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Laying Low the Shibboleth of a Free Press

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Laying Low the Shibboleth of a Free Press

Abstract

As American newspapers came under various forms of financial strain in the 1940s, arguably the most significant threat facing the industry during this period was an onslaught of media criticism in conjunction with a series of attempted state interventions. This paper fleshes out recurring themes of 1940s media criticism and shows how they coincided with moves toward regulating the press, which had begun in the late 1930s. Using historical methods, including close readings of newspaper, trade press, and activist literature and other materials that shed light on debates around press reform, this critical revisionist history brings into focus a formative period in the American press system's development. The history that emerges from this archival evidence does not simply bring previously under-researched areas into focus; it also questions the presumed natural laissez-faire arrangement between the American government and the press—an assumption that largely remains intact to this day.

Keywords

American journalism, journalism history, media policy, media reform, newspaper industry, political economy

Disciplines

Communication | Journalism Studies | Social and Behavioral Sciences | Social Influence and Political Communication | Social Media

LAYING LOW THE SHIBBOLETH OF A FREE PRESS

Regulatory threats against the American newspaper industry, 1938-1947

Victor Pickard

As American newspapers came under various forms of financial strain in the 1940s, arguably the most significant threat facing the industry during this period was an onslaught of media criticism in conjunction with a series of attempted state interventions. This paper fleshes out recurring themes of 1940s media criticism and shows how they coincided with moves toward regulating the press, which had begun in the late 1930s. Using historical methods, including close readings of newspaper, trade press, and activist literature and other materials that shed light on debates around press reform, this critical revisionist history brings into focus a formative period in the American press system's development. The history that emerges from this archival evidence does not simply bring previously under-researched areas into focus; it also questions the presumed natural laissez-faire arrangement between the American government and the press—an assumption that largely remains intact to this day.

KEYWORDS American journalism; journalism history; media policy; media reform; newspaper industry; political economy

Introduction

The American Society of Newspaper Editors' (ASNE) annual conventions were typically grand affairs. Political elites made dramatic appearances and gave what were later hailed as significant speeches. In attendance were editors from top newspapers, as well as prominent commentators and reporters. At the opening of the 1947 ASNE meeting, however, all did not seem well with American newspapers. In his farewell speech, outgoing ASNE president and *New York Herald Tribune* editor Wilbur Forrest warned the incoming ASNE administration and general membership of a pair of looming threats. Forrest identified the first threat as “the control over the publication of news now exercised by labor union chieftains” whose “manipulation of newsprint supplies and costs” amounted to “a violation of press freedom.” These “little dictators” hold “power unprecedented in our history,” he warned. Labor unions “may shut down one or all of the newspapers in any given community literally overnight ... Vigilance must be constant” (ASNE 1947, 18).

Forrest identified the second threat as government regulation. He decried a “government commission” that questioned “the advisability of granting a radio license to a newspaper because of its alleged opinions on race and religion.” Warning of “government censorship,” Forrest

informed the audience that, “[w]e have knowledge that there is a campaign on foot to tear down the prestige of the American press as an institution in order to obtain government regulation of the press. Is not regulation a step in the direction of control?” (ASNE 1947, 1819). Recommending that ASNE become more aggressive in defending its understanding of freedom of the press, Forrest reminded the audience, “We are ... in an era in which the American press is and will be under attack by those who constantly seek some measure of regulation” (1819). Forrest called for the creation of a “small but active committee to pass on the meaning of the term ‘freedom of the press’” to combat a “decided misconception as to the meaning of that term” (18). He worried that invocation of “freedom of the press” might give “some commissar a round-about hand on deciding what is proper or improper,” thereby justifying a “legislative step” toward regulating “the news columns” (1819). He noted that the “twenty-five or thirty authors who have elected in recent years to needle the press” ignore how the reader is the final judge of press performance. If enough readers “write in and say they are in complete disagreement with the paper,” Forrest argued, it “can give a publisher or an editor the jitters.” Citing record-breaking newspaper sales as evidence that criticism was unfounded, Forrest insisted that the charge that advertisers or any party other than “the daily reader” controls newspaper policy “is just so much outmoded claptrap” (18-19).

A primary cause for Forrest’s fear soon became clear. A shadowy, illegitimate group dismissed by Forrest as “eleven-thirteenths percent pedagogic personnel” and mischaracterized as a “government commission” was seen as an entering wedge for the government’s regulatory agenda against the newspaper industry. The “Commission on Freedom of the Press,” popularly known as the “Hutchins Commission,” was a group of high-profile intellectuals appointed to investigate freedom and responsibility of the press. Based on the trade organization’s reaction, the Commission was seen as a significant threat. Several pages of ASNE’s published proceedings are devoted to Forrest’s lengthy rebuttal of the commission’s press critique, particularly as it related to ASNE’s ethical code. Forrest issued a call to arms for the industry to unite against these outside threats.

