REVIEWS

THE WORK OF THE COMMISSION ON FREEDOM OF THE PRESS


A FREE AND RESPONSIBLE PRESS appeared in March, 1947. Three years and $215,000 earlier Chancellor Hutchins had selected the Commission, at the suggestion and with the support of Henry R. Luce. Five of its thirteen members had significant connections with the Chairman's University of Chicago; indeed, the flavor was dominantly academic. However, it included a poet turned administrator (MacLeish), and two men of affairs, albeit with scholarly backgrounds (Dickinson of the P.R.R., Ruml of Macy's). There was also a small expert staff. The results could have been sensational. To the Commission's eternal credit, they were not. They could have been, and were, careful and thoughtful. They could have provoked a great debate. They did not. The Luce press, naturally, gave the Report a big play. The rest of the press threw rocks at it. The rest of the literate public ignored it, except for the students of the various fields examined: newspapers, radio, motion pictures, magazines and books. They, and the critics in the working press, had a variety of complaints, some of which will be examined herein.

The occasion for this review and those that follow is the completed publication (save one) of a series of special studies which fill out the bare bones of the Report. The Report aimed at brevity, and was damned for achieving it. In the compass of a pamphlet it reviewed principles, standards, technology, controls, performance of the media of mass communication, and it made recommendations for their protection and improvement. Consequently anyone whose specialty was slighted was at liberty to cry "elliptical," "telegraphic," and to ask wistfully what they did with the $215,000? (In the interests solely of complete disclosure of meaningful facts, I would like to know myself.)

The five monographs reviewed hereafter should subdue, though they will not silence, such complaints. Two studies by members of the Commission spell out the philosophic and the legal problems concealed in the easy phrase, "freedom of the press." The others, by staff members, deal with the special cases of international communication, radio, and movies. The Commission may well have thought that newspapers have already had more than their share of discussion, helpful or not; but the neglect of magazines is much to be regretted.¹ In any event, Chairman Hutchins disclaimed a program of

¹. Still to be published is The American Press and the San Francisco Conference, a content study covering all mass media.
elaborate "research"—the quotation marks are his. And the Commission excluded the relation of the press to our culture generally, confining itself to its effect on "the education of the people in public affairs."

The Commission postulated certain requirements as ideal goals for the press in this limited but critical area of public enlightenment. They were:

"First, a truthful, comprehensive, and intelligent account of the day’s events in a context which gives them meaning; second, a forum for the exchange of comment and criticism; third, a means of projecting the opinions and attitudes of the groups in the society to one another; fourth, a method of presenting and clarifying the goals and values of the society; and, fifth, a way of reaching every member of the society by the currents of information, thought, and feeling which the press supplies."

The Report concluded that:

"These needs are not being met. The news is twisted by the emphasis on firstness, on the novel and sensational; by the personal interests of owners; and by pressure groups. Too much of the regular output of the press consists of a miscellaneous succession of stories and images which have no relation to the typical lives of real people anywhere. Too often the result is meaninglessness, flatness, distortion, and the perpetuation of misunderstanding among widely scattered groups whose only contract is through these media."

The Commission’s recommendations exhorted everyone concerned—government, press, and public—to improve. They were chary of innovations and devoid of panaceas. Of the agencies of the public, the universities, properly, were singled out for attention. They should themselves utilize mass media, and they should develop centers of research in communications beyond the trade-school level of many schools of journalism. One significant recommendation was the “establishment of a new and independent agency to appraise and report annually upon the performance of the press.” Of that, more later.

The press itself was urged in various ways to do better by doing better.

As for government, on the legal level the recommendations included explicit extension of constitutional freedom of the press to radio and movies, new remedies for defamation, and conformity of sedition statutes to the clear and present danger test. Should the government have its own press? The Commission asserted that it should, both for domestic and international dissemination of information and policies whenever “the private agencies of communication are unable or unwilling” to do the job. It should also “facilitate new ventures . . . foster the introduction of new techniques.” The last proposals patently raise the specter of government competition in communication to a degree repressive of private speech. The demon vanishes when one draws the Line at the right place. I produce such a painful truism because the Report and the pertinent studies do not worry much about the
limits of state participation in mass communication. They worry at least twice as much about state correction of monopoly situations, perhaps because there is at least twice as much experience to go by.

Whatever the context, the role of government dominates the discussion. All of us bristle when the State comes into a consideration of free speech or free press. It is the ancient enemy. The state and federal constitutions which guarantee the freedoms assert them against the government. Yet the forces of government and press interact in many ways. For one thing, we have learned from the enlightened interpretation of the First Amendment that freedom from government interference with what the press says, does not mean freedom from the equal application of taxes, child labor laws, wartime rationing, and the like.

It may well be that freedom from oppression was the only concern of the fathers of the Constitution. What the Report and the monographs illuminate is the question: what is freedom for? Does the press have any responsibilities? The Commissioners felt that surely it has; and Professor Hocking explored them in his *Freedom of the Press*. But suppose an important responsibility is not met voluntarily, will the enforcement of a standard by the powerful engines of the state destroy the cherished freedom? Let us consider a weighty problem which bothered the Commission, the application to the press of the antitrust laws.

One central issue which develops from the setting of twentieth-century problems against the aims of the First Amendment is the concentration of economic power which, inevitably or not, has in fact accompanied the flowering of mass media. The decline in the number of daily newspapers (and the attendant increase of one-publisher cities), the control of radio by advertising interests through four networks, the domination of the movies by five producer-exhibitor combinations, are the salient facts which the Report does not have to elaborate. That a few hundred men can control the content of the bulk of what Americans see, hear, and read is a factual conclusion. That such a situation falls far short of the ideal of a diversified, representative, comprehensive press, few will deny. That anything can be done about it without impairing such freedom as persists is a center of controversy.

