred and suspicion between group and group within our nation as well as between allies in the larger society of the United Nations. In this endeavor our enemies bank on the fact that some part of the wildest lie leaves an emotional residue not wiped out by subsequent factual refutation. Against this form of warfare, the intellectual *laissez faire* of liberalism seems an inadequate defense. Yet we dare not employ against the menace of totalitarian propaganda the totalitarian method of wholesale suppression. For to do so is to surrender all that is distinctive about our democracy. And half-way suppressive measures may do half as much harm as more thorough measures without doing half as much good. The shadings that separate the Nazi "line" in an avowedly Fascist publication from the "line" of defeatism, Anglophobia, religious intolerance and race-hatred in some of our great daily newspapers and weeklies are often delicate. To suppress the more obviously treasonable of Nazi utterances is to lend a cloak of respectability and government sanction to what must of necessity be left unsuppressed even though it is actually more dangerous.

In this dilemma American democracy has, without entirely abandoning the method of suppression<sup>1</sup> in dealing with totalitarian propaganda, sought to supplement that method by the development of a new method of combat—the method of exposure. The Foreign Agents Registration Act of June 8, 1938,<sup>2</sup> the registration provisions of the Alien Registration Act of June 28, 1940,<sup>3</sup> and the Voorhis Act for registration of subversive organizations, approved October 17, 1940,<sup>4</sup> embody this tendency. The theory underlying these laws is that the exposure of connections and affiliations will tend to diminish the force of propaganda from

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<sup>1</sup>See Institute of Living Law, *Combating Totalitarian Propaganda: The Method of Suppression*, (1942) 37 Ill. L. Rev. 193.

<sup>2</sup>52 Stat. 631, as amended by the act of April 29, 1942, — Stat. —, 22 U. S. C. 601-616.

<sup>3</sup>54 Stat. 670, 8 U. S. C. 451-460.

<sup>4</sup>54 Stat. 1201, 18 U. S. C. 14-17.

anti-democratic sources without seriously interfering with the free speech of those who freely acknowledge responsibility for their own thoughts. This technique, applied to propaganda, represents a major advance in legal engineering, in that it provides a method of fighting anti-democratic propaganda that is itself democratic.

But important as the technique of exposure may be in dealing with the menace of totalitarian propaganda, exposure of lies may amount only to free publicity for liars unless the lies are answered with truth. The need for something more than exposure in the struggle against totalitarian propaganda is stressed in an incisive analysis by David Riesman:<sup>5</sup>

"... [The] tactic of propaganda exposure often breaks down resistance, where it seeks to build it up. Its effect is to inculcate a general suspicion, an unconquerable cynicism, and a moral defeatism—just the attitudes which, by atomization of people, make democracy unworkable and prepare for the enforced cohesion of dictatorship. Consequently, we must drown out, rather than expose or even repress, the anti-democratic chorus. Only in that way can a body of public opinion be created which will be proof against what new and as yet unexposed lies are in store for us. The only secure defense against them is for democracy to take the offensive, too. The remedy for their propaganda is our propaganda, and for their lies, our truth."

The democratic counter-offensive which is thus demanded may come either from governmental or non-governmental sources, and it would take us beyond the appropriate limits of this paper to describe the ways by which the journalists, teachers, ministers, poets, and philosophers of a democracy may answer the calumnies of democracy's enemies.<sup>6</sup> The problem to which this study is addressed is rather the much narrower one of determining how and how far laws and governmental agencies can aid in answering these calumnies and in pressing forward a counter-campaign of truth.

That this is an important problem is clear, whatever we may think of the comparative merits of public and private action in this field. A government that is the greatest repository of current information within the United States, that has at its disposal extensive machinery for fact gathering and public contacts, that is responsible for the social gains and achievements against which

<sup>5</sup>Government Education for Democracy, (1941) Public Opinion Quarterly 200.

<sup>6</sup>A stimulating booklet on this subject is E. L. Bernays, *Speak Up for Democracy* (1940).

anti-democratic propaganda is chiefly directed, and is dealing constantly with the social difficulties that totalitarianism exploits, a government, finally, that is spending about half of the national income, cannot safely ignore its opportunities to advertise the works and make manifest the virtues of our democracy. If it fails to make the most of these opportunities, it is likely to go the way of many other makers of good products that have not made the public conscious of the nature and merits of these products.

This is not necessarily a task for a special ministry of propaganda organized along totalitarian lines. In a fascist or communist state, where telling the truth is frequently treasonable and generally depressing, and where the manufacture of lies is a government monopoly protected against all competition and criticism by the threat of violence, there may be a certain advantage if the right hand of propaganda does not know what the left hand of action is doing. But in a democratic society where the truth is less sordid and where government liars are less likely to be believed, it is possible to wage an effective campaign for democracy without any special propaganda ministry. What is most needed is that those who are accomplishing great deeds within the framework of democracy should be permitted—or rather required—to bring their works, their programs, and their needs to the attention of the American people and the rest of the world. This means concretely that government bureaus which help the American farmers to maintain the world's highest level of productive efficiency and the world's highest standard of rural living should be as efficient in publicizing their success. It means that those agencies of government that are safeguarding American workers in maintaining the highest wage levels in the world should be permitted and encouraged to report their achievements. It means that government agencies which are efficiently building and operating the world's greatest dams and power systems should not have to hide their light under a bushel. It means that agencies of government which are helping Americans of diverse races and creeds to overcome ancient animosities in the building and safeguarding of a united nation should report their achievements to the American public and to the vast publics abroad that so often know only of our failures. Untold stories packed with moral dynamite that lie useless in so many government files might be our best ammunition in the war of propaganda that engulfs us. The furnishing of moral incentives to the nation and its allies and

the refutation of anti-democratic libels in every field of governmental activity ought to be a responsibility of all agencies of government. No shuffling or reshuffling of propaganda agencies can be of much help if this task is neglected by those who are making our democracy run or if those who act are not permitted to speak and those who speak are divorced from those who act.

### 1. NATURE AND EXTENT OF GOVERNMENT PUBLICITY

The charge has frequently been made that government publicity is wasteful, extravagant and excessive. In support of the charge of waste, one Congressman recently cited a case in which an anonymous business man ". . . on examining the contents of a wastebasket in his office, found 51 government publications all in their original wrapper."<sup>7</sup> Since publications are sent only on request and to a list that must by regulation be constantly revised, someone in the aforesaid business office, not in the respective government agencies, was guilty of inexcusable waste.

If the facts and figures are studied closely, we find that what the government publishes is not too much, but generally "too little and too late."<sup>8</sup> In the first place, the demand for a particular government publication that achieves fame despite the lack of government advertising, is often far in excess of any supply the Government Printing Office or the publishing agency is prepared to meet. Secondly, we find that commercial concerns, using the same media as government departments and agencies to disseminate information and conduct campaigns of promotion, often expend 50 to 100 times as much for that purpose.<sup>9</sup> Thirdly, we find that our enemies have been far more liberal in expenditures

<sup>7</sup>Congressman Ludlow (Indiana), Cong. Rec. (House), March 26, 1942, p. 3090.

<sup>8</sup>The Document Catalog, which is the only adequate index of government publications, is published from four to six years after the indexed publications have appeared. The publications themselves often appear too late to be of much value. Reports of the foreign relations of the United States are customarily published about 18 years after the events reported.