Previous Scholarship and Research Questions

Even if he mistook the messenger for the problem, Forrest had legitimate cause for concern. On the surface, indicators suggested a postwar newspaper boom: circulation, advertising revenue, and employment numbers were all increasing dramatically. Yet Davies (2006) demonstrates convincingly that, despite a brief boom, 1945 marked the beginning of a slow downward spiral— what he calls the “Postwar Decline of Newspapers.” Although he does not see the industry in crisis, Baughman (2009) similarly pegs 1945 as the beginning of the “orderly retreat of the newspaper” that was “wounded but not slain”—a pattern extending to the present. Indeed, 1940s newspapers, not unlike those today, faced a sudden rise in local monopolies, spiraling production costs, labor disputes, and public distrust (Davies 2006; Baker 2007).

Analyses of the industry's postwar woes notwithstanding, little research has examined 1930s and 1940s media criticism and state interventions against the newspaper industry, the extent to which publishers feared regulation, and its implications for restructuring the press. Furthermore, while contemporaneous events like the Hutchins Commission have been the subject of much analysis, little work has focused on the broader historical context, particularly the 1940s newspaper crisis (with important precursors in the late 1930s), and a sudden spike in press criticism. While two press histories have focused on postwar media reform and criticism (Blanchard 1977; Marzolf 1991), a closer analysis of recurring themes, tensions, and, specifically, how this criticism coincided with a move toward regulating the press is missing from the literature.

Using historical methods, this study locates and interrogates the historical antecedents that led to a lightly regulated press in the United States. Through close readings of newspaper, trade press, and activist literature, the paper focuses on the anatomy of 1940s press criticism and contemporaneous attempts to regulate newspapers. These texts provide a narrative backdrop for the newspaper crisis, while analyses of archival materials shed light on governmental efforts to regulate the press. The critical revisionist history of a formative period in the American press's development that emerges from these materials does not simply bring previously under-researched areas into focus—it also questions the presumed natural *laissez-faire* arrangement between government and the press. Such a history holds significant implications for our contemporary journalism crisis. Although the precise nature of these crises differs, questions about state interventions against the press have once again come to the fore (Pickard 2011a).

The 1940s Newspaper Crisis and Press Criticism

The mid-1940s saw multifaceted challenges for newspapers. “It is a fact,” stated an editorial in *Editor & Publisher* in 1946, that “newspapers in general have become the national whipping boy” (*Editor & Publisher* 1946b). Looking back at 1947, the trade magazine described how that year had subjected newspapers “to the most searching analysis and criticism in all their history” (*Editor & Publisher* 1948, 17). Similar sentiments were shared across a wide range of other media, trade journals, and journalists' own accounts. That the press was in crisis had become almost a mainstream notion in the broader public. As 1940s press institutions fought for their very legitimacy, criticisms that previously were associated with radical politics were increasingly embraced as commonsensical (Blanchard 1978). Calls for government intervention were on the rise, prompting warnings from all sides that the press must shape up before it was too late. Reformist innovations proposed by the industry, like citizen councils designed to confront the “rising tide of dissatisfaction,” were gaining traction, if only to prevent further public criticism and possible government intervention (*Editor & Publisher* 1946b).

In fact, the newspaper industry faced opposition from all three branches of government. President Roosevelt encouraged the Federal Communications Commission (FCC) to scrutinize

newspaper chains (which were primarily pro-Republican and pro-business) and prevent them from acquiring radio stations; the Supreme Court upheld an important antitrust measure against the Associated Press (AP); and Congress was preparing investigations on the disappearance of small newspapers (U.S. Congress 1947). A severe newsprint shortage, combined with a strike wave by printers unions, served to negate some of commercial newspapers' other gains. One historian notes:

Concentration of ownership had cut in half newspaper competition in ninety-two cities with 100,000 or more population, and one quarter of those were chain newspapers. The nation had fewer total newspapers, more chain ownerships, fewer local features and columnists, and more syndicated columns. A few voices reached millions, limiting the number of ideas circulating and giving undue prominence to those that were amplified. (Marzolf 1991, 153)

That press freedoms were reserved for only those wealthy enough to own a newspaper was just one of the industry's legitimacy problems. While economic and labor problems plagued newspapers' production, criticism regarding newspapers' content drew government regulators' attention. Criticism of press coverage was symptomatic of deeper structural problems tracing back to the "first great newspaper crisis" of the Progressive Era, when the modern commercial press, ensuing contradictions between public service and private profits, and the professionalization of journalism all arose simultaneously (McChesney and Scott 2004; Pickard 2008, 309-321). Placing the 1940s press crisis in this historical trajectory throws into sharp relief its structural origins, suggesting that crisis is coded into the commercial press system's DNA.

Writing in 1949, the newspaper historian Edwin Emery (1950) observed that postwar criticism was "the biggest problem which confronted the daily newspapers of America" (244). The Progressive Era's radical media criticism had expanded beyond dissident elites and socialists like Upton Sinclair to include academics, political dissidents, former journalists, and New Dealers. Activist groups produced their own papers while experiments like the ad-less newspaper, *PM*, were beginning to emerge (Milkman 1997). Commercial newspapers suffered a crisis of confidence amid growing public distrust (Davies 2006, 15-29; Marzolf 1991). Echoing Progressive and New Deal era discourse as well as 1940s radio critiques (Pickard 2011b), press criticism from this era fell into four broad types: structural (issues related to the ownership and control of newspapers), informational (the informational deficits in newspaper content arising from these structural factors), racial (misrepresentations of marginalized groups in newspaper content), and commercial (the effects of advertising and other commercial values on news selection, omissions, and emphases). This social and intellectual milieu of vibrant press criticism contextualizes the reformist push toward regulating the press, newspapers' reaction to these challenges, and the subsequent resolution negotiated in the mid-to-late 1940s in fora like the Hutchins Commission.