It is easy—to demand that trusts be busted, and to assume that the antitrust laws stand ready for that purpose. I shall not stop to discuss legal tactics and difficulties. Let us assume that, so far as the wealth and power structure of the press industries are concerned, techniques and policies judicially blessed in the last decade could at least arrest, and possibly reverse, any further trend toward concentration. Within the precise ambit of decided cases, plus legislation similar to that directed at other industries, certain horizontal or conglomerate empires could be broken up; integrations which repress new competition, like the movies, could be disintegrated; and area monopolies by the combined ownership of papers, radio stations, and other media could be prohibited, just as railroads are forbidden to own steamship lines, and steamship lines airlines.
Why, then, did the Commission recommend that the antitrust laws be “sparingly used”? In the first place, Professor Chafee’s book discloses serious doubts, in the absence of verified data, whether the diffusion of power among only a few hundred more men would materially broaden the market for ideas. To the extent that the new owners of communications still were oriented toward large-scale capitalistic enterprise, he thought it unlikely that they would exhibit any greater diversity of view on debated issues of political economy than their predecessors. Even publishers and editors have emphasized the probability that publishers and editors will run with the country-club set and share country-club biases. The whole problem of the reflection of economic and social bias in the content of mass communications cries for extensive investigation. At present we do not know what the effect of a wider diffusion of power would be. All we know is that the present pattern looks like one of irresponsibility and autocracy.

In any case this inconclusive question diverts us from the main purpose of raising the antitrust problem. To brandish the big stick at the lords of the press, the Commission felt, “can be very dangerous to the freedom and effectiveness of the press.” Why should this be? Are press owners especially vulnerable to antitrust? Some of the discussion in Professor Chafee’s book suggests that the mere threat of antitrust prosecutions may lead to subservience by press owners to government officials. Is this plausible? Assume again that a significant series of civil cases could be brought. The Commission seems implicitly to share a common notion that the losing defendant has his property taken away from him. If he owns twenty newspapers, he might have to sell ten of them. He probably gets his money, but what he wanted was the power and prestige of owning twenty newspapers. Or suppose the decree makes further exclusion of competitors from a wire service unlawful. Then the franchise of the original members may be less valuable. Or a friendly agreement not to lower advertising rates may be enjoined. Then if some interloper cuts rates, revenues will be less.

Of course, if only a legally protected interest is property, none of the monopoly values suggested above is property. It is the business of the antitrust laws to deflate them. Their loss is nonetheless real to the monopolist. If he doubts his chances of defending an antitrust suit, and has a normal love of money and power, the intimidation which the Commission apparently feared may overtake him. Here, then, is a sorry conclusion: the press owner who has or can gain control of a market should be guaranteed freedom from legal proceedings brought by government officials to restore or maintain competition.

2. The fact that the Sherman Act can send a man to jail is, I suppose, its sharpest tooth. But it has never bitten anybody, except a few labor leaders and racketeers. Fines in civil cases are trivial. The criminal penalties are far more potent as a lever to exact consent decrees. The Commission properly describes the statutes as “vague,” and uncertainty, to be sure, increases their dangers. All this, however, could be said of the Securities Act, the Fair Labor Standards Act, the Interstate Commerce Act, the general conspiracy statute and dozens more.
Why? Because freedom from competition pays large dividends in wealth and power. The risk of losing those dividends unless officials are placated will cause the publisher to forego his duty of criticising officials, and one of the prime functions of press freedom will fall into disuse.

For the sake of the shade of Peter Zenger, can no better case be made for treating major clusters of press power gently? The Commission feared that efficiency might be decreased by altering accustomed arrangements. They might have bolstered their case more by accepting an industry argument. Somewhat refined, it runs like this. Government encroachment is only one enemy of a free press. In a society that seems to be little more than a collection of pressure groups, the officers of pressure groups are likely to be more insistent than government officials that freedom of the press does not mean freedom to criticise them (if any reader doubts, let him consider the activities of groups to which he belongs: employer or employee, church member, veteran, anti-vivisectionist). The most effective pressures, admittedly, are economic pressures. Therefore, the only free press is a prosperous press. It is the layer of monopoly fat which keeps off the chill from offended D.A.R.s and Prohibitionists. Put it another way. Whether the press owner will knuckle under to pressures depends on his power and status in the community. An archbishop, a labor leader, a department store owner can crack a long whip. But can they cut down Mr. Scripps-Howard?

This formula raises many more questions than it answers, more than can even be stated here. They converge on an imponderable. Professor Hocking makes it clear that it is no more desirable for a press to be completely free of pressures, and thus completely irresponsible, than for it to be at the mercy of the most intolerant bloc, and thus completely unfree. As always, the question is one of degree. But it is by no means clear that the optimum degree of independence for a press is measured by its untrammelled ability to restrain competition.

What does emerge from the array of assumptions, guesses, and prejudices about the concentration problem is that fear of government tips the scales. Though dread of antitrust on analysis seems ignoble, the Commissioners shared a distrust of the state, as old as history and as new as Nazi Germany and Soviet Russia. Professor Smith in his review accuses Mr. Hocking of "softness" toward the state. One less flinty than Professor Smith mildly wonders. However, the point is that the Commission en banc, while recognizing that the two major issues before it were the trend toward concentrated power and the unsatisfactory level of performance, hesitated to invoke the only existing force, public or private, which might possibly check the monopoly trend.

The response of the Commission to the use of antitrust is at least a weighty hint that no corrective government action would receive wide support, except in such traditional channels as control of defamation and obscenity.\textsuperscript{3}
REVIEWS

Should we then relax in the comforting anodyne that, through the classic self-righting process, truth will prevail and excellence will be rewarded? An age which revered the self-regulating competitive market could be content with the clash of ideas and performance in a competitive press. Perhaps that age enjoyed a vigorous flow of criticism and correction. However, one of the by-products of modern concentration is the decline of disparagement. "Boost—Don't Knock" is more than a Chamber of Commerce banality; it is a motto for imperfect competition generally. Most segments of the press compete chiefly for the advertiser's dollar, which is won by volume of circulation weighted by subscribers' incomes. The consumer must also be won; but the courtship is genteel, the rival's existence (if there is a rival) is ignored. The Commission urged members of the press to criticize their fellows more, citing what is almost a conspiracy of silence with regard to libel suits, breaches of confidence, and the like. The press, one gathers, did not accept the invitation. It smacked of the bad manners of an earlier day, of washing dirty linen in public. Gentlemen in the same club do not wash their own linen at all, let alone in public.

That overburdened figure, the intelligent citizen, consequently has no practical way of testing accuracy, meaningfulness, fairness. The press may be too concentrated for effective diversity of view, but is still far too diverse numerically for an individual to make a reasoned appraisal of the alternatives open to him. As a partial remedy the Commission proposed "the establishment of a new and independent agency to appraise and report annually upon the performance of the press." This recommendation deserved more than the two brief pages of discussion it was given. Most of the findings and other recommendations are amplified, piecemeal to be sure, in the supporting studies. This one has to fend for itself.

