

The *Official Bulletin*, 1917–1919: A Proto-Federal Register*

Robert A. Emery**

The Official Bulletin published by the Committee on Public Information during World War I combined the features of an official gazette, authoritatively printing presidential and federal agency documents, and a propaganda sheet boosting the war effort. The Bulletin provided a precedent for the official reporting of federal administrative actions, later achieved by the Federal Register, and an example of the propagandistic manipulation of such reporting, which the Federal Register was specifically designed to avoid.

Introduction¹

¶1 Imagine a *Federal Register* crossed with the *Weekly Compilation of Presidential Documents* and a small-town newspaper, and you've imagined an approximation of the *Official Bulletin* (*OB*), published by the Committee on Public Information (CPI) from May 1917 until March 1919.² The *OB* served not only as an official gazette for the wartime federal government but also as a sort of newspaper reporting on and publicizing America's efforts to win World War I, and, indirectly, as an instrument of governmental censorship. In its first capacity, it was a forerunner of the modern *Federal Register*; in its others, it exemplified what the *Federal Register* was intentionally designed to avoid.

George Creel and the Committee on Public Information

¶2 The United States declared war on Germany on April 6, 1917. On April 13, the Secretaries of State, War, and the Navy jointly wrote President Wilson that:

[T]here is a steadily developing need for some authoritative agency to assure the publication of all the vital facts of national defense. . . .

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** Reference Librarian, Albany Law School Library, Albany, New York.

1. The present article supplements, and does not supersede, John Walters, *The Official Bulletin of the United States: America's First Official Gazette*, 19 *GOV'T PUBLICATIONS REV.* 243 (1992). Walters's article is an institutional history of the *Official Bulletin* as a publication (particularly in the context of congressional reaction to its allegedly pro-Wilsonian editorial policy); mine examines its role as a forerunner of the modern *Federal Register*.

2. Although the *Official Bulletin's* title was changed to *Official U.S. Bulletin* in August 1918, it was generally referred to by its original name. It appeared daily Monday through Saturday in tabloid format, and each issue contained from eight to around thirty pages. Complete sets of the *OB* are fairly rare, but it is available on microfiche and digitally from the Law Library Microform Consortium, <http://www.llmc.com> (last visited Apr. 21, 2010) (subscription required for access).

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It is our opinion that the two functions—censorship and publicity—can be joined in honesty and with profit, and we recommend the creation of a Committee on Public Information.³

The next day the President issued an executive order creating the Committee on Public Information (CPI), made up of the three Secretaries who had written him, and naming George Creel as its chairman.⁴

¶3 The Secretaries' leadership of the CPI was purely nominal—as busy cabinet officers they had no time to manage a public information agency. The real head of the Committee was thus George Creel (1876–1953), a Midwestern journalist, a progressive Democrat in politics, a muckraker by inclination, and a Wilsonian loyalist, with all the force that these words implied in the Progressive Era.⁵ As a good progressive, Creel believed in the power of reported fact to sway public opinion,⁶ but he also trusted to the persuasive power of the nascent advertising industry to indoctrinate, and to the power of suggestive leadership to induce self-censorship by the press.⁷ The *OB*, as the CPI's official publication, reflected all three functions: reporting, propaganda, and media control.

The *Official Bulletin* as Official Gazette

¶4 One of the first CPI bureaus that Creel organized was a Division of News, staffed by professional journalists and responsible for “the collection and issuance of the official news of government.”⁸ In conjunction with this division, on May 10, 1917, the CPI initiated the *OB*, whose “fundamental object” was to be the “official source to which the public could look for authoritative information as to the acts and proceedings vitally affecting their legal rights and obligations”⁹ The CPI's official report on its activities, issued after the war, stated what the *OB* was supposed to contain:

The Bulletin printed . . . [the names of all war casualties and all service people receiving decorations], every communique issued by Gen. Pershing [U.S. commander in France], every State paper, proclamation, executive order, and all statements and pronouncements and addresses by the President There has also been printed every order, pronounce-

3. Letter from Robert Lansing, Newton D. Baker & Josephus Daniels to President Wilson (Apr. 13, 1917), in JAMES R. MOCK & CEDRIC LARSON, *WORDS THAT WON THE WAR* 50–51 (1939).