Structural Critique

The 1940s structural critique of newspapers is best exemplified by the work of Morris Ernst, who saw a pronounced need for government intervention to remedy structural flaws in the American press system. Ernst's book *First Freedom* — a kind of bible for the growing 1940s media reform movement — took on, in equal parts, radio, film, and newspapers. Ernst described the problem with newspapers in structural terms:

Ten states have not a single city with competing daily papers. Twenty-two states are without Sunday newspaper competition. Fourteen companies owning eighteen papers control about one quarter of our total daily circulation. Three hundred and seventy-chain newspapers own about one fifth of all our circulation. More than a quarter of our daily circulation is absentee-owned. We have a thousand less owners than a few decades ago. Thirty-two hundred weeklies— the backbone of local democracy — have disappeared. One company dominates more than 3000 weeklies. There are only 117 cities left, in our entire nation, where competing dailies still exist. (1946, xii)

To counteract these trends, reformers like Ernst stressed the need for laws preventing joint ownership of media outlets and interlocking directorates, as well as a tax levied against chain newspapers. Ernst recommended a joint Senate-House inquiry aimed at protecting diversity of opinions in the news by maintaining diversity of news organizations, especially among small dailies, weeklies, and magazines. He also proposed structural interventions like tax breaks for small newspapers and forbidding media corporations' vertical integration so that publishers divested their ownership of wood pulp, paper, and forests (Ernst 1946, 249-260).

Much of this structural criticism focused on media monopolies. For example, Villard's (1944) *The Disappearing Daily* came to the conclusion, after 20-plus years of observing newspaper monopolies, that commercial pressures encouraged propagandistic news, poor quality in reporting, and pro-war inclinations. The book attributed the sudden rise of one-newspaper towns to chain newspapers that acquired or drove out smaller papers from the market. The rise of media monopolies alarmed both radical and liberal pamphleteers. George Marion, a Newspaper Guild member, penned a radical exemplar, *The "Free Press": Portrait of a Monopoly*. Marion argued that press freedom was limited to the super-rich who used newspapers to maintain power and accumulate more wealth: "Newspapers being a Big Business, the views of newspaper owners are the views of Big Business." Thus, those who parroted rhetoric about America's press freedoms served as stooges for a corporate elite (Marion 1946, 11). That newspapers presented themselves as victims, Marion insisted, was an utter fraud given the history of government press subsidies like special mailing privileges estimated to cost taxpayers between \$10 million and \$25 million a year, and indirect subsidies including the expanded capacity for news transmissions via publicly-financed telecommunications infrastructure. Beyond sensationalist news coverage, the worst consequence of the press becoming a "Big Business" and "brutal monopoly," according to Marion, was its utility to the "fascist fringe" like that represented by media mogul William Randolph Hearst (20). To contest these trends, Marion called for a more prominent labor press that would "reduce the wavering to which liberal papers tend" and "also combat the commodity-news pattern." Such a paper might "help create an

audience for balanced, trustworthy information . . . [that tells] the truth about the American press — that it is the uncontrolled and unlimited voice of monopoly capital.” Marion concluded that press reform efforts “must operate within the framework of a larger political program. Only a program that understands the necessity for curbing the huge monopolies — even within the limits of the capitalist system — can seriously approach the problem of press freedom” (47). This task placed “the heaviest responsibility upon Marxists and class-conscious workers, manual and intellectual, newspapermen not least among them” (47).

While radicals like Marion emphasized the systemic nature of the newspaper crisis and pushed for structural reform, many liberals were more concerned about protecting First Amendment-guaranteed freedoms. In line with the latter, noted civil libertarian Robert Cushman (1946) authored a post-war pamphlet titled *Keep Our Press Free*. Believing the US press system was essentially just and protected under the Constitution, Cushman’s liberal critique saw the gravest threat to press freedoms from governmental overreach.

Cushman nonetheless felt compelled to conclude by criticizing newspapers’ basic commercial structure. Recounting the Soviet charge that Americans “do not have a free press in the United States because [their] newspapers are controlled by business interests who dictate newspaper policy and determine what the American public shall read,” Cushman allowed that this critique “commands serious attention.” He wondered:

Are there also private threats to the independence of the press resulting from the fact that the publishing of newspapers and magazines in this country has become a very big business? Are we producing newspapers that reflect the political, economic, and social views of the owners and advertisers, and from whose pages are kept news stories and editorials that might offend the owner or advertiser or injure his business? (Cushman 1946, 27)

Conceding that “our newspapers have become . . . giant money-making enterprises,” Cushman noted that 66% of modern newspapers’ revenue came from advertising, meaning “that you and I pay for our advertisers, not by subscribing to them, but by buying the popular brands of cigarettes, toothpaste, or automobiles which advertise in them” (Cushman 1946, 27). Seeing other threats to a free press, including economic concentration, lack of newspaper competition, increased standardization, and homogenous opinion, Cushman suggested that collective legal measures might be necessary. In the absence of any self-correcting mechanism, publishers and press associations “have resisted with all their strength every effort by the government to subject them, as business concerns, to the legal controls which are imposed in other forms of business” (28). He concluded that “freedom of the press remains in danger as long as the owners of newspapers do not regard their business as ‘affected with a public interest’ whether the law imposes that status or not” (30).