The hardheaded citizen will scoff at the proposal of another Institute, another fact-finding body, producing words instead of deeds, too little and too late. If he is cynical to boot, he will impugn the whole idea by recalling the phony "Independent Committees" for this and that which a public relations man can create overnight. From the latter slur the proposed agency can escape only by being really independent. I suppose the price of independence would be something on the order of $10,000,000. What kind of case can be made to a philanthropist or a foundation who asks why the agency is needed and whether it can succeed?

some of them. The Commission recommended that members of the press think of themselves as "common carriers of information and discussion." This is an attractive symbol; the Commission no doubt appreciated that its translation into policy might import extensive legal obligations. Cf. the latter of discussion about the "public utility" aspects of the Associated Press antitrust case. Another attractive symbol is evoked by arguing that, since competition in the press and elsewhere is obsolete, the press should be compelled to become "cooperative" by admitting various elements in the community to a formal share in control. See the remarkable review of ERNST, THE FIRST FREEDOM (1946) by Robert F. Brady, Monopoly and the First Freedom, 2 HOLLYWOOD QUARTERLY 225 (1947).
A suggestion of probable functions will facilitate replies to both questions. Broadly, the agency might attempt the following types of action:

1. fact-gathering, for example, using modern techniques of content analysis to detect suppression and distortion of news;
2. criticism, for example, of accuracy, minority representation, government publications;
3. advice, for example, to communities trying to augment inadequate press service;
4. evaluation, "efforts . . . to help the press define workable standards of performance;" and, in the light of agreed standards;
5. periodic appraisal of the performance, structure, and trends of the components of the communications industry.

This listing, even more summary than that in the Report, suggests the sort of rational review to which we want to see all our institutions exposed. Our chief agency for doing this, by collecting and disseminating facts, criticism, advice, appraisal about institutions at large, is the press. But who will watch the watchdog? We are apparently resolved on continued exemption of the press from governmental supervision, which leads as much to suppression as to improvement. So do the self-interested promptings of existing private groups. And one despairs of adequate self-regulation. The proposed agency, therefore, has a reason for existence, if only because no other will do a necessary job.

The chances of success depend partly on the agency's own level of performance (which poses the question, who will watch the watchdog's watchdog? I think we can count on a full measure of counter-criticism from the press). Results depend much more on the existence in the community of some of the following:

1. Citizens who want to know more about the reasons for, and conditions of, press freedom than they get from the perfervid rhetoric the press turns on, for example, to avoid social security taxes.
2. Citizens who want to know the news deficiencies, if any, of a community with only one newspaper. Does the radio do as well, or better, for information on local issues?
3. Citizens who want to know the bias of their news sources, say, their covert attitude toward minority racial groups.

The list could be considerably extended, coinciding with the faults and virtues of the press that need objective communication. The persons who want to know may be relatively few in number, but they would increase if the information was well-presented.

One illustration will have to suffice of the directions in which the agency, by skillful communication to an adequate audience, could work to the good

4. That is, all those which are believed to have a rational foundation.
of the press and its freedom. It might well persuade part of the public that passing a law is not the way to improve the press. It may be a way, and it is a way which too quickly commends itself to a disgruntled electorate. Evidence from the opinion polls suggests that an alarmingly large group of those professing to have opinions care little for traditional guarantees of speech and publication. If they are misled, it is because the schools and the press itself have failed to inform them. The opportunity still exists to promote some democratic self-help. We have seen that the press has no blanket immunity from pressures. Indeed, the exertion of pressure from all sides is the only way to insure that the press will reflect neither the unbridled whim of its owners nor the interests of narrow but organized groups. The displeasure of those who want to see the press approach ideals of fairness and fullness should be readily felt. So should their commendation. If neither is effective, local groups who want to start a new paper or radio station should have a source of advice and encouragement.

- The notions that the public gets what it deserves, and that the papers, the radio, the movies, give it exactly the pap it wants because the Hooperratings and the opinion polls say so, are dangerous half-truths. The public, which is the human race, deserves the best any of us can give it; God knows it needs all the help it can get. The public, which in America is thousands of different groups and classes with innumerable wants, is confined by habit but still looks to the horizon for things new and better. If the prospect is bounded by cautious stereotypes designed not to offend the widest possible audience, and by a publicity apparatus designed to convince that nothing is more significant than yesterday’s sex murder, only the most resolute explorers will know what is beyond the horizon, and want it.

The Commission is on the side of the angels, which is not the side of the status quo. Its recommendation for a new appraising agency, mousy as it may seem to a direct actionist, is an affirmation of belief that enough citizens care enough about the development of freedom and responsibility of the press to listen to talk about it. If they are wrong, and freedom of the press means only non-suppression of comic strips, then there is not much point in trying to get along with the Russians.

RALPH S. BROWN, JR. †

5. I do not wish to be misinterpreted. I think L'il Abner has more to say than Arthur Krock, and that both are entitled not to be suppressed.

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This report is a ringing declaration on freedom (of the press) which does not (to me) ring true. It is Yea-saying but with a nay-like noise. In terms of “principles” it is a defense of freedom more afraid of freedom’s misuse than of its disuse. It glitters with the easy wisdom of the sidelines, with never a player (whose muscles know the game) upon the team.

Do not get me wrong. It is a brilliant performance. Mr. Hocking is here at his best; and nobody in America is better than Mr. Hocking at his best, so be it one is willing to overlook a kind of congenital neo-Hegelian softness for the established and the respectable. That for the report in question. As for the project, it is Chancellor Hutchins at his best; and Mr. Hutchins is a man “than whom nobody is whomer,” so be it one is or has been “a young man in a hurry” and so be it one can overlook his Protestant anxiety over neo-Thomistic certitudes. But it is clear already that I am judging the book rather than reporting it. Impressed no more by prospect of sudden ruin than by glimpses of quick panaceas, I follow my nose through the maze of meaning rather than steer my feet among the tangled facts.