4. MOCK & LARSON, *supra* note 3, at 51 (citing Executive Order 2594, dated April 14, 1917).

5. For Creel's career up to 1917, see ALAN AXELROD, *SELLING THE GREAT WAR: THE MAKING OF AMERICAN PROPAGANDA* 1–53 (2009).

6. As fellow progressive Louis Brandeis put it when discussing publicity as a remedy for social ills, “Sunlight is said to be the best of disinfectants” LOUIS D. BRANDEIS, *OTHER PEOPLE'S MONEY: AND HOW THE BANKERS USE IT* 92 (1914).

7. For the uneasy combination of function and motive that shaped the CPI, see DAVID M. KENNEDY, *OVER HERE: THE FIRST WORLD WAR AND AMERICAN SOCIETY* 59–78 (1980).

8. GEORGE CREEL, *HOW WE ADVERTISED AMERICA* 71 (1920); the title suggests Creel's approach to the CPI's work.

9. U.S. COMM. ON PUB. INFO., *THE CREEL REPORT* 63 (1920) [hereinafter *CREEL REPORT*]. Throughout its run, the *OB* was edited by Edward Sudler Rochester, formerly managing editor of the *Washington Post*. MOCK & LARSON, *supra* note 3, at 93.

ment, and regulation issued by the heads of the great permanent Government departments; the Food, Fuel, and Railroad Administrations, the War Industries Board, War Trade Board, Alien Property Custodian, War Labor Board, the Postmaster General as Director General of the Telephone, Telegraph, and Cable Systems, and all other independent agencies of the Government. Important contracts awarded, texts of important laws, proceedings of the United States Supreme Court, daily résumé of important actions of Congress, Treasury statements, etc., have been printed from day to day.¹⁰

¶5 This statement of the *OB*'s contents was more aspirational than actual. All the President's official issuances appeared in full, but otherwise the *OB* was definitely a war-oriented publication, not a complete gazette of federal government activity. Actions of the special war agencies (like the War Industries Board) were reported in detail, and many of the official documents those agencies produced were printed in full.¹¹ Actions of ordinary federal agencies (like the Department of Agriculture), however, were usually noted only insofar as they affected the war effort.¹² Congressional proceedings were generally only summarized,¹³ and were reported at length only when war-related.¹⁴ New Supreme Court opinions were listed (by docket number) when released, but only briefly summarized.¹⁵

¶6 *OB* coverage of one wartime agency, the United States Railroad Administration (USRA), provides a good example of the *OB*'s editorial policy. When President Wilson issued a proclamation in December 1917 nationalizing the railway industry¹⁶ to meet a wartime transportation crisis, he created the USRA to run the nation's railroads as a unified, federal system. At first, Director General of the Railroads William G. McAdoo (USRA head and also Secretary of the Treasury and Woodrow Wilson's son-in-law) had no medium other than the *OB* through which to communicate nationwide with his newly acquired staff of railway operatives¹⁷ and with the public.¹⁸ The USRA soon developed its own publication system, independent of the *OB*, to direct its employees and to inform the public of its rates and policies.¹⁹ The *OB*, however, continued to report on the USRA's actions and,

10. CREEL REPORT, *supra* note 9, at 64. The careful, periodically cumulated indexes prepared for the *OB* emphasized this aspect of the publication.

11. *E.g.*, *Regulation of Coal Exports During 1918 Announced by the Fuel Administration Limits Shipments Strictly to War Uses*, 2 Official Bull., no. 203, at 4 (Jan. 9, 1918) (Fuel Administrator directive).

12. *E.g.*, *All Holders of Foodstuffs, Exceeding \$250 in Value, to Report in the U.S. Survey*, 1 Official Bull., no. 196, at 2 (Dec. 31, 1917) (Department of Agriculture directive).

13. *E.g.*, *Proceedings of the Congress of the United States Briefly Told*, 2 Official Bull., no. 203, at 5 (Jan. 9, 1918).