<sup>9</sup>According to the latest survey figures of the Bureau of Business Research (compiled at Dartmouth and revised at Harvard as of 1941), the percentage of the wholesale price attributable to advertising is 1 per cent in the auto industry, 3.5 per cent in the men's clothing industry, 6.7 per cent in the manufactured food products, and 10 per cent in proprietary medicines. The percentage of annual operating costs attributable to advertising would, of course, be much higher. According to the TNEC Hearings on the Tobacco Industry, vol. 14, pt. 31, pp. 17694-5, The Liggett and Meyers Company's total operating expense from 1917-1937 was \$3,574,342,225, of which \$40,764,710, or 1.1 per cent was for "goodwill and other intangibles." This does not include distribution or advertising which is listed as part of the cost of operation and is probably about 50 per cent of the total.

for propaganda in this country than has our own government. The Nazis alone, according to an informed estimate,<sup>10</sup> had a current propaganda fund of \$30,000,000 in this country on December 1, 1941. How does the United States' budget for education and propaganda in the fiscal year 1941 compare with this figure?

On June 25, 1941, the Director of the Bureau of the Budget presented to the Chairman of the House Committee on Appropriations a report on the "Estimated Expenditures for Educational, Informational, Promotional and Publicity Activities of the Executive Branch of the Federal Government, Fiscal Year 1941."<sup>11</sup> It was estimated that \$27,770,000 would be spent in 1941 in the following media:<sup>12</sup>

Publications .....	\$13,751,800
Press Service .....	1,170,700
Radio Broadcasting .....	435,600
Group Contacts .....	2,573,000
Paid Advertisements .....	13,500
Exhibits .....	839,600
Motion Pictures .....	600,600
Lantern Slides and Lecture Materials .....	146,200
Photography .....	380,900
Correspondence .....	3,118,600
Individual Contacts .....	3,577,300

<sup>10</sup>Thus, William Power Maloney, Justice Department attorney in charge of special propaganda-exposure activities of the Criminal Division of that Department, estimated on December 1, 1941, that the propaganda funds of Germany alone in this country amounted to more than \$30,000,000. Mr. Maloney's statement, as reported in the Washington Daily News of December 1, 1941, at p. 12, reads as follows:

"There's better than \$30,000,000 on deposit in the United States today dedicated to destroying the American way of life through propaganda for Hitler and his war machine. We can't touch it because it's American money, raised in this country, and doesn't leave this country.

"The source? Gifts; money-raising stunts; business donations from some Americans who honestly believe in the Nazi methods; some who contribute because they hate the Jew; some because they're just simply stupid. But they are American citizens.

"Our so-called propaganda squad is the first time any single outfit has had the authority to go over the whole picture. It is more than amazing; it is astounding what we are uncovering. Now that we can deal with the whole picture, instead of just biting off a little hunk here and a bit there, we are getting into one of the most intricate machines I have ever seen."

<sup>11</sup>The report has not been printed but is on record in the office of the House Appropriations Committee.

The agencies not included in this survey were: The Legislative and Judicial Branches (including the Library of Congress and the Government Printing Office), the Selective Service Commission and Office of Emergency Management (both new at the time of the report), the District of Columbia, General Accounting Office, Temporary National Economic Committee and other less important commissions (p. 1 of Report proper).

<sup>12</sup>*Ibid.* Letter of submission from Director of Bureau of the Budget to the Chairman of the House Appropriations Committee, p. 1.

Educational Cooperation .....	510,800
Posters .....	99,600
Miscellaneous and other .....	551,800

The Director of the Bureau of the Budget made it clear that "the first thirteen general headings listed above cover quite completely the media by which commercial concerns as well as government departments and agencies commonly disseminate information or conduct campaigns of promotion, education or publicity."

TABLE 1. ESTIMATED EXPENDITURES OF EXECUTIVE BRANCH OF GOVERNMENT  
FISCAL YEAR 1941

Comparison of Estimated Total Expenditures\* with Estimated Expenditures for Educational, Informational, Promotional and Publicity Activities\*\*

1. Department—Agency	2. Estimated Total General and Special Accounts	3. Estimated Expenditures for Educational etc., Activities
Executive Offices of the President..\$	3,573,700	\$ 434,303
Agriculture, Department of .....	1,046,715,918	11,887,788
Commerce, Department of .....	33,729,500	3,187,680
Interior, Department of .....	70,446,900	2,430,777
Justice, Department of .....	39,020,300	198,030
Labor, Department of .....	32,888,100	1,163,208
Navy Department .....	851,751,660	618,021
State Department .....	19,579,000	110,113
Treasury Department .....	1,435,410,160	1,863,296
War Department .....	747,875,500	421,124
Post Office Department .....	56,972,832	88,819
American Battle Monuments Com.	135,000	4,918
U. S. Board of Tax Appeals.....	555,000	55,730
Civil Service Commission .....	97,559,000	324,011
Employees Compensation Com.....	11,222,000	500
Federal Communications Com. ....	2,075,000	48,883
Federal Power Commission .....	2,460,300	69,546
Federal Trade Commission .....	2,295,000	106,061
Interstate Commerce Commission..	9,024,000	39,556
Maritime Labor Board .....	173,000	337
National Advisory Commission for Aeronautics .....	2,719,100	188,546
National Archives .....	914,000	61,892
National Capital Parks and Planning Commission .....	850,000	.....
National Labor Relations Board....	3,150,000	41,967
National Mediation Board .....	382,300	3,255
Railroad Retirement Board .....	141,290,000	26,200
Securities & Exchange Commission	5,370,000	187,562



Smithsonian Institution } .....	1,512,000	105,322
Nat'l Gallery of Art } .....		25,499
U. S. Tariff Commission .....	915,750	44,215
Thos. Jefferson Memorial Com.....	800,000	420
U. S. Coronado Exposition Com.....	80,000	84,077
U. S. Maritime Commission .....	149,486,000	52,233
New York World's Fair Com. ....	.....	38,012
Veterans' Administration .....	560,669,500	19,924
Federal Loan Agency .....	8,340,000	682,528
Federal Security Agency .....	784,128,000	2,089,770
Federal Works Agency .....	159,815,500	772,745
Panama Canal .....	(Incl. in War Dept.)	20,736
Tennessee Valley Authority .....	40,000,000	265,764
<b>TOTAL</b> .....	<b>\$6,323,884,020</b>	<b>\$27,763,368</b>

\*Annual Report, Bureau of the Budget, 1941, pp. A22 et seq.

\*\*Report to the House Committee on Appropriations from Bureau of the Budget, June 25, 1941.

In Table I there is listed, by Executive departments and agencies of the government, the estimated *total* expenditures for 1941 (column 2), and the estimated expenditures for educational, informational, promotional and publicity activities of these departments and agencies (column 3).<sup>13</sup>

About 42.9 per cent of the \$27,770,000 to be spent for educational, etc., activities, or \$11,887,800, the Department of Agriculture anticipated spending. In considering this figure it must be remembered that the act establishing the department "makes the dissemination of information a major purpose of that department's existence."<sup>14</sup>

Since \$13,751,800 was to be spent for publications, or approximately one-half the total expenditure for promotional activities, particular attention will be given to that aspect of government publicity as being the most stable subject of analysis and financially the most important.<sup>15</sup>

<sup>13</sup>The total of column 3 is rounded to \$6,323,700,000 and column 2 to \$27,770,000.