The book itself is my warrant for this procedure, if a critic need other warrant than his sense of smell. The book demonstrates anew how little evidence has to do with conclusions, especially with large and melioristic conclusions. Without hearings, I fancy, quite as well as with hearings, the conclusions (though not the propaganda impressions) would have issued much as they stand; for as presented they are not conclusions from this specific abuse or from that specific grievance; they are sophisticated articulations of what men have unconsciously “concluded”. So the book has all the right words, phrases and sentences, but it often puts emphasis upon the wrong syllable. More to the point, I mean, than the evidence is the meticulous show of reasonableness in dealing with the Fascist Press and the theory by which it was justified and particularly in dealing with the present Communist Press and the theory used to justify it. There is “something” to those theories, you know—or do you?—and we ought not to sacrifice anything good in questing for the perfect. The report makes clear that Americans—for this Commission on Freedom of the Press is composed of eminent Americans—have gone further than I thought in being no longer able to abide with equanimity the social distance which has always separated man from his golden dreams. Modern men seem hell-bent to do something about everything—and especially about the Press. If life has taught me anything, it is to be more afraid of the “vision” that glints between these lines than of the concrete directions in which the American press is actually moving. The heart-breaking business of having to choose for action between alternatives much more strait than the most realistic search for principles exacts—that weltschmerz hardly informs this study at all (save for running and sometimes uncontextual footnotes by John M. Clark).
It was not until the end of the book that this social distance of conclusions and evidence became clear as the source of my growing discontent with the book. Enough abuse by the Press of press privileges, enough neglect by the Press of press duties, is paraded in the successive chapters to predispose a trigger-like mind toward radical if not immediate intervention. This predisposition arises from the all too prevalent logic that for every wrong there is an assignable responsibility to right it, that for every evil there is a cure. The evils mount, the neglected opportunities accumulate, until at last we are curmudgeon-like prodded to suspect that no generation has suffered so much from so evil a Press. The predisposing logic behind the operative logic suavely permits this resultant to become climactic. Then, without warning and all but incidentally, the third page from the last page, Charles Beard is quoted as saying what had been running through my mind from the beginning: that "in its origin, freedom of the press had little or nothing to do with truth telling . . . most of the early newspapers were partisan sheets devoted to savage attacks on party opponents . . . Freedom of the press means the right to be just or unjust, partisan or non-partisan, true or false, in news column or editorial column."

That happens to be a right report upon the historic matter. So much so that Jefferson said that if he were starting a newspaper, he would substitute for the then conventional classifications four new if simple departments: (1) What’s true, (2) What’s probable, (3) What’s wanting confirmation, (4) Lies. That is what Jefferson playfully proposed from the sidelines. But from the fray of passions—in which he participated, behind the scenes—and from the seat of suffering—for surely nobody suffered more than he from intemperance of an intemperate press—it never seems to have occurred to him what runs through this book like a portentous thread of monitory unity: that the cure lay in governmental intervention. To the contrary, Jefferson, after observing a length of abuses “never before known or borne by any civilized nation,” declares from the front seat of responsible statesmanship:

“But it is so difficult to draw a clear line of separation between the abuse and the wholesome use of the press, that as yet we have to trust the public judgment rather than the magistrate.”

Jefferson adds his tribute to that judgment by celebrating what he called its “wonderful correctness”. When Baron von Humboldt, already informed of the “organic” nature of the State, which is only now bearing its fruit in America, complained to President Jefferson that “they could not do that” to the President of a great nation, Jefferson proudly folded the offending sheet and handed it to his distinguished guest: “Put that paper in your pocket, Baron; and should you hear the reality of our liberty questioned, show this paper and tell where you found it [on the President’s desk].”

Now the Hutchins Commission, without showing that the Press is any worse today than in Jefferson’s time (and with no ringing assessment of actually how much better it is), feels privileged to draw this conclusion after,
though certainly not from, Beard’s true comparison: “Today,” they jointly say, “this former legal privilege wears the aspect of social irresponsibility.” It always did. “This press must know,” so the report continues, “that its faults and errors have ceased to be private vagaries and have become public dangers.” They always were. “Its inadequacies,” so the Commission declares, “menace the balance of public opinion.” It was ever thus. “It has lost,” so the climax thunders, “the common and ancient human liberty to be deficient in its function or to offer half-truth for the whole.” (As though that were anything new, or ever had been crucial.)

What does the Commission really want, save to gripe at a highly sophisticated level and in remarkably elegant prose as we all do vulgarly? They seem to want the press to become more disciplined, better balanced, more high-minded. They want it to accept responsibility for its own self-improvement along these lines. They want, in short and in their own words, the press to “take on the community’s press objectives as its own objectives.” But at the same time they take a dim view of the press and do not seem really to expect their advice to rise much above the level of noblepreaching (which is advice tendered without the expectation of its being taken). But if not taken, they warn, then the government (or somethin’) will do its duty for its citizens. “There is a point beyond which failure to realize the moral right will entail encroachment by the state upon the existing legal right.”

This latter is the unsalubrious air which the Commission breathes, this is the dour climate of opinion which renders its conclusions more odious than the evidence. They admit “a practical presumption against the use of legal action to curb press abuse;” but—and it is this “but” which we have seen Jefferson would not take advantage of—“but the presumption is not intended to render society supine in the face of all new types of misuse, actual or possible, of the immense powers of the contemporary press.” What the Commission has overlooked, I believe, is the realistic observation made by Justice Holmes. He would have been “glad,” as he confessed, to be “rid of the whole moral phraseology” which he thought had “tended to distort the law.” For he was convinced as touching the law, what I strongly suspect as touching the press, that we need to reckon much more than the Commission has reckoned with “our friend, the bad man”—the man here whose “badness” takes the peculiarly perilous form of the good man who knows more about “the community’s press objectives” than the community has ever yet revealed through normal democratic processes of judgment. Presumption of the “moral” and of the “knowing”—is the evil which democracy, in every field, has most to fear.

1. P. 230.
2. P. 226.
4. P. 223.
Professor Hocking has led up to these generalized conclusions by canvassing the whole field of philosophy for "principles" to be used as criteria for reform. Always philosophically a little over-eager to add weight to the side of "order", already over-weighted, Mr. Hocking here reaffirms every ancient principle of freedom, but with the echo of a "but" at the end. Now "but" is not in the idiom of freedom. Ambition for freedom—even for freedom of the press—must, I fancy, be made of sterner stuff; for the stuff which moves between these lines weakens what moves through the lines: it carries echoes from Hegel, echoes completely depreciated by Nazi effectiveness, echoes appreciating to portentousness under Communism, echoes so enhanced by the ground-swell of even American impetuosity for ponderable reform of the imponderable that it becomes the duty of intelligent men to weight the scales on the other side, as a matter of statesmanlike strategy if not of personal conviction.