Beyond disaffected intellectuals, public disquiet toward newspaper monopolies was also common. In November 1946, well over 2000 Akron, Ohio residents packed into an auditorium for a panel discussion on the question “Is the American Press Really Free?” Broadcast on the radio program *America’s Town Meeting of the Air*, the panel focused entirely on the issue of newspaper monopolies. Panelists included a newspaper editor, the *New Republic* editor, and Morris Ernst, who suggested subsidizing smaller dailies to help reduce media concentration. When the

audience was asked who among them felt that the American press was truly free, only a sprinkling of hands went up (*The Guild Reporter* 1946c; Davies 2006, 25). At a similar town meeting in Cleveland, the reported consensus was that the “press is not keeping faith with the public.” A guildsman participating in the discussion claimed, “Everybody appears concerned about the papers except the publishers . . . They alone seem smugly satisfied with the performance of the properties they own” (*The Guild Reporter* 1949). The panel reflected public cynicism toward the press, but also the resignation of many journalists that the cynicism was justified (Davies 2006, 26-27).

A major component of structural criticism focused on news workers’ labor conditions. Although not as militant as it was in the 1930s, the Newspaper Guild’s weekly paper, *The Guild Reporter*, continued to challenge commercial newspapers and regularly published reports on strikes during the 1940s. It consistently offered radical structural criticism of the newspaper industry, calling out the threat of monopolization and its connections to larger political economic shifts while reflecting a class consciousness largely absent elsewhere in the press (*The Guild Reporter* 1946a, 3). Labor relations abruptly worsened with the postwar printers’ strikes led by the International Typographical Union (ITU) against the publishers. The years 1945-1948 witnessed a spate of strikes; the ITU struck against 78 papers between 1945 and 1947, and 50 in 1948 alone. These strikes were sometimes reinforced by walkouts from other craft unions, which landed crippling blows against dozens of papers in the late 1940s (Davies 2006, 8-9).

Publishers were often ruthless in their retaliation. They developed technological workarounds by experimenting with photo engraving, offset printing, and teletype-setting to bypass human labor (Time 1947; Davies 2006, 10-11). They also lobbied policymakers for advantageous legislation. Tracy (2011) suggests that publishers aggressively advocated for the Taft-Hartley Law to use it against the printer unions, which were among the oldest, most powerful, and most effective craft unions. Taft-Hartley undercut unions’ organizing efforts by outlawing the closed shop, bringing union foremen into management, and transforming the National Labor Relations Board into a kind of strike-breaking agency. “The American Newspaper Publishers Association [ANPA] and its affiliates believe the Taft-Hartley Act has provided weapons to smash the [ITU],” *The Guild Reporter* (1947c) stated. Tracy notes that the ITU strikes were seen as guinea pigs for Taft-Hartley, with Chicago, the site of a massive strike, the definitive battleground. Labor conflict underscored a core facet of the structural critique understood by both news owners and workers: conflicts over controlling newspapers struck at the nexus of political and economic power in US society.

Informational Critique

Many press critics in the 1940s focused on the dearth of quality information provided by the mainstream press. No one better exemplifies the informational critique than George Seldes, who in 1940 launched the weekly *In Fact*, a four-page newsletter devoted to press criticism and investigative reporting. Subtitled “An Antidote to Falsehoods in the Daily Press,” *In Fact*’s circulation peaked at 176,000 subscribers in 1947, and was read widely by union activists. Seldes’s articles typically addressed commercial media omissions and misrepresentations of important social issues like labor relations and economic injustices. Despite wide readership, Seldes was relentlessly red-baited and was forced to close his paper in 1950 (PublicEye.org, n.d).

More mainstream postwar press criticism came from the likes of A.J. Liebling and Don Hollenbeck. Credited with establishing “a professional genre of journalism criticism” through the *New Yorker’s* “Wayward Press” column and the 15-minute weekly radio program *CBS Views the Press*, these two commentators posed both stylistic and normative questions about press ethics and responsibility (Marzolf 1991, 177-183; Davies 2006, 26). Liebling criticized what he saw as formulaic news meant to entertain but not inform. He decried the explosion of one-paper towns, which he likened to a “privately owned public utility that is constitutionally exempt from public regulation,” and a “violation of freedom of the press” (quoted in Marzolf 1991, 179; Liebling 1947). He felt this gross lack of competition forced the individual journalist to toe the publisher’s line, leaving audiences bereft of diverse sources of information. Similarly, Hollenbeck delivered a consistent critique of mainstream media by singling out particular social issues it neglected to cover, often because a powerful interest was implicated. He sometimes supplied Seldes with “information about overlooked news stories, pro-business bias, and other press misdeeds” (Davies 2006, 26).