14. For example, a statute extending the President's control over instrumentalities of transportation, 40 Stat. 535 (1918), was printed in its entirety. *Act Empowers President to Operate Street Cars*, 2 Official Bull., no. 303, at 16 (May 7, 1918).

15. *E.g.*, *Decisions and Orders of the United States Supreme Court*, 2 Official Bull., no. 214, at 7 (Jan. 22, 1918).

16. 40 Stat. 1733 (1917). The proclamation was printed in 1 Official Bull., no. 193, at 1 (Dec. 27, 1917).

17. CREEL, *supra* note 8, at 211; *see, e.g.*, *Director General McAdoo Urges Railroad Heads to Speed Up Traffic*, 1 Official Bull., no. 195, at 1 (Dec. 29, 1917).

18. *E.g.*, *Mr. McAdoo Asks Your Help in "Freight Moving Week"*, 2 Official Bull., no. 202, at 4 (Jan. 8, 1918).

19. See U.S. R.R. ADMIN., BULLETIN NO. 4: PUBLIC ACTS, PROCLAMATIONS BY THE PRESIDENT RELATING TO THE UNITED STATES RAILROAD ADMINISTRATION AND GENERAL ORDERS AND CIRCULARS ISSUED

although it discontinued publishing USRA issuances, it faithfully summarized most of them for the public.²⁰

The *Official Bulletin* as Newspaper

¶7 The *OB* insisted that it was “not a newspaper in the accepted sense of the word.”²¹ In reality, however, the *OB* served not only as an official gazette, authoritatively reporting federal government actions, but also as a sort of propaganda sheet, running stories that boosted popular morale and furthered war efforts. Some of these stories would not have been out of place in a small-town newspaper: recipes for wheatless pies and “war plum pudding” (to encourage food conservation at Christmastime),²² or Treasury Secretary McAdoo’s thanks to 102-year-old Louisa K. Thiers, of Milwaukee, for buying a war bond.²³ The CPI’s official policy was to eschew publication of unsubstantiated German atrocity stories,²⁴ although the *OB* did not hesitate to do so if the agency felt them to be sufficiently verified.²⁵ Neither did the *OB* hesitate to report on suspected German subversion within the United States.²⁶ On the whole, however, the *OB* accentuated the positive: popular support for war bond drives,²⁷ women’s contributions to the war effort,²⁸ expressions of loyalty from ethnic minorities,²⁹ and so forth. The juxtaposition of official documentation with Babbitt-like boosterism is sometimes jarring.

The *Official Bulletin* as Censorship Vehicle

¶8 In its capacity as press censor, the CPI was the velvet glove that hid the iron fist of the Sedition, the Espionage, and the Trading with the Enemy Acts.³⁰ As a

BY THE DIRECTOR GENERAL OF RAILROADS TO DECEMBER 31, 1918 (1919), for a collection of its official issuances.

20. E.g., *Mr. McAdoo Establishes Ship Line Service on Great Lakes to Relieve the Car Situation*, 2 Official Bull., no. 288, at 2 (Apr. 19, 1918).

21. “Its single purpose is to assure the full and legal printing of the official announcements of Government heads in connection with governmental business.” *Functions of the Official Bulletin*, 1 Official Bull., no. 11, at 4 (May 22, 1917).

22. *Old Style Xmas Dinner Just Right This Year, Says Food “Censor,” Bidding All Eat Well*, 1 Official Bull., no. 191, at 5 (Dec. 22, 1917).

23. *Woman, 102, Gets Liberty Bond*, 1 Official Bull., no. 44, at 8 (June 30, 1917).

24. This did not prevent the CPI from taking the atrocity route when utilizing other media. It was, for example, behind the production of such cinematic classics as *The Kaiser: The Beast of Berlin*. MOCK & LARSON, *supra* note 3, at 12–13, 151.

25. E.g., *Mask Is Torn from German Duplicity by Cardinal Mercier in Letter to the Governor General of Belgium*, 1 Official Bull., no. 191, at 11 (Dec. 22, 1917) (documenting German use of Belgians as slave labor).

26. E.g., *Revelations Concerning German Propaganda in United States Made in Von Igel Papers Seized by Government Secret Agents*, 1 Official Bull., no. 118, at 6 (Sept. 27, 1917).