<sup>14</sup>*Ibid.*, footnote 12, *supra*.

<sup>15</sup>An analysis of government expenditures for publications presents difficult problems to the Director of the Bureau of the Budget:

"It is difficult to say with respect to many publications whether they should be considered as falling within the scope of this survey, or are merely tools of administration which assume their most useful form in a printed or similarly processed volume . . . the generally accepted concept is that in almost every public service activity there are public relations aspects which require the use of publicity, education, information and promotion as ordinary working tools, inseparable from other means and methods." (Letter of submission, etc., *op. cit.*, fn. 12, *supra*, p. 1.)

Of the \$13,751,800 for all types of publications, \$4,439,700, or almost one-third was for publications specifically required by law, and only \$1,500,700, a little over one-tenth, for publications classified by the Bureau of the Budget as "designed to inform particular groups or the public generally as to programs or activities of issuing agency."<sup>16</sup>

Since the budget for *all* educational, informational, etc., activities of the Executive branch of the government was only \$27,770,000 or  $\frac{1}{250}$ th of the total estimated budget of \$6,323,700,000 for these departments;<sup>17</sup> and since the amount estimated to be spent on publications generally was only \$13,751,800, or approximately one-half of the estimated \$27,770,000 for educational activities, etc.; and since the amount to be spent on publications to inform the public generally on the activities of a particular agency was only \$1,500,700, or one-tenth of the budget of \$13,751,800 for publications, we find that approximately one-tenth of one-half of  $\frac{1}{250}$ th, i.e.,  $\frac{1}{5000}$ th ( $\frac{1}{50}$  of 1%), of the total estimated budget for the Executive branch of the government for 1941 was to be spent in publicizing the activities of this democracy to its constituent members. Only one-fifth of 1 per cent was estimated to be spent by the Executive branch for *all* types of publications. Whereas printing expenditures represented nearly 1 per cent of the total operating expenditures of the Federal Government (including the Legislative and Judicial Branches) in 1900, they now represent only one-fourth of 1 per cent<sup>18</sup>—this despite the fact that the war and its effects have brought a sharp need for a public intelligently informed by its government on the problems confronting a democracy in war and peace.

According to Dr. Merritt, the legislative branch of the Federal government spends more for printing than any other branch of government—\$5,000,000 being the latest annual figure, of which more than \$3,500,000 was spent by Congress itself.<sup>19</sup> A set of figures inserted into the Congressional Record recently by a member of Congress substantiates that conclusion.<sup>20</sup>

<sup>16</sup>Ibid.

<sup>17</sup>See Table 1, Total, columns 3 and 2 respectively.

<sup>18</sup>Dr. LeRoy Charles Merritt, *The United States Government as Publisher*. (A doctoral dissertation presented at the University of Chicago in March, 1942. In process of publication.) p. 183 (MS.)

<sup>19</sup>"Highlights of Study of 'The United States Government as Publisher'" (Merritt) prepared by American Council on Public Affairs 1942 (Mimeo.) p. 1.

<sup>20</sup>See Table 2, *infra*. Congressional expenditure for 1941 listed as \$3,557,568.21.

TABLE 2: EXPENDITURES BY SEVERAL GOVERNMENT DEPARTMENTS FOR PRINTING,  
BINDING AND PAPER (1939-1942)\*

<i>Department</i>	1939	1940	1941	<i>First 6 mos. 1942</i>	<i>Estimated Total for 1942</i>
<i>Congress</i> .....	\$2,700,000.00	\$2,987,378.23	\$3,557,568.21	\$2,110,867.99	\$4,221,735.98
Private orders by Members of Congress: Documents, Reports, Bills, etc. ....	20,338.23	12,815.12	26,621.07	5,751.04	11,502.08
Private orders by M. of C.: Speeches .....	60,488.47	97,820.99	77,752.00	23,296.07	46,592.14
<i>Agriculture</i> .....	1,447,208.19	1,950,909.85	2,433,426.86	960,792.12	1,921,584.24
<i>Commerce</i> .....	534,740.84	1,065,234.84	1,022,895.28	672,324.52	1,344,649.04
<i>Interior</i> .....	861,599.48	662,429.63	778,322.86	236,982.73	473,965.46
<i>Justice</i> .....	403,675.07	434,112.69	712,094.58	297,636.16	595,272.32
<i>Labor</i> .....	603,222.36	412,575.18	488,806.54	182,057.88	364,115.76
<i>Navy</i> .....	714,731.04	1,002,814.31	2,158,284.18	1,344,088.45	2,688,176.90
<i>Post Office</i> .....	1,881,791.91	2,046,122.52	2,213,324.63	1,074,878.85	2,149,757.70
<i>State</i> .....	215,092.82	204,219.23	259,048.55	102,183.58	204,367.16
<i>Treasury</i> .....	1,521,430.92	1,552,932.87	2,044,042.26	1,794,259.03	2,588,518.06
<i>War</i> .....	733,390.64	1,129,732.64	5,244,316.58	3,442,136.93	6,884,273.86

\*All figures except those in the last column—Estimated Total for 1942—from the Cong. Rec. (House), March 26, 1942, pp. 3090 *et seq.*, speech of Congressman Ludlow (Indiana).

According to Table 2, Congressional expenditures for printing, binding, and paper since 1939 have been the largest of any agency, in any one year, with the understandable exception, since 1941, of the War Department.

Despite the charge of waste<sup>21</sup> and excessive or unnecessary publicity,<sup>22</sup> according to Dr. Merritt, less than 3 per cent of all government publications are promotional in character, or issued to explain the function of a particular agency.<sup>23</sup> Such publication, according to this authority, "has not been excessive in relation to the many new functions adopted by the federal government,"<sup>24</sup> rather ". . . the reportorial function of government—the simple reporting of governmental actions to the people those actions affect—has been progressively neglected"<sup>25</sup> over the 40-year period studied.

Of 180 regular daily, weekly, monthly and quarterly government publications that were being issued in the winter of 1941-1942<sup>26</sup> 112 (approximately 62.2%) appear to be straight house organs—technical, statistical research reports;<sup>27</sup> 36 periodicals (20%) are house organs, but the subject matter is related to problems of defense, priorities, lend-lease, etc.;<sup>28</sup> 13 publications (7.2%) are house organs, sometimes semi-popular in tone, but all with a tendency towards a less narrow point of view of their activities;<sup>29</sup> and only 18 (10%) discuss their own activities as part of a democracy in action.<sup>30</sup>

<sup>21</sup>See speech of Congressman Ludlow cited in Table 2 and footnote 7 *supra*.

<sup>22</sup>See speech of Congressman Shafer (Mich.), Cong. Rec. (House), December 5, 1941, p. 9471.

<sup>23</sup>Merritt, *op. cit.*, p. 105.

<sup>24</sup>*Ibid.*, p. 188.

<sup>25</sup>*Ibid.*, p. 193.

<sup>26</sup>This figure is based upon an analysis of periodicals listed for the most part in the monthly catalogue of the Government Printing Office, in particular Catalogue No. 561, issued in September, 1941. The catalogue omits "press releases and administrative, regional, and confidential publications." The list was culled further to omit periodicals not available to the public, and those which consist merely of compilations of references, bibliographies or decisions. Annual reports also were omitted.