This genre of press criticism was represented by the *Nieman Reports*, a quarterly journal published by Harvard’s Nieman fellows, which announced itself as “filling a void” (1947, 19). The 1945-1946 class published a noteworthy book of press criticism that portrayed newspapers as failing to serve interests beyond those of their profit-seeking owners (Svirsky 1947). Summarizing contemporary criticism, the fellows noted that many felt that the press was irresponsible, biased in favor of property and privilege, and too narrowly owned and controlled (*The Guild Reporter* 1947b, 7). Because Nieman Fellows were experienced working journalists, they were given attention not automatically bestowed on other critics. The *New Republic* heralded Nieman Reports as “a work that deserves to stand with the valuable current investigations of the same subject by A.J. Liebling and Don Hollenbeck” (*New Republic* 1947; quoted in Davies 2006, 27). Another report by the 1949-1950 fellows criticized the decreasing quality of news writing (*Nieman Reports* 1950). These efforts helped mainstream press criticism; what had been the province of the radical left was now embraced across an ever-widening political spectrum (Blanchard 1978).

Racial Critique

The racial critique of newspapers focused on both media production and representation. While American dailies employed few African American journalists, a vibrant African American press arose to challenge misrepresentations in the national media while advocating for civil rights. As one eminent historian has observed, the number of African American newspapers increased from 150 to 250 in the 1940s. These included the *Chicago Defender*, the *Pittsburgh Courier*, the *Atlanta Daily World*, the *Los Angeles Sentinel*, and the *New York Amsterdam News*. The largest postwar periodicals to emerge were the “picture magazines” *Ebony* in Chicago and *Our World* in New York. A number of smaller press organizations sprang up in the mid-1940s in places like Nashville and Atlanta (Mott 1950, 794-795).

Despite this vibrant journalistic milieu, few African American journalists worked in the mainstream press. As late as 1955, the African American journalist Simeon Booker estimated there were approximately two dozen mainstream African American journalists. Baughman notes how African Americans’ were either segregated to sections in the back of the newspaper or,

especially in the South, restricted to a separate “black star” edition distributed only in black communities. African Americans’ few mentions in mainstream newsprint were often crime-related. And even in the most banal stories, blacks most often lacked courtesy titles of “Mr.” and “Mrs.” afforded to whites (Baughman 2009, 3).

Although other groups felt maligned and misrepresented in print media, African Americans had long sought fairer treatment in the press, pushing to change the practice of identifying African Americans by race in news stories (*Editor & Publisher* 1945). Because many felt this was stigmatizing, some newspapers, like the *New York Times*, changed their policy following the war, a move that attracted the attention of other leading media (*Time* 1946). A *New York Times* (1946) editorial vowed to cease “extending Jim Crowism to the printed page [so as to not help] build up the bad moral climate which does encourage violence among the ignorant, the weak and the vicious.” Noting that in crime stories, “Negroes are often identified, whereas members of other races are not,” the editorial asserted that although “this may seem a small thing” African Americans “do not think so.” The editorial ended righteously: “News that encourages racial discrimination may sometimes be of interest, but responsible journalism has a higher law than a passing interest.”

Racial issues also impacted on labor organizing--both in African American newspapers, whose workers felt particularly vulnerable, and organizers of local industries who depended on racial solidarity and fair news treatment (*The Guild Reporter* 1945a, 1945c). Particularly in the South, papers used racism to combat CIO organizing. The *Guild Reporter* (1946e) singled out one paper because it “engaged in anti-Semitic activities and . . . played on race prejudice” to target specific plants and undermine organizing work. Demonstrating the ties between media structures, content, and political pressure, 1940s criticism also focused on the commercial values permeating news production resulting from advertising’s growing influence on news institutions.

Commercialism Critique

Many commentators noted that newspapers’ dependence on advertising helped shape the news. One bellwether book decrying dangers of an advertiser-dominated press was Harold Ickes’s (1941) edited collection of journalistic essays, which argued that it was every citizen’s duty to criticize the press’s shortcomings. One essayist in the book, Ralph Ingersoll, the founder of the experimental ad-less paper *PM*, described how newspapers should be liberated from “antagonistic interests” like advertising and political pressures. Similarly, the *Rutherford Courier* editor observed that the “framers of the constitution didn’t foresee advertising” as becoming what “newspapers would come to depend for their existence” and thus more reliant on “commercial interests than upon the people at large.” The ad-driven press confirmed the framers’ logic that “newspapers can be expected generally to show an allegiance to that group upon which they are most dependent” (Lasseter 1947, 2).

A number of *Guild Reporter* stories noted advertisers’ increasing power as newspaper ad sales grew to new heights. Approving a Supreme Court decision that ruled misleading ads were not protected by the Constitution, *The Guild Reporter* argued that the newspaper advertisers implicated in the court’s decision were “corrupt and cynical hucksters, intent on bamboozling the public out of ready money.” The article also noted how advertisers “were paying us [the journalists] to do it for them . . . buying columns, and full pages in our papers and magazines.”