"The business of making a new world," wrote Pollock to Holmes, "is longer, tougher, and less pleasant than even the most prudent of us foresaw." Why, as touching our present subject, even in Biblical days, they "could not see Jesus"—so the Scriptural reporter had it—"they could not see Jesus for the press."

T. V. Smith


It was perhaps an error of judgment on the part of the Commission on the Freedom of The Press to publish its general findings and recommendations before the appearance of its more important monographic studies. These studies answer at least in part some of the more common criticisms with which A Free and Responsible Press was received. If the final report contained much that was obvious, this was not because the Commission failed to give notice and consideration to novel approaches to the problem. Most of the "novel" proposals which have been made as to the use of governmental powers and resources in "improving" the press were considered by the Commission and rejected as creating greater evils than those which the proposals were intended to remedy. Chafee's two volumes provide us with much of the reasoning which led to the non-regulative and primarily hortatory character of the final recommendations.

From the point of view of logical structure and coherence the present study is the best of the empirical monographs so far published by the Commission. The first volume discusses the negative activities of government, those tending to limit or suppress discussion. Four types of legal restrictions on free-

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dom of discussion are analyzed: (1) protection of the individual against libel, slander, and inaccuracies, and the adequacy of available legal remedies for these injuries; (2) restrictions on expression which violate the moral standards of the community; (3) protection against internal disorder and subversion; and (4) protection against external aggression. Chafee's careful analysis in this first volume buttresses two of the final proposals of the Commission: First, that an alternative be provided for the present libel remedy in legislation "... by which the injured party might obtain a retraction or a restatement of the facts by the offender or an opportunity to reply." Second, that legislation affecting "subversive" activity be repealed insofar as it exceeds the "clear and present danger doctrine". The second volume views the government in its affirmative role of facilitating the communication of news and ideas, and as a party to communications itself.

Students of government, law and public opinion have reason to be grateful that most of the important aspects of the relationship between government and communication have been brought within the scope of a single work for the first time. The treatment is thoughtful, comprehensive and informed by wisdom derived from a life-time of research and speculation on the legal and ethical problems of freedom and the social order. Chafee's own views were balanced and refined by the varied talents and backgrounds of the members of the Commission, and the many "witnesses" who appeared before it.

Of all the questions discussed in the two volumes the treatment of the problem of what to do about monopoly and concentration of power in the communications industries may excite the greatest controversy. Without minimizing the danger to freedom of communications growing out of the assimilation of the mass communication industries to "big business" and its primarily conservative political tendency, Chafee concludes that there is little, if anything, to be done by government which would not be more dangerous than the present situation. Perhaps the main merit of Chafee's discussion does not lie in any conclusive settling of this problem, but in the fact that it places the entire problem of concentration of power in the field of the press on a higher level of analysis than that which has thus far obtained. On the one hand it does not spare the "Communications Barons" who wave the First Amendment in an effort to cover up their manipulation and subversion of the press and other media. At the same time it places the burden of proof on those who would use the government to break up or regulate this power. Advocates of a more extensive governmental regulation of the content of communications will have to make a more convincing demonstration than they have so far made that they would not be creating a form of power more dangerous than the present private concentration. Similarly, communications "Trust Busters" have still to prove that the breakup of existing communications empires will genuinely improve the efficiency, quality and diversity of the media. It is not through complacency or self-deception that Chafee and his colleagues came to the conclusion that such remedies are of limited value, if they have any merit at all. The danger of the present misuse
of power was carefully balanced against the proposed alternatives, and only after exhaustive and conscientious discussion, did the Commission conclude that the most adequate remedies to this threat to a free society were the development of more discriminating standards of taste in the public, and the strengthening of the professional ethics of the owners and managers in the communications field.

Believers in government regulation may pause when they consider, as the Commission did, that the government already enjoys a practical monopoly in perhaps the most important "communications" field—the educational system. When one recognizes how inadequate (and politically biased!) is the present exploitation of this vast and challenging opportunity for the development of standards of taste, discrimination and qualities of character, one may well hesitate at increasing the governmental share in the field of communication.

That Chafee's position on the regulation of the press was not a product of a general anti-governmental bias, is reflected in Part III where the problem of the government as a "party to communications" is treated. Chafee stresses the importance of the governmental information function both at home and abroad. He describes the function of a government information service in a democracy as facilitative and supplementary. By making information available with regard to its actions and programs the government may be able to carry on its functions with less friction, and in a more effective and economical manner. At the same time such action ought largely to be limited to supplementing and filling out at points where the private channels fail to provide a service adequate to public policy and administration.

The book follows a rather leisurely pace which accounts in part for its exceptional length. Its style is certainly not "curt"; and the slow development of its argument must have produced acute frustration in the financial father of the whole project, Henry Luce. While this reviewer does not suggest that the book would have profited by the dreadful maiming incident to a Time editing job, he does take the liberty of guessing that perhaps a third of its bulk might have been eliminated by a good pruning, winnowing and tightening.

Gabriel A. Almond †


The Utopian sounding title of this book is now a measure of our disillusion with the One World hopes that prevailed when it was finished two years ago. That world has deteriorated to an armed truce. Peoples are not speaking to

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peoples across it. Governments speak to governments or do not speak, as the case may be.

Yet this remains a blueprint for international communication to promote mutual understanding essential to peace. It was the first of the reports of the Commission on Freedom of the Press to be published and was put out ahead of the basic report because of the urgency felt about its problem. The facilities, the organization, the personnel—all the means to expand peace-time communication existed. But nothing was done. The great war-time information agencies were discarded. The immense technical development of international communication in the hands of the military was neither taken in hand by government nor exploited by private agencies. The United States press shrank its foreign coverage and cut down its foreign service corps until in 1947 the entire United States press had fewer correspondents in Japan than the newspapers of London. The press associations refused even a routine service to government to supply outgoing news. William Benton was frustrated by a reactionary Congress in his effort to maintain a minimum flow of American information to strategic areas. Now, ironically, many of the same Congressmen have returned from Europe declaring that the “Voice of America” must have more support—no longer for mutual understanding but as a weapon against Soviet policy. The “Iron Curtain” has kept American correspondents out of some countries altogether and reduced to an official trickle the flow of news from others. The year 1947 found the United States resorting to similar tactics to restrain a French Communist correspondent to the precise area of the United Nations.