<sup>27</sup>E.g., Crops and Markets (Agriculture); Industrial and Business Statistics, and Weather Reports (Commerce); Mineral Industry Surveys (Interior); Public Health Reports (Federal Security Agency), etc.

<sup>28</sup>E.g., Dairy Production (Agriculture); Building Construction (Labor); Recruiting News (War), etc.

<sup>29</sup>E.g., Bulletin (State Department); Victory (Office of Emergency Management); Fishery Market News (Interior); Foreign Agriculture (Agriculture), etc.

<sup>30</sup>E.g., Foreign Commerce Weekly (Commerce); Bulletin (Pan American Union); Monthly Labor Review (Labor); School Life (Federal Security Agency); News for Farmer Cooperatives (Agriculture), etc.

The conclusion inevitably follows, then, that not only is a very small part of the national budget expended for "educational, informational, promotional and publicity activities" of the government, ( $\frac{1}{4}$  of 1%) but even that small part, at least as it is expended on regularly issued government periodicals, does very little to explain the processes of a democratic government to the American public or to defend the character of that government against totalitarian attack.

It must be borne in mind that government agencies do publish other materials—e.g., the "Education and National Defense" Series of the Office of Education; occasional booklets—"After Defense—What?" (National Resources Planning Board); "Divide and Conquer" (Office of Facts and Figures), etc. These occasional publications approach more closely the type of broad-vised publication one finds outside of government—e.g., "Democracy in Action" series of the Council for Democracy; "Town Meeting" bulletins of America's Town Meeting of the Air, etc.

However, it is not the occasional pamphlet but rather the government periodical that reaches a particular segment of the population at regular intervals that offers the best means, not only of informing the public of specific activities, but of laying the basis for a factual refutation of Nazi and Fascist propaganda.

The question arises, whether a democracy can retain its ideal of freedom of thought, and its principle of "Let the truth speak for itself," and still present its case effectively. The answer is—it *must* do this to survive, and it *has* done this to a remarkable though limited degree in the 30-odd publications<sup>31</sup> that are more

<sup>31</sup>This number includes the 18 publications with an active pro-democratic bias, and the 13 that occasionally, or within the limitation of their subject matter, see their relation to the democratic process as a whole.

The 18 are:

Agricultural Situation	}	Agriculture
Clip Sheet		
Consumers Guide		
Extension Service Review		
Land Policy Review		
News for Farmer Cooperatives		
Rural Electrification News	}	Commerce
Soil Conservation		
Coast and Geodetic Survey		
Foreign Commerce Weekly	}	Interior
Domestic Commerce Weekly		
Indians at Work	}	

than house organs, that look upon an informed public opinion as one of democracy's most effective weapons.

A few examples may indicate something of the achievements and possibilities in this field.

*School Life* has long been one of the best examples of a government publication that actually educated its public in the democratic way of life. John W. Studebaker, an outstanding educator and Commissioner of Education, was in large part responsible for the make-up, tone and text.

Its make-up was pleasing and its text comprehensive—articles, educational news in colleges, schools, libraries, bibliography and book reviews. Its tone was characterized by Archibald MacLeish's "Credo" which appeared in the December, 1941, issue. "We believe that freedom is still a cause \* \* \* to which we pledge our allegiance and to which we pledge our lives." (p. 70)

Since March 3, 1942, *School Life* has been replaced for the duration by *Education for Victory*. Commissioner Studebaker set forth the perspective of the magazine in its first issue:

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The Child	}	Labor
Labor Information Bulletin		
Monthly Labor Review		
Employment Security Review	}	Federal Security Agency
School Life (Education for Victory)		
Bulletin, Pan American Union	}	House of Representatives, Document

The 13 are:

Agriculture in the Americas	}	Agriculture
Experiment Station Record		
Extension Marketing News		
Foreign Agriculture		
Marketing Activities		
Bulletin	}	State
Victory	}	Office of Emergency Management
This Week in Defense		
Labor Standards	}	Labor
Woman Worker		
Fishery, Market News	}	Interior
Medical Bulletin	}	Veterans Administration
Postal Bulletin	}	Post Office

"The education and training today, this year, next year, of all children and youth for effective citizenship in a democracy . . . are vital to any constructive future. These children and youth must be qualified to carry on and forward the peace we seek through victory."

In addition to school and library news, the publication now reports on the activity of a war government as it affects education. Post-war planning, inter-American activities, victory gardens, education in War Relocation Centers, etc., are reported upon with intelligence and regularity.

*The Child* (Children's Bureau, Department of Labor) is another of the publications that has found the median between a well-arranged, technical publication, and the broader problems of children in a democracy. Katherine Lenroot, the Bureau's chief, sets the tone in "American Childhood Challenges American Democracy" (July, 1940).

*The Land Policy Review* (Agriculture), which appears at first to be far removed from our study is, however, "'alive to the interests of the whole extent of the Union'" (Aug., 1941, p. 2). In an excellent article "American Agrarianism: A Fighting Tradition" C. Vann Woodward holds:

"Too many people tend to think of the democratic process as satisfied by elections, by making clear the will of the majority. But plans of dictators have the apparent support of the majority of their subjects. The dictators say they are even ready to demonstrate the fact by huge plebiscites. If this is true and if majority votes are democracy, then wherein lies its difference from dictatorship?"

"The essential difference lies in what the people do after they have chosen their legislators and judges and administrators. They must govern even after they have chosen their governors."

Even the *Foreign Commerce Weekly* (Commerce) finds its activities coming up against the problems of propaganda. In a leading article "Motion Pictures—World Rule in Time of Crisis" (December 6, 1941), N. D. Golden wrote:

"The evil strategy of terror has made a somber and disastrous use of pictures, striving to portray the futility of resistance to ruthless, gross aggression. But the potentiality of motion pictures is equally great or greater when they depict the truth, the good life, and the soundest springs of aspiration and of human betterment."

The magazine *Indians at Work*, thanks to the broad vision of John Collier, Commissioner of Indian Affairs, does an excellent job in making manifest the bearing of fundamental issues of

democracy and tolerance upon the day-by-day work of the Federal Government with our Indian population. The activity that is recorded is certainly not of large scope or importance in itself. But the nature of the reporting is such as to show the world-significance of the facts that are unrolled from day to day—the story of how changed policies of government have resulted in establishing reservation home rule in place of the old bureaucratic dictatorship of Indian agents, how economic and health conditions have been changed to a point where the Indians, once a vanishing race, are now the most rapidly increasing race in our population, how Indian economic cooperation has served as a release from white exploitation, how the Indian country has become what is perhaps the best conserved area of natural resources in the nation, how Indian attitudes toward the federal government have shifted from sullen hostility to a kind of loyalty hardly paralleled in any other section of our population (judging by contributions to the war effort). It is a pity that this story is told only to a few thousand readers, chiefly Indians and workers in Indian fields. But the fact that this story has made a profound impression in various government circles of South America and the Old World, which are now coming to the Indian Service to secure technical aid in meeting similar human problems, demonstrates that even the narrowest field of government work may, if liberally viewed, offer ample scope to the true propaganda of democracy. And the fact that there are still millions of people, here and abroad, who know only the Axis propaganda picture of the downtrodden Indian as symbolic of the treatment that other native populations throughout the world may expect from the United States demonstrates how much of the task of propaganda or education remains undone.