27. E.g., *Soldier’s Father Offers His Mite to the Nation*, 2 Official Bull., no. 215, at 5 (Jan. 23, 1918).

28. E.g., *Yeowomen Doing Good Work for Government*, 1 Official Bull., no. 182, at 7 (Dec. 12, 1917).

29. E.g., *Bohemians in U.S. Express Gratitude for America’s Attitude of Sympathy for a Free Czecho-Slovak Nation*, 2 Official Bull., no. 347, at 11 (June 28, 1918).

30. These statutes meant business. See, e.g., *Abrams v. United States*, 250 U.S. 616, 616–17, 624,

Wilsonian progressive, George Creel strongly believed that if the CPI, accurately and in good faith, reported the facts the public needed to know in order to support and further the war effort, the press should, in the public interest, patriotically report those facts only, and print nothing in the nature of facts the public should not know, rumors, or unwarranted criticism that would hinder the government's war policies and measures.³¹ (The fate of publications and journalists that failed to toe the CPI line is rather gruesome to contemplate.)³²

¶9 In February 1918, the *OB* officially published "What Government Asks of Press."³³ Most of the CPI restrictions were obviously required: the press could not publish things such as troopship movements, convoy sailings, or details of harbor defenses. The restrictions "do not apply to news dispatches censored by military authority . . . or in those cases where the Government itself . . . may find it necessary or expedient to make public information Their enforcement is a matter for the press itself."³⁴ When the CPI modified this policy in certain circumstances, the *OB* published a notice of the change.³⁵

¶10 Only rarely did the iron fist peek out. In May 1917, for instance, the *OB* published a stern warning by the attorney general against the circulation of "propaganda" having the effect of discouraging draft registration.³⁶ Given the *OB*'s generally upbeat and positive approach to war news, it only rarely took notice of press criticism of the war effort,³⁷ and indeed, the CPI's press policy spoke only of facts, not of the expression of opinion or criticism. The *OB* published the facts the public needed to know; press comment on those facts, if crossing the line into what the government regarded as sedition, was left to other, more coercive, arms of the state to suppress.³⁸

629 (1919) (sustaining convictions providing twenty years in federal prison under the Espionage Act for distributing antiwar leaflets).

31. See CREEL, *supra* note 8, at 16-27. The CPI officially described this policy as "voluntary censorship." CREEL REPORT, *supra* note 9, at 10-12.

32. A great deal has been written on civil liberties in wartime America. For a trenchant survey, see JAMES R. MOCK, *CENSORSHIP 1917* (1941).

33. *What Government Asks of Press*, 2 Official Bull., no. 225, at 10 (Feb. 4, 1918). The CPI had mailed an earlier version of this policy to newspapers in May 1917. See *Censor Creel Gives Out Rules for Newspapers*, N.Y. TIMES, May 28, 1917, at 1. For more about the policy, see CREEL, *supra* note 8, at 18-27.

34. *What Government Asks of Press*, *supra* note 33, at 10.

35. E.g., *New Order Permits U.S. Soldiers in Camps to Write Freely Letters for Publication and Abolishes Censorship over News Reporters*, 2 Official Bull., no. 222, at 4 (Jan. 31, 1918) (correspondents allowed to write uncensored dispatches from domestic military camps).

36. *Warning by Attorney General Against Efforts to Discourage Registration*, 1 Official Bull., no. 16, at 4 (May 28, 1917).

37. For a rare example, see *Statement by Mr. McAdoo: Secretary Answers Comment on Liberty Loan by New York Newspaper*, 1 Official Bull., no. 38, at 5 (June 23, 1917) ("I care nothing about the vicious partisan attitude of the New York Tribune . . . , but I am concerned about the effect of their false and misleading statements.").

38. See MOCK, *supra* note 32, at 131-52 (describing World War I press restrictions in a chapter titled "At the Editor's Elbow").