It is convenient to blame all this on the Russians, who have more than their share. But it was the intransigence of the American press associations and the indifference of Congress that defeated Benton’s new division of International Information in the State Department. It is the choice of editors that has cut back foreign service and foreign news in all but a few great newspapers. It is through fear of reactionary influences in the press that the State Department has not dared to accept the coupling of press responsibility with press freedom in proposed international agreements for the freer flow of news. This has left us almost as isolated on one side as the Russians on the other from any approach to extending press privileges and abating arbitrary censorship.

The authors combine experience of both press and radio and in both private and public operation. They saw and had a part in the enormous development of world communication on our side in the war. Seeing that understanding among peoples is one of the essentials for peace, they present the problem of obtaining it as two-fold. One side of it is physical facilities—to bring them within reach of all and to penetrate political barriers. The other is to secure that quality of information that will fairly interpret peoples to each other. This they say is the hardest.

“The directors of mass communication media everywhere,” they insist, “must come to regard themselves as being no less responsible for the shape
of the world than Foreign Offices and Parliaments. . . . They must realize that the most readily marketable words and images may not necessarily be the most truthful, and that the responsibility to tell the truth includes the obligation to tell the whole story, even though parts of the story must be published without profit."

Cooperation between government and press they point out is not new, for governments subsidize nearly all communication throughout the world, and the mailing subsidy of the press is no small part.

To secure physical facilities, they propose that all U.S. cable and radiotelegraph companies be merged and joined with government facilities to establish a global network to handle all traffic. They would exempt one company from the merger for press use provided it serve all press users, and also exempt existing radiotelephone facilities.

To secure international regulation of communication facilities, they would have the U.S. cooperate with the International Telegraph Union, which it has never joined.

"Facilities," they sum up, "already exist and the problem is simply to determine how to use them most effectively. Thanks to the war the world never had so many instruments which can be used for improving understanding among peoples."

They propose "a multilateral agreement binding all nations to permit authorized wireless telegraph and cable companies (and airlines as well) to maintain suitable terminal facilities wherever they are required, subject only to the regulations binding domestic companies as to maintain non-discriminatory two-way connections between its own and foreign companies. . . ."

"What can be done to abolish, or at any rate curb, censorship? A logical first step might be to press for a multilateral agreement pledging the signatories to keep newsmen informed of the rules by which they expect to operate and to abide by them." Next step they suggest is "agreement to limit censorship, wherever and as long as it exists, to the open deletion or suppression of dispatches in the presence of the writer." They believe Russia might even subscribe to the "right of appeal by the writer to the correspondents' corps and through it to the United Nations Economic and Social Council."

"A resolute move in this direction might dispose of the contradiction of newsmen asking for group protection while at the same time refusing to organize group responsibility."

Through the offices of Zechariah Chafee, Jr. the United Nations Conference on Freedom of Information meeting in Geneva in April has on its agenda a proposal to study the chances of organizing in all major news centers of the world foreign correspondents' corps with self disciplinary powers.

But missionary work for that needs to begin at home.

Reviewing the failure of American private press agencies to grasp the opportunity to expand the dissemination of news throughout the world or to let the government fill the gap, the authors concede that "the immediate prospects [in international communication] are not encouraging."
The alternatives are two: "either they [private agencies] must discover new ways to cover these neglected areas, or governments ultimately will have to step in and do the job; for, inevitably, the people who elect governments will one day want to see the job done."

LOUIS M. LYONS


When Llewellyn White's book was published in 1947, it was greeted by this reviewer as a major contribution to radio criticism. It is still worth reading, study and careful consideration. But now there is an additional reason why the volume deserves attention. It should be read, studied and given careful consideration not only for what it says, nor merely for the manner in which it speaks its piece, but also as an object lesson. The American Radio and all the effort that went into it appear, at this date, to make up a lesson in futility.

The book's impact should have been colossal. It was addressed to the broadcasting industry, to the Federal Communications Commission and to those laymen who are seriously interested in the professed objectives and actual accomplishments of an industry that does a half-billion dollars' worth of business a year by using the air which belongs to all the people. By and large, laymen have ignored the work, and the FCC's attention has been next to nil. As for the broadcasting industry, it greeted the work with scoffing laughter when it appeared and has apparently forgotten all about its existence by this time. All this in spite of the fact that there is critical integrity behind White's book, the approach is absolutely honest, the research meticulous, the organization of the material is logical, the writing lucid.

It gives an excellent, and truthful, picture of the development of a giant industry that started as a fad and, today, rates above the older media of print and films as a means of reaching all the people simultaneously and influencing their lives politically and culturally. It traces the rise and fall of radio as a vehicle for mass education, shows that there was a time when opposition to the use of radio for direct advertising enlisted the support of Herbert Hoover (then Secretary of Commerce), David Sarnoff (spokesman for the same Radio Corporation of America which today controls the National Broadcasting Company), and even the fledgling National Association of Broadcasters.

It touches upon the powerful financial forces that entered the picture, and upon the timidity of educational institutions that allowed their radio licenses to lapse or to be transferred to commercial interests. It shows, in short, that

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radio was not so much seduced by private industry as given away to a life of
gilded sin by its owner, the people. It's the people who abdicated in favor
of the Ipana Troubadours and the A. & P. Gypsies.

Mr. White makes a valorous effort to recapture radio for the people. He
makes a number of proposals that seem both reasonable and courageous.
Further, his backing could not have been weightier. The distinguished per-
sonnel making up the Commission on Freedom of the Press bolstered the
author's proposals with a series of eight recommendations that, voiced en
banc, toll somberly with all the austere finality of a Supreme Court decree.

Then why has an industry so sensitive and touchy disregarded this work
of big compass and serious intent, emanating from a source presumably so
influential? I suspect that, among the factors that made ignoring of the book
possible, are these: excess of noblesse oblige in the preparation of the work;
overstatement of the broadcasting industry's responsibility for the mores of
a society that deifies advertising as a pre-eminent factor in any design for liv-
ing; and, finally, an over-abundance of idealism in the search for solutions.