While some in the press “gave the matter little thought” and others, “pleased by the tinkling of the cash registers, thought it good,” there were a “few [who] looked ahead and saw that if the free market of thought became the free market of phony goods, there soon would be no market at all.” And if this were to happen, “the public would get tired” and “crack down on the whole mess” (Stokes 1948). While this criticism galvanized the public to confront newspapers in their local communities, the US federal government challenged the newspaper industry on multiple fronts.

Toward Regulating the Press

Much of the 1940s regulatory activism had its roots in the 1930s. While the Newspaper Guild challenged newspapers over fundamental questions of ownership and control from below (Scott 2009), New Deal liberals hatched plans to rein in the industry at the policy level. In 1938, President Roosevelt made the unusual move of issuing a five page letter to the *St. Louis Dispatch* that questioned whether a for-profit press was compatible with freedom of the press (Usher 2009). That same year, the Department of Justice (DOJ) quietly began amassing information on print media concentration. A secret report circulated at the highest reaches of the DOJ reveals the Roosevelt administration’s aggressive tactics toward the press (Confidential Memorandum to Assistant Attorney General Arnold 1938). The first page of this self-described “scouting report on restraints of trade in the newspaper industry” suggested it was ripe for a thorough governmental investigation and possible intervention. Given how industries such as “steel, bread, milk and farm machinery” had been “previously investigated,” the report suggested that a similar investigation of the press, about which “even the informed public knows nothing,” would perhaps “unearth something strikingly new in character.”

The report determined that “newspapers would be ideal” because “the industry is under general suspicion by the public.” “Outside of an inner clique,” the report noted, few understood the structural makeup of the trade; and “the majority outside are curious.” Moreover, the report noted, the industry had thus far escaped close governmental scrutiny, and was therefore “notorious” because its “industrial structure was completely overlooked.” The DOJ was therefore poised to assess the business at a structural level. Cautioning that “the work has had to be done very quietly” and be “limited to government records,” the DOJ’s initial findings were promising. “The [monopolistic] restraints that exist are fundamental to the current organization of the industry,” the report concluded. “They can easily be dramatized; their mere recitation should forever lay low the shibboleth of ‘freedom of the press.’”

This shibboleth came under intense scrutiny as the report cataloged the various “restraints” through which newspapers suppressed competition: a lack of availability of news services, limited to the AP, the Scripps-owned United Press, and the Hearst-owned International News Service; price-fixing by news services (through which some papers were given preferential treatment); connections of the newspaper industry to outside interests, such as investors, leading to the rapid expansion of newspaper chains and vertical consolidation; subsidization by advertisers, which not only influenced news content but could be “gamed” by organizations like the Association of Advertising Agencies (the report noted: “this reliance upon advertising has the effect of placing control in the hands of outside business men without the necessity of their

actually making investments in the industry"); newspaper acquisition of radio stations accelerating at an alarming rate, with "more than a third of the stations in the country identified with newspapers' interests"; and collusion on prices, with the result that "control is considerably concentrated" with "five newspaper chains publishing about 50 papers" that "consume about 40 percent of the total annual consumption of 4,250,000 tons of newsprint."

The report noted concerns about the "'big business' aspect of the newspaper industry," given that "the striking change in the newspaper industry in the last fifty years is the size of the individual unit." The report noted that startup costs for a daily paper in a large city were between \$2 million and \$3 million--beyond the means of any but the wealthiest, especially since "a newcomer must expect to lose money for a year or more while he builds up circulation and entices advertisers." "This fact," the report noted, "has slowly changed the character of the personnel in the business," from partisan to profit-driven publishers, thus "the individual whose interest was focused on spreading his particular gospel and only secondarily on the balance sheet has faded out." "The successful publisher today," the report stated, "is one primarily concerned with making money." It continued:

As a businessman, the publisher reflects the prejudices of his kind. Anything which increases his costs or curtails his profits--the wages and hours bill, the NLRB [National Labor Relations Board], a tightening up of a taxation--is anathema. The trend away from the New Deal can partly be ascribed to the gradual realization among publishers that they too were to help pay the price. While this condition of "big business" exists, the public cannot expect to get impartial stories of the news. (Confidential Memorandum to Assistant Attorney General Arnold 1938)

Among major papers the report claimed "a united front is presented . . . on labor policy," ranging from supporting each other during labor strikes to sharing information on "obstreperous" individuals. "A man who is fired for his union activities," the report noted, "is, of course, 'blackballed'."

The report further focused on the AP's demonstrated or potential abuses. Despite the fact that "the AP describes itself as a cooperative run for and by its members," the report claimed the news syndicate was instead wielding "autocratic control," and should be seen "more accurately [as] a private club controlled by a group of insiders." Referring to its various functions as a "pervasive system of censorship" by an outfit that commanded "possibly a monopoly" in its control of the newspaper industry, the report sketched some of the government's subsequent antitrust arguments against the AP. It also considered investigating advertising's influence by checking "large advertising contracts discovered in the investigation of other industries with the coincident development of favorable stories and editorials in newspapers." The probable effects of advertisers subsidizing newspapers were alarming, but the greatest threat, the report suggested, was newspapers' increasing acquisitions of radio stations.