What of the remaining 148 regular publications? Of the 36 that deal incidentally with problems of war, priorities, etc., nearly all could quite properly and effectively in the nature of their subject matter take a broader point of view showing the relation of war problems to the aims of our democracy; at least a third of these could help to answer or forestall the specific propaganda attacks from Axis quarters in the fields of their special concern.<sup>32</sup>

*The Social Security Bulletin* (Federal Security Agency), for example, which reports "current data on the operations of the

<sup>32</sup>E.g., *Consumers Market Service* (Agriculture); *Social Security Bulletin* (Federal Security Agency); *Federal Home Loan Bank Review* (Federal Loan Agency); *Recruiting News* (War Department).



Social Security Board and the results of research and analysis pertinent to the social security program" might do well to interpret those statistical results, and show how a democracy meets the challenge of security in an insecure world, and wherein dictatorship fails of that purpose.

*The Recruiting News* of the War Department is a newsy house-organ with pictures and popularly written articles on "Soldier Repair," "The Composite Soldier," "Radio Operators Sought," etc., (January, 1942, issue). It might intensify the zeal of a recruit if it included descriptions of life in the United States Army as compared with the life of a Nazi or Fascist soldier, in war and in peace.

Of the 112 straight house-organs, the vast majority were (and by law or regulation must be) statistical or technical reports. Even these, however, could, within the appropriate limits of their subject matter, demonstrate to their readers that each cog has a place in the machinery of democracy. At least 15%<sup>33</sup> of these technical periodicals could, without exceeding the proper bounds of their subject matter, wage effective combat in support of the democratic principles upon which our government rests and against the propaganda forces of totalitarianism. There is no reason, for example, why a magazine dealing with reclamation should be just a technical house organ. A vivid account of our national efforts in harnessing rivers, of our care for the safety of workers who have built the world's greatest dams, might be presented as a powerful refutation of the Nazi claim of "democratic inefficiency."

A few regular government publications are not available to the general public and so have been omitted from this study—e.g., *The Selective Service Review*, the *Law Enforcement Bulletin of the FBI*, etc. They nevertheless reach a wide and important audience who might find a service publication that dealt with justice as well as law enforcement, and with democracy as well as the war, stimulating to a better fulfillment of their appointed national tasks.

A candid analysis of government publicity must acknowledge that for a country that has made publicity a fine art we are doing a pretty poor job of publicizing the activities and achievements of our government. Not only is our government publicity unduly

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<sup>33</sup>E.g., *Journal of Agricultural Research* (Agriculture); *Survey of Current Business* (Commerce); *Reclamation Era* (Interior); *Safety Bulletin* (U. S. Compensation Commission); *Public Health Reports* (U. S. Public Health Service).

limited in scope but its distribution is even more obviously inadequate. At a time when rapid change in government structure has made the civics most adult citizens learned in high school wholly inadequate for a contemporary understanding of the political scene, our techniques for acquainting the public with the facts of political life are more important than ever before. Yet we are expending a smaller and smaller part of our national budget on reportorial services, and the need for informing the public about the accomplishments of public agencies is met only by inadequate and lackadaisical efforts of these agencies to obtain wide and telling circulation of their printed matter. The distribution of government publicity today depends largely upon requests from those who know of its existence, to whom the lessons it brings are usually cumulative rather than revealing. In fact, whatever care is exercised in this connection is directed many times to restricting distribution rather than increasing it, in order to reduce expenses.

At present there are a few bright spots on the horizon of government publicity. Thanks largely to devastating law review criticism,<sup>34</sup> the secrecy that once enshrouded Federal regulations and Executive orders, before the creation of the Federal Register and the Code of Federal Regulations,<sup>35</sup> is a thing of the past. A few of the newer Federal agencies have been given authority to collect, analyze and counteract totalitarian propaganda and to use reasonably efficient and modern techniques in this task.<sup>36</sup> A few established agencies of government have been jarred out of their encrusted traditions since Pearl Harbor. One of the boldest steps to be taken in launching a democratic counter-offensive against totalitarian propaganda is the work of Senator Thomas of Utah, who broadcasts regularly in Japanese to the Japanese people. But these hopeful signs are overshadowed by the vast suppressive forces of "business as usual," which operate more effectively to censor and suppress democratic propaganda than do any of the techniques thus far evolved for the suppression of totalitarian propaganda. To understand these suppressive forces which hamper

<sup>34</sup>Griswold, *Government in Ignorance of the Law* (1934) 48 Harv. L. Rev. 198.

<sup>35</sup>See the Federal Register Act of July 26, 1935, 49 Stat. 500, 44 U. S. C., sec. 301 et seq.

<sup>36</sup>The Office of War Information, the Division of Cultural Relations in the State Department, and the Coordinator of Inter-American Affairs, are now doing pioneer work in counter-propaganda, utilizing moving pictures and radio as well as the printed word.

our efforts in the direction of public education and enlightenment, it is necessary to analyze the laws that control governmental effort in this field.

## 2. STATUTORY LIMITATIONS ON GOVERNMENT PUBLICITY

Great as is the need in our democracy for thoroughgoing publicity of all our governmental activities, the fact remains that our government publicity is hamstrung and crippled by a series of statutory prohibitions and restrictions under which it has become illegal for agencies of government to make an effective answer to the calumnies of totalitarianism or to proclaim in tones above a whisper the achievements, the aims, and the needs of a functioning democratic government. At a time when our democracy is under violent attack by Axis propagandists in our midst, our government is forbidden, by a series of statutory limitations on government publicity, from carrying on a serious counter-offensive on behalf of democracy. Today it is lawful for Nazi sympathizers to make public statements opposing needed war legislation, but it is illegal for government officials (except before Congress) to answer such attacks. It is lawful for the enemies of democracy to publish pamphlets by the hundreds denouncing our democracy, but it is illegal, generally, for government agencies to use their funds for the publishing of answers to these attacks.

Prohibitory and restrictive statutes cover every aspect of government publicity—the hiring of publicity experts, the issuance of magazines or journals, the use of photographs and other new-fangled innovations in government printing, the sale of government publications, and a hundred other points in the process of enlightening the public about the work of government.

### *Prohibition on Use of Publicity Experts*

One of the most serious of these restrictive laws is a rider to the Deficiency Appropriation Act of October 22, 1913, which makes it illegal to utilize the services of experts in government publicity work.<sup>37</sup> It is perfectly proper, under this law, to put file clerks, geologists, or messengers in charge of the publicity work of government agencies; the only persons who may not, under any circumstances, be hired to do publicity work are publicity

<sup>37</sup>"Publicity experts not to be employed without specific appropriation.

"No money appropriated by any act shall be used for the compensation of any publicity expert unless specifically appropriated for that purpose." (5. U.S.C. 54.)

experts. Of course this law, like all Congressional restrictions on appropriations, may be overcome by the express language of a later appropriation act, but in fact it is not customary to include provisions in appropriation acts which would override this prohibition.

The legislative history of this provision fails to shed light on the motives which led to its passage. The fact, however, that similar provisions have been enacted with reference to the use of government funds to purchase automobiles, typewriters, and other new-fangled inventions of the past century is some indication of a general distrust of technological advances, and this distrust probably applies as much to psychological as to mechanical techniques. The publicity expert, in 1913, was just beginning to be a recognized factor in the development of commercial mass advertising and public relations, bringing to the aid of big business the service of psychology. Added to the natural distrust of new techniques there was perhaps the feeling on the part of Congressmen that they themselves were the proper persons to convey to the public the achievements and failures of government and that the employment of publicity experts would decrease their own significance in public life and give administrative officials increased bargaining power in the constant struggle of legislators for administrative favors and patronage, and of administrators for legislative appropriations, that goes on continuously throughout government.