White had written three drafts of his book, each successive version being
submitted to the broadcasting industry for advance criticism. Such care in-
dicated superb fairness. But a powerful opponent sometimes mistakes fair-
ness for fear. This is especially true when the opponent himself is fearful.
Broadcasting abhors and fears change; and there is little daring left in the
industry. The result of White's, and the Commission's, method was to take
all surprise out of the author's forthcoming package and prepare broadcast-
ing with its counter-weapon. The defense was made up of immediate ridicule
followed by quick, deliberate forgetfulness. So much for noblesse oblige.

To read the book, one would think that broadcasting was unique in its
reliance upon advertising for its chief source of revenue. As far as radio is
concerned, as White himself shows, this reliance was effected a quarter of a
century ago. It might have been better, certainly it would have been more
realistic, to take that fact for granted and go on from there. Sponsors and
advertising agencies and individual, money-grubbing station owners, and
network executives with eyes strained toward solvency—all of these are in
command of the situation as it exists. Admit that fact, and is there no re-
course? Is nothing left but the impeccable idealism that dominates both
White's proposals and the Commission's formal recommendations?

White gives "first order of priority" to this proposal: "The broadcasters
need to achieve, immediately, that degree of arm's-length relationship with
the advertisers which fairly characterizes all but a submarginal handful of
newspapers and magazines."

Let's accept the compliment to the press and see how the Commission's
formal recommendation would meet the prime need: "We recommend that
the radio networks, radio stations, the National Association of Broadcasters,
and the organizations of writers, directors, and commentators, jointly or
severally, establish the practice of separation of advertising from programs
(this not to prevent the selling and programming of unrelated advertising
announcements preceding or following programs). If the industry or its agencies fail to assume this responsibility within a reasonable time, we recommend that the FCC set up this separation as a regulation or standard of performance to be considered in the license or relicense of stations.”

Here are the missing arcs in this round of futility:

Item: Radio networks, stations and the NAB are not interested in separation of programming from advertising.

Item: Broadcasting is Big Business, and control of every phase of programming by broadcasters would be no insurance against the weighting of programs by the gold standard, as it is done now, by and large, under the aegis of sponsors and advertising agencies.

Item: Even were the radio craft unions and guilds willing to participate in programming, the broadcasters would certainly have a legitimate complaint against interference by labor so long as our present economic system lasted.

Item: The FCC never had enough radicals on the bench to propose such revolution; the agency would be quickly and summarily dismissed by Congress if it attempted to carry out the Commission’s recommendation.

The Commission need not have thrown up its hands. Other more feasible proposals might have been made. Had the Commission chosen only to state the case, then to place its prestige behind the FCC’s own, milder “Blue Book” formulae, it might have achieved some success. The Commission might have gone one step further. It could have suggested that some public service foundation or heavily endowed university go into the broadcasting business on a sizeable scale and act as a yardstick for a better, less-commercial radio. Or it might have made a minute study of one broadcasting operation (e.g., WHCU, Ithaca, N.Y.) which is owned by a university and does try to combine balanced commercialism with civic responsibility. The possibilities were many for a public body with the talent, influence and funds showered upon the Commission on Freedom of the Press. But after the case had been stated by White—too sweepingly in some cases, but with brilliance in other instances, and always with understanding and candor—the CFP went reaching for stars. The denouement was inevitable; it is still away up there, lost in the Milky Way. As far as radio is concerned, the work of the CFP is of only academic interest. It’s sad. But it’s so.

Saul Carson†


The Commission on Freedom of the Press, which consisted of thirteen of the more distinguished minds of our day, recommends that the constitutional guarantee of freedom be extended to motion pictures (which are censored in

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seven states and a number of municipalities); that the federal government break monopolistic control in the vertical structures of movie production, distribution and exhibition; that American communities set up citizens' committees which will be "jealous for" the integrity of the screen; that universities and foundations establish centers for advanced study which will "incite" the public and film producers to "higher standards"; and that a National Advisory Board be formed to propose changes in the famous Production Code—the Index Prohibitorum under which movies have been made in Hollywood for the past eighteen years. The motion picture industry, which has historically been damned for worshipping the god of the box-office, is sagely reminded that "service to good citizenship is often good business as well."

These recommendations appear in a Statement from the Commission which precedes the text of a report by Miss Ruth A. Inglis, of the research staff. The Commission and Miss Inglis unite in ignoring the very movie forms which convey news—newsreels and short subjects—news, moreover, of the precise kind which the Commission set out to examine when it defined its task as an investigation of the role which agencies of mass communication perform "in the education of the people in public affairs." In the judgment of this reviewer, the admonitions of the Commission were irreparably weakened by the failure to expose the egregious shortcomings of American newsreels which, twice a week and every week, purport to give the great mass of the movie audience a picture of the world and times in which they live. The solitary reference to this critical area of communication is couched in language which will scarcely get more than a passing grade for clarity, vigor, or insight: "Newsreels, when fairly selected and adequated annotated [?], contribute to popular enlightenment."

It is worth remembering that during the war the White House, the Government Film Coordinator, the Office of Facts and Figures, and finally the Office of War Information agreed to let the motion picture industry continue to serve an "entertainment" function if newsreels and shorts were converted into channels for the communication of significant information. The one- and two-reel films produced by the film industry, the War Department, and by the British and Canadian governments offer eloquent testimony of the power and potentialities of the non-fictional presentation of events. In terms of its own strategy of influence, which the Commission must surely have pondered at length, it is doubly unfortunate that the Commission failed to recognize the central fact that the men who make policy in movies are much more responsive (because more vulnerable) to criticism of newsreels and shorts than to homilies on feature films, which are singularly costly to produce, extra-sensitive to the slings and arrows of pressure groups, and strenuously defended as the particular vehicles designed to convey fantasy and the non-controversial.

The rigorous analysis of basic principles which characterized the Commission's report on the press, and the scintillating logic which distinguished the
volumes written by Hocking and Chafee, are—alas—missing in Miss Inglis' exploration of the problem of freedom and responsibility in motion pictures. For reasons which will appear below, illustrated by examples culled verbatim from her text, this reviewer is forced to the sad and ungallant conclusion that Miss Inglis confuses assertion with proof and reason with repetition.

The most useful portions of Miss Inglis' report are the chapters which trace the history of attempts to control the screen since 1921, the manifold operations of the Hays (now the Johnston) office, the mechanics of the Production Code Administration under the talented Joseph I. Breen, and the activities of pressure groups, particularly the Legion of Decency. Miss Inglis neglected one of the more significant conditioned reflexes which followed self-regulation in Hollywood as a by-product: the automatic rejection, in the minds and conferences of those who make movies, and before submission to the Breen office, of stories, and ideas which are considered "dangerous," or are assumed to violate the Code, or are believed to offend the taboos and superstitions of self-appointed guardians of righteousness.