Although radio's arrival as "an advertising competitor caused consternation in the trade," the report noted that newspapers' worries were "somewhat lifted by a determined policy of acquisition of the new medium." Making matters worse, the FCC had "taken a stand-off position;

though recognizing the problem, they say their job is to regulate radio stations and not newspapers.” The report pinpointed cross-ownership’s dangers: “the news policies of the radio stations are, of course, attuned to those of the publishers and their newspapers.” For example, “Where newspapers have been closed by strikes, the affiliated radio stations have conveyed the publisher’s side of the story; and some libel suits are now pending against newspaper-owned stations by the Newspaper Guild.” The report concluded that “unless this trend is stopped by action of the government, in the next few years the newspapers will own and control most of the radio stations in the country.”

Several years later the DOJ would have its chance to go after newspapers. What began as the DOJ’s first serious attempt to bring the Sherman Antitrust Act to bear on the newspaper industry resulted in establishing some of the most progressive First Amendment judicial decisions in American history. The DOJ sued the AP in 1942 for hindering trade by refusing wire services to the liberal Marshall Field-owned *Chicago Sun* while maintaining an exclusive market contract with the right-wing *Chicago Tribune*, owned by Colonel Robert McCormick. The court case began in 1943 and generated fierce debate. Those siding with the newspaper industry stressed libertarian interpretations of the First Amendment that, they believed, rendered the industry immune to antitrust interventions (Blanchard 1987). Ultimately the case was decided by a three-judge panel in federal district court: the panel ruled two to one against the AP on a relatively novel line of argumentation that was nonetheless supported by important precedents, such as Justice Oliver Wendell Holmes’s contention that democracy required the maintenance of an open marketplace of ideas. According to Judge Learned Hand, this democratic imperative not only superseded newspapers’ interests but also fell under the protection of the First Amendment:

Neither exclusively, nor even primarily, are the interests of the newspaper industry conclusive; for that industry serves one of the most vital of all general interests: the dissemination of news from as many different sources, and with as many different facets and colors as is possible. That interest is closely akin to, if indeed it is not the same as, the interest protected by the First Amendment; it presupposes that right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative process. To many this is, and always will be, folly; but we have staked upon it our all. (United States v. Associated Press 1943)

Predictably, the decision was hailed by progressives; newspapers and their allies condemned it. The decision was appealed to the Supreme Court, where the AP lost again two years later. Arguing that freedom of the press protected all of society, not just media owners, the majority opinion, written by Justice Hugo Black, stated that the First Amendment “rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of free society...freedom to publish means freedom for all and not for some.” “It would be strange indeed,” the court opined, “if the grave concern for freedom of the press which prompted adoption of the First Amendment should be read as a command that the government was without power to protect that freedom.” The necessity of state guaranteed public interest protections in the press was clear: “Freedom of the press from governmental interference under the First Amendment does not sanction

repression of that freedom by private interests” (Associated Press 1945). Although the *Chicago Sun*, which initiated the original suit against the AP, hailed the court’s ruling as “a victory for the American people,” most of the commercial press reacted negatively to the verdict (*The Guild Reporter* 1945b).

Newspapers’ vulnerability was also signaled by maneuvers originating within government’s legislative branch. Congressional critics began to probe newspapers’ monopolistic practices and issue reports in the mid-1940s. One report focused on economic concentration during the war, including concerns about newspaper consolidation: “free critical inquiry and the open expression of opposing points of view comprise one of the essential ingredients of a political democracy.” Thus “citizens in so many communities can buy only one daily paper and that in so many cases these single dailies present the point of view of the same newspaper chain” and “few communities now have more than one version of the news.” Noting monopolistic trends in the press and the prohibitive costs of starting a newspaper, the report concluded that “if freedom of the press is to be had only through ownership of a newspaper, it can, under present conditions, be a reality only for the well-to-do” (reprinted in *The Guild Reporter* 1946b, 3).

Concurrently, the US Senate Small Business Committee announced that it would investigate what it referred to as “obstacles to free competition” (*The Guild Reporter* 1946d, 8). Near the end of his chairmanship of the Committee, Democratic Senator James Murray released a 71-page report, *Survival of a Free Competitive Press: The Small Newspaper, Democracy’s Grass Roots*, which called for federal oversight of and a series of hearings on newspaper ownership patterns’ effects on small publishers. The report drew a dark portrait of a decimated small-town newspaper industry. Instead of speaking in terms limited to economic considerations, it was clear in drawing linkages between a monopolistic newspaper industry and dire effects on American democracy (U.S. Congress 1947).