Distribution of the *Official Bulletin*

¶11 Although by 1934, according to Erwin Griswold, “few people . . . remember[ed] [the *OB*’s] existence,”³⁹ the *OB* was probably the most widely available newspaper of its time. By August 1918, over 118,000 copies of each daily issue were circulated.⁴⁰ It was sent to 56,000 post offices, to be posted for public inspection; to every military and naval installation at home and overseas; to all newspapers and magazines that applied to be put on its mailing list; to all federal agencies; and to U.S. consuls in foreign countries.⁴¹ Private subscriptions cost \$5 a year, a price set artificially high to obviate criticism that the *OB* was competing with commercially published newspapers.⁴² The *OB* never relied on or solicited private subscribers; despite this, some 16,000 private subscriptions were sold during its course of publication.⁴³

The End of the *Official Bulletin*

¶12 Fighting ended with the armistice of November 11, 1918. In the post-conflict period, when the war effort had ended, there seemed less need for official publication of governmental directives and news, and there was more freedom for criticism, in Congress and by the press alike, that the CPI was a partisan political outfit run in the interests of the Wilson administration.⁴⁴ The CPI was gradually winding down its work when—much to George Creel’s chagrin—Congress abruptly abolished the agency in June 1919, and with it the *OB*, simply by refusing to appropriate any more money for its operation.⁴⁵ Roger W. Babson (the journalist better known for his later career as an investment guru) tried to continue the *OB*, unofficially (although “for a considerable time the legend ‘Official Gov’t News’ appeared on the paper”) and commercially, as the *United States Bulletin*, but that effort lasted only until 1921.⁴⁶

39. Erwin N. Griswold, *Government in Ignorance of the Law—A Plea for Better Publication of Executive Legislation*, 48 HARV. L. REV. 198, 212 (1934).

40. CREEL REPORT, *supra* note 9, at 66.

41. CREEL, *supra* note 8, at 210–11. The *OB*’s official circulation policy was printed under the masthead of each issue; for discussion of the policy, see MOCK & LARSON, *supra* note 3, at 93–94.

42. CREEL REPORT, *supra* note 9, at 67.

43. MOCK & LARSON, *supra* note 3, at 94.

44. AXELROD, *supra* note 5, at 211–13. For the best examination of the rocky relationship between Creel and the CPI on one hand and Congress on the other, see Walters, *supra* note 1.

45. The CPI was officially abolished by Executive Order 3154 (Aug. 21, 1919), *reprinted in* FOURTH ANNUAL REPORT OF THE UNITED STATES COUNCIL OF DEFENSE 56 (1920). For Creel’s views on its abolition, see CREEL, *supra* note 8, at 427–28.

46. MOCK & LARSON, *supra* note 3, at 94–96. After 1921 the *U.S. Bulletin* gradually evolved into the *United and Babson Investment Reports*, which ceased publication in 2001. See Walters, *supra* note 1, at 251; Babson-United, *A Short History*, <http://www.babson.com> (last visited Mar. 19, 2010).

The Official Bulletin and the Federal Register

¶13 The history behind the adoption of the Federal Register Act⁴⁷ is well known and need not be rehearsed here.⁴⁸ The role of the *OB* experience in influencing the nature of the *Federal Register* is, however, worth noting briefly. Early in President Franklin Roosevelt's first administration, both the legal community⁴⁹ and government officials recognized a need for the systematic publication of federal agency issuances.⁵⁰ In 1934, a subcommittee of the President's advisory National Emergency Council (NEC)⁵¹ recommended initiation of a *Federal Register* to contain presidential documents, agency rules and regulations, and similar administrative issuances having the force of law.⁵² It also expressly recommended, however, that the new *Register* exclude anything in the nature of news or editorial commentary.⁵³ Despite this recommendation, the President summarily dismissed the proposal with this statement: "I do not want any federal paper established."⁵⁴ Roosevelt, who had been Assistant Secretary of the Navy in Washington during the war, was obviously thinking of the *OB*.⁵⁵

¶14 Then came the debacle of the *Hot Oil Case*⁵⁶ and Erwin Griswold's embarrassing "government in ignorance of the law" article.⁵⁷ This time around, a *Federal Register* bill was pushed through Congress in short order. Representative Emanuel

47. Federal Register Act, ch. 417, 49 Stat. 500 (1935).

48. James H. Ronald, *Publication of Federal Administrative Legislation*, 7 GEO. WASH. L. REV. 52 (1938), provides a good account of the legislative history. For a behind-the-scenes look at this history, see Lotte E. Feinberg, *Mr. Justice Brandeis and the Creation of the Federal Register*, 61 PUB. ADMIN. REV. 359 (2001).