Miss Inglis seems to have fallen into a preoccupation with movie morals, rather than movie ideas. There are references in her text to the vapidity of the screen, but they are unsupported by telling examples (which are surely numerous); and there is insufficient recognition of the fact that the number of feet permitted for the photographing of a kiss is of minor importance compared to restrictions on the kinds of human relationship which are permitted treatment in movies at all. In this connection, Miss Inglis is curiously indifferent to some of the extraordinary theological distinctions which the Code imposes on movies as obiter dicta: love is defined as being of two forms, "pure and impure"; baseball and golf are identified as "healthful sports," in contrast to bull-fighting which is said to engender "unhealthy reactions" (this despite the Code proviso, "the institutions of all nations must be presented fairly"); law is dichotomized as "natural and human," and the former—despite the findings of modern anthropology—is defined as "the law which is written in the hearts of all mankind"; and according to Mr. Breen's authoritative ruling, sin is "not a mistake but a shameful transgression" and wrong is "not plausible but deserving of condemnation." As a sociologist, Miss Inglis might have commented upon the type of libido, xenophobia, criminology, and culturally-determined guilt which the Code, a document of great power in the field of mass communication, forces upon movie content.

The central problem of freedom, says Miss Inglis, is one "which has puzzled philosophers and statesmen for centuries":

"How can the public will prevail and order be maintained and, at the same time, dissident minorities have their proper influence for change?"

The problem which has baffled philosophers and statesmen for centuries is disposed of in one swift stroke:

1. P. 173.
"Two solutions have evolved: censorship and self-regulation. A frequently proposed alternative is complete freedom within the broad limits of the penal codes and the laws of libel. But it has been and will be impossible of achievement as long as powerful groups believe freedom would imperil the moral values they cherish. It is an illusory solution. Let us examine the other two."²

That takes care of freedom.

Hollywood's self-regulation is correctly labelled an infringement of the freedom of the screen because it places the decision as to what the public may see in the hands of "a very few people."³ But Miss Inglis' solution, in the final analysis, recommends placing the decision in the hands of a few more people—"including current movie fans."⁴ She urges the administrators of the Code to make sterner use of the $25,000 fine (against producers who evade Code provisions), suggests that rebels be expelled from the producers' association and have their films barred from the theaters of the nation, and concludes that "self-regulation which is truly self-regulation (not regulation by economic coercion) commands our firm support and admiration."⁵ We are not told why a $25,000 fine and economic excommunication are necessary for something which is truly self-regulation and "not regulation by economic coercion." The only clues seem to be Miss Inglis' concern that "the seal of approval might come to lose its meaning" and her belief that it is necessary to put "teeth" into what rude persons might call the false plate of her conclusions.

The author examines the familiar charge that the movie Code is controlled by Catholics. She observes, quite properly, that the history of public outrage against movies suggests that the Code represented the religious rather than the Catholic point of view, and was supported by the Protestant and Jewish clergy. Miss Inglis does not adequately consider, however, wherein the adamant position of the Code today (e.g., on divorce, birth control, homosexuality) is not supported by Protestants or Jews, and is defended, be it noted, only by the conservative sectors of the Catholic church. In this connection one is puzzled by Miss Inglis' repeated statement that "not all" but "only some" of the Code staff are Catholic; since the entire staff consists of only eleven persons the reader may wonder why Miss Inglis did not reveal what the religious composition of the Code Administration actually is.

Miss Inglis reports the charge made by some people that the Code makes it "impossible to treat sex naturally and honestly." This allegation "is fundamental and cannot be ignored." The fundamental and unignorable criticism is despatched in three memorable lines:

"Although the claim has been made many times, it has never been proved. . . . It may be that writers and critics too easily generalize

². Ibid.
³. P. 174.
⁴. P. 186.
⁵. P. 189.
their own reactions. Perhaps the average movie-goer is less know-
ing and thoughtful..."\(^8\)

Miss Inglis exhorts movie producers to "raise the level of audience appreciation." She simultaneously reminds them that "it is poor business not to cater to the desires of the audience." How Hollywood producers, who are notoriously illogical creatures, can raise the level of audience appreciation while catering to audience desires is left for them to solve unaided, in the long, dark days ahead.

Miss Inglis remarks that the future of the motion picture industry depends "upon one uncertain factor—namely, a mass market." But the studies of the Department of Commerce on the elasticity of consumer demand have demonstrated that fluctuations in box-office receipts are substantially less marked than fluctuations in national income, and that the demand for movies is surprisingly stable. One might also observe that in what Miss Inglis calls "the lean years" of 1938-39, the return on invested capital for the five major movie companies ranged from 4 to 13.8%.

In one passage, Miss Inglis looks forward to the day when "the people will reassert their faith in the traditional American value of freedom." How this faith will be fortified by a study which recommends expanded self-regulation over moral and ideational content, armed with economic sanctions, appears to be beyond the purview of her research.

The impertinent reader (one of the prices of freedom is that readers are permitted to be impertinent) may wonder what the Messrs. Hutchins, Hocking, Chafee, Rumil, Lasswell, MacLeish, et al., would say of the following passages:

"The development of Deanna Durbin, Abbott and Costello, and others resulted in better pictures."\(^7\)

"The economics of the motion picture industry...are important realities with which to reckon. Not to do so is either naïveté or an indirect way of recommending the socialization of the movie industry."\(^8\)

Censorship laws are sources of "considerable revenue" and represent "lucrative taxation." Proof: the state of New York has realized over four million dollars from movie censorship in only twenty-six years.\(^9\)

"Real prosperity came only with the second World War in spite of the loss of many foreign markets."\(^10\) But "The loss of foreign markets...would wreak havoc in the industry."\(^11\)

"Governmental censorship often is unfortunate and stupid...but it is not a national calamity."\(^12\)

\(\text{Leo C. Rosten}\)\(^+\)

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8. P. 23.

\(\dagger\) Author, \textit{Hollywood: "The Movie Colony, The Movie Makers" (1941); Deputy Director, Office of War Information (1943); Director, Motion Picture Research Project (under grants-in-aid from the Carnegie Corporation and the Rockefeller Foundation, 1939-41).}