Murray’s Committee statement put it starkly: “High mortality among daily papers, continued growth of newspaper monopolies and the squeezing out of small local papers and weeklies has posed a major problem for the 80th Congress.” Given that the “future of the small press business is linked with the future of . . . political democracy” and that the “traditionally valued American system of small competing press units is now in such serious jeopardy,” the situation “warrant[ed] the immediate attention of Congress.” “The competitive press is dying,” Murray wrote, because of “the rising costs of entering and operating small newspapers profitably, newsprint and other shortages, and a technological revolution [facsimile newspapers sent over FM frequencies to a home receiver and reproduced on sensitized paper] already diverting revenue from the small papers.” Murray reported that 200 papers consumed 85 percent of the nation’s total newsprint, leaving the rest to be divided among 17,000 smaller dailies (*The Guild Reporter* 1947a, 5). More hearings and possible legislation to deal with the disappearance of small local papers were planned, but later aborted after the Republicans’ 1946 congressional sweep. Senate Republicans instead changed the hearings’ focus to newsprint shortages, and their allies in the trade press dismissed Murray’s report (*Editor & Publisher* 1946a, 26; *The Guild Reporter* 1946d, 8). Although congressional investigation of the disappearance of small newspapers never amounted to a serious intervention, this regulatory activism in conjunction with the aforementioned court decisions alerted the commercial press that its privileged position in society--a position insulated from government intervention--was at risk. An antidote was needed.

Searching for an Antidote

In response to the rising chorus of criticism--from Congress, the Roosevelt administration, the courts, and the public--members of the newspaper industry, from publishers down to working journalists, attempted to professionalize their craft. They endeavored to become "socially responsible" but remain self-regulated, hoping to inoculate themselves against further criticism and, more importantly, government regulatory intervention. For this perception of social responsibility to take hold, a proper forum was needed. The unlikely vehicle for legitimating this norm of social responsibility became known as the Hutchins Commission.

As distilled from several different accounts, the genesis of the Hutchins Commission can be traced back to a casual exchange between two unlikely friends who had been schoolmates at Yale: *Time* and *Life* founder Henry Luce, whom the historian Michael Denning (1996, 84) describes as a "self-conscious propagandist for American business, celebrating investment bankers and corporate leaders on the cover of *Time*," and Robert Hutchins, president of the University of Chicago. In 1943, both men were at an *Encyclopaedia Britannica* Board of Directors meeting and, according to the official narrative, Luce asked Hutchins about freedom of the press and what responsibilities it entailed. Hutchins said he did not know, but would be interested in organizing a committee to study the question if Luce would pay for it (Bates 1995).

Although a charming tale, a more realistic version of the story is that Luce, like other press barons, saw the writing on the wall. The Roosevelt administration and progressive New Dealers had been gearing up to investigate the newspaper industry since at least the late 1930s, and by the early to mid-1940s these efforts were coming to fruition. Criticism from fellow journalists, intellectuals, and other sectors of the public were troubling, but the industry had also recently endured an FCC investigation of newspaper ownership of radio and television stations; the DOJ's antitrust crusade--affirmed by the Supreme Court--against the AP; congressional investigations into the disappearance of small-town newspapers; and moreover, threats to investigate newspapers' censorship and propaganda practices during the war. It was common knowledge that newspapers, reflecting biases shared by many big businesses at the time, had caused considerable grief for the Roosevelt administration with their anti-New Deal coverage and endorsements of its political opponents. Retributions were almost expected. Newspaper trade meetings had become rumor mills predicting how the government aimed to break up newspaper chains, as it recently had or was attempting to do in the radio and film industries. More governmental strikes against the press seemed quite plausible (*Time* 1941).

By 1943, publishers and their ilk had good reason to worry. Given multiple attacks from the intelligentsia, the printers unions, the Newspaper Guild, the courts, Congress, the Roosevelt administration, the FCC, and the public, newspaper owners were awakening to the considerable forces aligning against their laissez-faire privileges. Instead of waiting for governmental intervention, Luce attempted to steal a march. Ultimately Luce would fund about \$200,000 for a commission, allowing Hutchins to enlist a dozen preeminent American intellectuals to define the press's democratic responsibilities. As Blanchard (1977, 3) notes, "the press had reason to welcome the Hutchins inquiry," especially given the detrimental court decisions driving First Amendment protections away from publishers and toward the public. However, publishers did not immediately receive the saving rationales they desired from the industry-funded Hutchins

Commission. Despite Luce's goal to inoculate the industry against governmental regulation, members of the Hutchins Commission, like many 1940s liberal intellectuals, had reformist instincts, and their deliberations would prove to be more than a reliable whitewash.

A detailed account falls beyond this study's scope, but drawing from an analysis that I expand on elsewhere (Pickard 2010), it is clear that the Commission's opinions were fairly conflicted over competing visions of press freedom. After considering a number of alternatives and interventions, ranging from municipal-owned newspapers and government-aided start-ups to aggressive antitrust measures, the norm-setting codes of professionalization established by the landmark Commission would, ironically, help shield the industry from subsequent reform. The Commission ultimately elevated an intellectual rationale for self-regulation based on a libertarian understanding of the First Amendment, one that had been recently dismissed by the Supreme Court. This ethical stance was later codified as "social responsibility" (Siebert, Schramm, and Peterson 1956), and discursively foreclosed on future regulatory efforts against newspapers. The outcomes of these normative debates in the 1940s helped concretize industry-friendly notions of American "freedom of the press." Despite fundamental flaws exposed during a moment of crisis, the press was spared significant structural reform, only to erupt in crisis once again in the early decades of the twenty-first century.

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