49. AM. BAR ASS'N, REPORT OF THE FIFTY-SEVENTH ANNUAL MEETING OF AMERICAN BAR ASSOCIATION 552-55 (1934) (highlighting, in the report by the Special Committee on Administrative Law, the "imperative necessity for making the rules, regulations and other exercises of legislative power by federal administrative agencies available at some central office," *id.* at 552).

50. NEW DEAL MOSAIC: ROOSEVELT CONFERS WITH HIS NATIONAL EMERGENCY COUNCIL 1933-1936, at 180-83 (Lester G. Seligman & Elmer E. Cornwell, Jr. eds., 1965) [hereinafter NEW DEAL MOSAIC].

51. For a description of the NEC and its initiation of the *United States Government Manual*, see Mary Whisner, *A Manual "to Inform Every Citizen,"* 99 LAW LIBR. J. 159, 2007 LAW LIBR. J. 9.

52. See Ronald, *supra* note 48, at 64-65. Like many other NEC documents, this report was never printed.

53. *Id.* at 65.

54. Feinberg, *supra* note 48, at 365 (quoting, in a letter to Erwin Griswold, a recounting of President Roosevelt's written message upon being presented with the proposal by advisor Donald Richberg). Charles Wyzanski ruefully wrote to Erwin Griswold, a member of the NEC subcommittee: "He seems to have thought it was something like a federal newspaper boosting the federal government." *Id.* (quoting Letter from Charles Wyzanski, Solicitor, U.S. Dep't of Labor, to Erwin Griswold (Nov. 23, 1934) (on file with the Harvard Law School Library)).

55. OFFICE OF THE FED. REGISTER, THE FEDERAL REGISTER: MARCH 14, 1936-MARCH 14, 2006, at 2 (2006), available at <http://www.archives.gov/federal-register/the-federal-register/history.pdf> (noting that "President Roosevelt laid aside his misgivings about possible misuse of the publication for propagandistic purposes").

56. *Panama Refining Co. v. Ryan*, 293 U.S. 388 (1935). Chief Justice Hughes, delivering the opinion of the court, remarked: "The controversy . . . was initiated and proceeded in the courts below upon a false assumption. . . . Whatever the cause of the failure to give appropriate public notice of the change in the section . . . , the fact is that the attack in this respect was upon a provision which did not exist." *Id.* at 412. For Roosevelt's reaction to this decision, see NEW DEAL MOSAIC, *supra* note 50, at 362-65.

57. Griswold, *supra* note 39.

Celler, primary sponsor of the bill, made a point of stating that the *Register's* publication would be overseen by an administrative committee made up of the National Archivist, a Justice Department officer, and the Public Printer,⁵⁸ thereby avoiding the charge, leveled against the *OB* after the war, that the publication would be directly controlled by the President's minions, and run in the President's political interest.⁵⁹ The bill specified the materials the *Register* would include;⁶⁰ by its silence, it necessarily excluded other materials: namely, the news and commentary that had made the old *OB* so controversial. The CPI's experience with the *OB* during World War I was thus important in two ways: it set a precedent for comprehensive publication of federal agencies' regulatory documents, and it showed that any attempt to go beyond the mere publication of such materials raised a danger of propagandistic manipulation that could discredit the whole publication enterprise.

58. H.R. REP. NO. 74-280, at 3–4 (1935). The President, through the NEC, closely followed progress of the bill. *NEW DEAL MOSAIC*, *supra* note 50, at 419, 452–53.

59. As Rep. Celler stated on the floor of the House, “This bill has nothing to do with the usurpation of bureaucratic power . . .” 79 CONG. REC. 4788 (1935).

60. *Id.* at 4789 (statement of Rep. Celler) (providing a synopsis of the bill).