Although the statute in question is to some extent evaded by "the method of discreet nomenclature," i.e., giving publicity experts another name, such evasion is sternly repressed when discovered, and the effect of the statute is thus to put our government publicity into inexperienced rather than expert hands.

#### *Publication Only of Ordinary Business*

A second serious check on effective government publicity is found in a statute which makes it illegal for government departments to publish books or documents except with reference to the "ordinary business transactions" of the department concerned. Whatever departs from the standard of "business as usual" is outlawed.<sup>38</sup>

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<sup>38</sup>"No book or document not having to do with the ordinary business transactions of the Executive Departments shall be printed on the requisition of any Executive Department or unless the same shall have been expressly authorized by Congress." (44 U.S.C. 219a.)

This statute is construed by the Rules of the Joint Committee on Printing<sup>39</sup> as allowing the publication of "strictly administrative reports, statistical publications, and information required exclusively for the official use of the issuing office or service in the transaction of its routine business." (Rule 4.) This effort to limit government publicity to factual reports, statistics and routine business has an ominous significance at a time when in all other aspects of government and private life we are coming to realize more and more clearly that the routine of "business as usual" is a formidable obstacle to effective national effort.

### *Requirement of Specific Authorization*

A third serious limitation upon effective government publicity directed particularly against periodical publications is found in Section 11 of the Appropriation Act of March 1, 1919 (40 Stat. 1212, 1270), which provides: "That hereafter no journal, magazine, periodical, or other similar publication, shall be printed and issued by any branch or officer of the Government service unless the same shall have been specifically authorized by Congress. . . ."

### *Requirement of Printing by Government Printing Office*

Assuming that a government agency intent on answering some totalitarian slander has managed to hurdle the foregoing statutes, it will find itself only at the beginning of its troubles. Let us assume that an effective answer to some totalitarian attack has been written. It might be turned over to a publisher and be a best-selling pamphlet a week later. But no, the law steps in again, and forbids any printing outside of the Government Printing Office<sup>40</sup> (except for certain field services, the Supreme Court,<sup>41</sup> such work as veterans' hospitals may turn out<sup>42</sup> and work which the printing office considers that it cannot do).<sup>43</sup> This generally means

<sup>39</sup>The Joint Committee on Printing is a permanent Congressional Committee consisting of three Senators and three Representatives, vested with various administrative powers over the publishing business of the Federal Government. Act of January 12, 1895, 28 Stat. 601, as amended, 44 U. S. C., sec. 1 *et seq.*

<sup>40</sup>"All printing, binding, and blank-book work for Congress, the Executive office, the judiciary, and every executive department, independent office, and establishment of the Government shall be done at the Government Printing Office, except such classes of work as shall be deemed by the Joint Committee on Printing to be urgent or necessary to have done elsewhere than in the District of Columbia for the exclusive use of any field service outside of said District." (44 U.S.C. 111.)

<sup>41</sup>See 28 U. S. C. 354.

<sup>42</sup>See 44 U. S. C. 111b.

<sup>43</sup>See 44 U. S. C. 111a.

a long delay, unwarranted expense, and a new series of administrative barriers to effective publicity.

For one thing, the Government Printing Office may refuse to do a printing job on the ground that the particular job is not authorized by law. Section 86 of the Act of January 12, 1895, provides: "No printing or binding shall be done at the Government Printing Office unless authorized by law." (28 Stat. 622, 44 U.S.C. 116.)

There is, of course, a sense in which no government agency or employee may do anything in an official capacity unless authorized by law, and if this statute and the 1919 statute quoted above were tolerantly construed they would do no harm. In fact, however, the uncertainties which these statutes create operate as a deterrent to the publication of any matter that is outside the beaten path of printing precedent.

#### *Limitations in Government Printing Office Practices*

Beyond these statutes and rules, there is another set of barriers against effective government publicity in the practices of the Government Printing Office. Protected against competition by laws forbidding the use of other printing facilities by government agencies, the Government Printing Office pursues the calm tenor of its ways, taking months to do work that private plants would turn out in a few weeks, opposing, with all the strength at its command, all forms of typography, illustration, and make-up not respectably established years ago, steadfastly opposing advertising and all other means by which government publications might be brought to the attention of the public,<sup>44</sup> and insisting upon an archaic financial policy under which a government agency that turns out a best seller, instead of realizing a profit on the operation which might be turned into new publishing ventures, must pay over what may amount to a very large sum to the Government Printing Office.<sup>45</sup>

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<sup>44</sup>According to Dr. LeRoy C. Merritt,

"Little effort is made to publicize the fact that the Government issues publications at all, with the natural result that much of the public is quite unaware that helpful and interesting information is available from the Government at very little cost." (The United States Government as Publisher, op. cit. fn. 18 *supra* p. 169 (MS).)

Dr. Merritt's study reaches the conclusion that the cost of operating the sales machinery of the Government Printing Office is greater than the total income of that office. Thus the chief effect of the Government Printing Office sales policy is not to bring in income but only to curtail distribution.

<sup>45</sup>Whatever income the Government Printing Office received from the sale of such publications must be "deposited in the Treasury of the United States to the credit of miscellaneous receipts." (Act of June 30, 1932, sec. 307, 47 Stat. 409, 44 U.S.C. 72a.)

In part the conservatism of the Government Printing Office is a consequence of the statutes already noted and others of the same type.<sup>46</sup> This cannot be a complete explanation, however, for the Government Printing Office has apparently made no serious effort to liberalize the laws under which it operates; on the contrary, it builds new barriers to effective government publicity wherever the laws against effective publicity are deemed to be insufficiently rigorous.<sup>47</sup>

#### *Limitations on Substitutes for Printing*

Because of the difficulties in getting effective printing work done by the Government Printing Office, many government agencies in recent years have resorted to substitutes for printing, such as photolithing, multigraphing, and mimeographing. Some of the publications thus issued are so much better than the work of the Government Printing Office that the Government Printing Office has become much aroused over this "unfair competition."<sup>48</sup> Recently the Bureau of the Budget has embarked on a campaign to suppress these "illegal printing presses" that are hidden away in the basements of various government buildings. By Circular No. 379, dated September 5, 1941, the Director of the Budget warned all members of the President's Cabinet and heads of independent agencies against the future purchase of multigraph equipment and against the use of monotype machines even if already owned.<sup>49</sup>

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<sup>46</sup>Illustrations in government publications are prohibited by law unless "the head of the Executive Department or Government establishment shall certify in a letter transmitting such report that the illustration is necessary and relates entirely to the transaction of public business." (Act of March 3, 1905, sec. 1, 33 Stat. 1213, 44 U.S.C. 118.)

<sup>47</sup>Typical of the measures by which the distribution of government publications is obstructed is the rule of the Government Printing Office against accepting stamps in payment for small orders of printed matter. Those who send cash sometimes receive a notice that the cash has not been received. There are no branch offices for the sale of public documents outside of Washington, D. C.

<sup>48</sup>"The present Public Printer, Mr. A. E. Giegengack, takes the position . . . that all mechanical duplication being done in the departmental offices is in fact illegal." LeRoy C. Merritt, *The United States Government as Publisher* (1942) 38 (MS). However, one of Mr. Giegengack's predecessors in office who wanted to order various departmental printing presses closed down was officially advised by the Attorney General that such action would be illegal and that the function of the Government Printing Office was "operation and not suppression." 28 Op. Atty. Gen. 233 (1910).

<sup>49</sup>"The use of monotype machines (including casters) shall be discontinued, and no equipment of this character may hereafter be purchased and installed by any agency, and any agency now using such equipment should replace it not later than July 1, 1943, with other and appropriate types of equipment; and no multigraph equipment may be purchased or used except in agencies where no other types of equipment will satisfactorily supply the service peculiar to the use of multigraph equipment."

*Limitations on Distribution*

Apart from the foregoing limitations upon publication, there are a number of statutes which limit the distribution of printed matter. The Government Printing Office, for instance, is forbidden to sell more than one copy of any document to a customer, unless the customer is a school, a library, or a member of Congress.<sup>50</sup> All departments and agencies other than the Government Printing Office are prohibited from using any part of any appropriation for services in "addressing, wrapping, mailing, or otherwise dispatching any publication for public distribution, except maps, weather reports and weather cards."<sup>51</sup> A recent statute forbids the mailing of printed matter under government frank by any government agency to any person except upon special request.<sup>52</sup> Further stringent limitations upon the distribution of publications by government agencies have recently been promulgated, without special statutory authority, by the Director of the Budget.<sup>53</sup>

*Limitations on Other Kinds of Publicity*

In addition to the foregoing limitations upon the use of the printed word, there are a number of statutes which restrict other forms of government publicity. One of the most effective modes of publicizing government achievements is oral presentation before meetings or conventions of people who are likely to have a special interest in some particular phase of governmental activity. But there is a special statute which discourages attendance of government officials at such conventions by forbidding the use of government funds for expenses of attendance.<sup>54</sup> Another statute forbids all government publicity, of whatever nature, which is intended to influence legislation. This statute, section 16 of the Act of June 11, 1919,<sup>55</sup> declares:

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<sup>50</sup>"... only one copy of any document shall be sold to the same person, excepting libraries, or schools . . . and members of Congress." (Act of January 12, 1895, sec. 61, 28 Stat. 610, 44 U.S.C. 71.)

<sup>51</sup>Act of January 12, 1895, as amended, 28 Stat. 623, 37 Stat. 414, 44 U. S. C. 95.

<sup>52</sup>Act of May 6, 1939, sec. 6, as amended, 53 Stat. 683, 989, 39 U. S. C. 321b. Excepted from this limitation are necessary enclosures in official correspondence, press releases on the decennial census, matter relating to the sale of government securities, copies of laws, rules, regulations, instructions, orders, interpretations, forms and blanks, lists of agricultural bulletins, lists of publications on sale by the Superintendent of Documents, announcements of publications of maps, atlases, statistical and other reports offered for sale by the Federal Power Commission, and all publications sent to educational institutions, public libraries, or public authorities.

<sup>53</sup>Circular No. 379, dated September 5, 1941.

<sup>54</sup>Act of June 26, 1912, as amended, 37 Stat. 184, 854, 5 U. S. C. 83.

<sup>55</sup>51 Stat. 35, 68, 18 U. S. C. 201.



"No part of the money appropriated by any Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers and employees of the United States from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business."

The statute further provides for the removal from office and punishment by fine and imprisonment of officers and employees violating the foregoing prohibitions.

The fact of the matter is that practically all government publicity, whatever its form, necessarily has at least an indirect influence upon legislation. All government action is supposed to be taken pursuant to law. Therefore every report dealing with government action necessarily throws light on the operation of some legislation. Whether the agency administering any particular law is to have greater or lesser appropriations for the work, whether legal loopholes have appeared which need patching, whether the law should be repealed or amended or sustained, all are questions to which every report of the workings of the legislation in question—no matter how objectively written—is relevant. No government agency can possibly write a report that is incapable of influencing legislation, and the chief effect of the statute in question is to make fashionable a hypocritical pretense that government publicity has no bearing on future legislation. Like most such hypocrisies, this particular pretense makes it easy to throw dead cats at those government administrators who have no special skill in hypocrisy.

### *Indirect Restrictions*

The foregoing statutes and regulations are only the most direct of the current legal restrictions upon government publicity. These are buttressed by a myriad of indirect restrictions. To analyze these indirect restrictions would unduly lengthen this study. A single example is perhaps typical. By section 16 of the Act of August 26, 1842,<sup>56</sup> and section 3 of the Act of March 3,

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<sup>56</sup>5 Stat. 526, 5 U. S. C. 102.

1839,<sup>57</sup> no department of the Federal Government may spend more than \$100 in any one year for newspapers or more than \$30 in any one year for pamphlets. These sums today amount to less than one one-hundred thousandth of one per cent of some departmental budgets. The difficulty of keeping in touch with current propaganda in order to be able to launch an intelligent counter-attack is, under such legislation, painfully obvious.

Behind all the prohibitions and limitations that restrict government publicity lies a general hostility which is expressed not only in specific statutes and regulations of the character noted<sup>58</sup> but in a general reluctance on the part of Congress to make appropriations for the use of essential channels by which Government information may be conveyed to the public.

A careful student of the subject<sup>59</sup> observes:

"Throughout the history of the United States Government the Congress has been reluctant to recognize the need for adequate facilities and liberal appropriations for the publication of governmental reports and proceedings. Needed reforms in the printing laws have always come slowly and only under pressure of overwhelming evidence that changes were imperative. Appropriations for printing are carefully scrutinized each year by the subcommittees of the House Committee on Appropriations, and printing appropriations are almost invariably included in congressional and other economy programs."

A few members of Congress have been bold enough to make similar observations. Thus in 1938 Congressman (now Senator) Mead declared that the<sup>60</sup>

"activities of the Government, created by Congress to help the public, are not being properly presented to the public through printed media and as a result of this failure to properly inform the public as to the benefits to be derived from the proper use of the instrumentalities created by Congress, the people are not receiving the benefits to which they are entitled."

More typical, unfortunately, is the attitude of a Congressman who on the last day of the last session of Congress, in announcing that he had introduced and would re-introduce a measure to curtail Government publicity, proudly asserted that he had asked to be taken off the mailing list of the publication (*Victory*) which reports the activities of the various emergency war agencies of

<sup>57</sup>5 Stat. 349, 5 U. S. C. 102.

<sup>58</sup>See also the comprehensive bill to emasculate government publicity introduced on July 23, 1942 as H. R. 7434.

<sup>59</sup>LeRoy C. Merritt, *op. cit.*, p. 32.

<sup>60</sup>83 Cong. Rec. App. (1938) 434.

the Federal Government.<sup>61</sup> It is frequently said of certain judges that they do not read briefs, and of certain teachers that they do not read examination papers, and it would be ungracious to blame a Congressman for not reading about the administrative activities that he is supposed to finance and control. But to claim credit for such oversights and to justify ignorance as a measure of economy is another matter.

Congressional hostility is directed with special force against all forms of publicity which were not known to the Founding Fathers. Any governmental agency rash enough to utilize moving pictures or radio to counteract the propaganda warfare of totalitarianism is likely to find its appropriations sliced by an angry Congress. Any agency that can surmount all legal barriers and the even more forbidding barriers of red tape and conservatism set up by the Government Printing Office and the Joint Committee on Printing and get out a reasonably effective piece of counter-propaganda is likely to find its future appropriations cut to prevent a repetition of the offense. So it is that the techniques of propaganda which have been so largely developed and perfected by our own American advertisers and which have been so eagerly taken over and utilized by foreign dictators are denied to our own Government.

Unfortunately, the foregoing account of the limitations that have been placed upon what may be called government free speech does not tell the whole story. Forces that have traditionally sought to restrict government publicity, whether for selfish or unselfish reasons, have been able to argue since America's entry into the war that it is unpatriotic to devote paper and energy to government publicity. This has been the theme of a growing agitation which has led to the introduction of various bills in Congress designed to impose further restrictions upon the reportorial function of government.

It is against this background that one must appraise the work of the Office of War Information in "discontinuing" various organs of governmental information. On September 25, 1942, this newly created Government agency issued an order "To the Heads of All Executive Departments and Agencies" which it characterized as "the first of a series of orders cutting down government publications and mailing lists."<sup>62</sup> Some 239 Federal publications and series of publications were "discontinued" and another

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<sup>61</sup>88 Cong. Rec. 9969 (December 16, 1942).

<sup>62</sup>Press Release of September 25, 1942.

284 curtailed. Among the items listed in this order as "discontinued" are such valuable publications as *The Woman Worker* and *Labor Standards*, published by the Department of Labor, the OPA periodical *Consumer Prices*, the U. S. Civil Service Commission's *News* and *American Legion Bulletin*, the Department of Agriculture *Farm Handbooks*, and the Department of Justice publications *Regulations Controlling Travel of Alien Enemies* and *Rules and Regulations, Foreign Agents Registration Act*. Most other government periodicals were subject to mandatory cuts as to distribution and page content. Thus at a time when such problems as the entry of women into industry, the control of consumer prices, the increase of agricultural productivity and the control of foreign agents are more important than ever before to national defense, the chief informational services of the Federal Government in these fields are either curtailed or forced underground.<sup>63</sup> Now it may well be that the suppressed publications will reappear in other guise, and indeed it is difficult to believe that the Department of Justice, for example, will "discontinue" its *Regulations Controlling Travel of Alien Enemies*, despite the report of OWI to that effect. But the moral significance of such alleged suppression is important. The announcement of this wholesale suppression was played up, with typical exaggeration, by the Axis radio. The OWI itself publicized Axis exaggerations, which gave the impression that 239 newspapers had been suppressed, as an example to the American public of how unreliable Axis broadcasts are. But it is hard to follow the OWI's assumption that suppression of private newspapers is entirely different in principle from "discontinuance" of government publications. Certainly the totalitarian radio commentators can spell out as dreadful morals from a "purge" of the Government press as from a "purge" of private newspapers. It may be, of course, that the drastic action of the OWI was based, in part, on the poor job that many government publications were doing. But many of the discontinued publications were doing a first rate job, and if others were doing poor jobs, from a defense standpoint, it was generally because they were faithfully reporting government ac-

<sup>63</sup>It may be that much of this purported suppression is not intended seriously. The *Woman Worker* and *Labor Standards* are incorporated, under the OWI order, in the *Labor Information Bulletin*. Some of the publications as to which distribution is "curtailed" are publications issued some years ago and no longer in demand. These considerations only underline the question of why OWI should want to claim responsibility for suppression or curtailment even where it has not occurred.

tivities that have no defense value. Would not the elimination or reorientation of such government agencies be a greater contribution to victory than the elimination of the public reports of their activities,—reports which are in some cases the chief reason for their existence and in other cases the best basis upon which they might be criticized and reformed?

In view of the fact that the OWI is one of the most enlightened of government agencies, and largely staffed by publicity men, it can hardly be accused of lack of sympathy for government publicity. Possibly its actions in the direction of curtailing the free speech of other government agencies have justifications not yet revealed to the public. But until those justifications are revealed it seems fair to conclude that this order of OWI reflected a public attitude of hostility towards government publicity, an attitude which is largely based upon misunderstanding of the facts but is nevertheless an uneliminable political factor.

### 3. CONCLUSIONS

There is a widely held belief that government agencies are squandering increasingly large sums of public money in the circulation of useless information. Coupled with this belief is the fear that an extension of government publicity activities threatens freedom of speech, freedom of the press, and the profits of private publishers. This belief and this fear are assiduously nurtured by large sections of the press and by business executives. The fact that the press and business are the chief beneficiaries of government publicity does not diminish this hostility. Indeed, hostility to government publicity is strongest on the part of business executives who recognize the value of increased expenditures in enabling their own industries or corporations to explain their policies and advertise their products to the public and to foster favorable public relations generally.

That the widely propagated belief concerning the mounting costs of Government publicity is far from the truth is clear from the analysis of such publicity in the first section of this study. Equally unjustified is the fear of loss of freedom through the spread of government propaganda. "What is truly vicious," as the *New York Times* aptly noted in an editorial of September 1, 1937, "is not propaganda but a monopoly of it." There is no threat to freedom where private citizens remain free to challenge the truth of official statements. A real threat to freedom today lies in

the fact that government is not free to challenge the truth of statements made by the enemies of democracy, foreign and domestic. Those who believe in free speech should be willing to accord to the United States at least the same measure of freedom which the United States allows to its enemies. When this sentiment becomes more widespread than it is now, it is likely that Congress will be willing, at least for the duration of the present crisis, to suspend all of the laws which now prevent the government from carrying out an effective counter-offensive against totalitarian propaganda.

An intelligent use of government publicity in the cause of democracy requires not only wisdom in the preparation of the case for democracy but efficiency in the publication of that case to the American people and the world. Wide and effective distribution of what the government sees fit to print ought to be a primary objective of its publishers. Tests and polls should guide them as to popular works and interested readers. The most obvious recipients are of course schools, libraries, newspapers and other periodicals, but there is ample room for experimentation in developing new channels of distribution. For example, the common commercial outlet for current literature, the corner newsstand, might do well as a circulation medium for the cheap informative pamphlets of the Government Printing Office. Or all post offices and other government offices well frequented by the public might be furnished with attractive fixtures from which government publications could be sold to a people who are generally avid readers of writings easily available to them. Other measures, better or worse, could be tried, all to the end that the accomplishments of democratic government and the learning and wisdom of its trained and expert official family are not confined to the attention of the few, but are revealed freely and openly to the people, whose faith in the aims and efforts of their servants can alone combat the bold attacks of the Axis propagandists.

There is today on the statute books a law which eloquently embodies the traditional view as to the place of government publicity in our democracy. This law provides that copies of all public documents authorized by either house of Congress shall be deposited in the American Antiquarian Society of the Commonwealth of Massachusetts.<sup>61</sup> Few steps that Congress could take for the preservation of our democracy against the nation's enemies

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<sup>61</sup>Act of December 1, 1814, No. 7, 3 Stat. 248, 44 U. S. C. 88.

would be more effective than an amendment to this law which would provide that all the laws and regulations that now restrict government publicity should be decently interred in the archives of the American Antiquarian Society. Less drastic measures are bound to prove unsatisfactory.