

It is wicked journalism to quote the hated Baghdad on this controversial issue of importance, while censoring by silence learned American civil libertarians such as Barber, Chomsky, Grieder, Phillips, Schmookler, and Thurow who may concur with Baghdad in this instance. The threat of "total control," was named as the singular issue of concern to Americans, in e-mail sent to the Cultural Environment Movement discussion list, Feb 12, 1996, by Dr. George Gerbner dean emeritus of the Annenberg School of Communications, University of Pennsylvania. This statement followed approval of the Telecommunications Act of 1996, Feb 8, 1996. The new field of global control opened by the WTO telecoms deal greatly exacerbates such concerns.

*End "total control" of GII*

"Total control" of GII must end when the telecoms treaty comes before the US Senate for ratification. Global conquest and oligopoly were of the industrial age. In the 21st-century knowledge age, one may triumph only with people power.

## DOCUMENTS

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### **Text of speech delivered on February 15, 1997, by Wayne Kelly, the Superintendent of Documents, to the Federal Documents Task Force at ALA's Midwinter meeting in Washington DC.**

I'd like to take a few minutes this morning to discuss a growing trend to transfer Federal Government information from the public domain to private ownership.

This is happening in a number of ways. One is for agencies to establish exclusive or restrictive distribution arrangements that limit public access to information. Another is to charge fees or royalties for reuse or redissemination of public information. In some recent cases government publishers have actually assisted in transferring copyright to the new owner.

Let me give you an example. For many years, the National Cancer Institute procured the printing of its *Journal of the National Cancer Institute* through the Government Printing Office. The Superintendent of Documents Sales Program sold subscriptions to the *Journal* and it was distributed to Federal Depository Libraries at GPO expense.

In 1987, NCI made the semimonthly *Journal* a more current, higher-quality cancer research publication. It was heavily promoted by our Office of Marketing in coordination with the NCI staff. By 1992, the *Journal* was selling 6,240 copies at an annual subscription of \$51, and was distributed free to more than 800 selecting depository libraries throughout the nation. It had achieved recognition as "the number one journal" in its field, publishing the best original research papers in oncology from around the world.

In 1993, the National Cancer Institute notified us that they were developing a "Consolidated Services" concept making all print and electronic data information available only through an "Information Associates Program." GPO could no longer sell subscriptions at \$51. The only way to get a subscription was to buy an Associates Program membership from NCI for \$100. NCI agreed

to supply depository copies at the agency's expense. GPO continued to sell individual copies in bookstores at \$7 each. In December 1994, the International Cancer Information Center, publisher of the *Journal*, received a Federal "Hammer" award for its new Information Associate Program.

Then, a disturbing development. Just a few week[s] ago, in a letter dated January 2, our Library Program Service was notified that the *Journal* had been "privatized." Ownership was transferred from the National Cancer Institute to Oxford University Press — USA, Inc. The letter said: "Under the terms of a Cooperative Research and Development Agreement signed by the two organizations, the name of the publication will be retained, and Oxford will assume all responsibility for printing the *Journal* and will hold copyright to the *Journal's* content."

The letter went on to explain that "because the *Journal* is no longer a publication of the U.S. Government, copies of the *Journal* and JNCI Monographs will not be provided to the Depository Library Program nor will sale copies be available at the GPO bookstore." The new price, from Oxford, is \$120 for an individual and \$150 for an institution.

The last paragraph in this brief letter said: "We appreciate the service the Depository Library Program has provided in disseminating the *Journal* and JNCI Monographs for many years."

Looking back, I do not regret that we at GPO invested our resources in promoting the Cancer Journal in the late 1980s. Nor do I regret assisting in the transfer of subscribers to the Information Associates Program in 1993. But I do regret the loss of this valuable resource to American citizens through the depository library program in 1997.

I have here the November 20 issue of the *Journal* which I purchased from the main GPO Bookstore. Maybe this last, public domain issue has some historical value.

Looking through the *Journal*, a number of questions come to mind. I note that the masthead lists some 26 staff members. I wonder if the editorial and news staff is still being paid by the American taxpayer, but working for the Oxford University Press? I wonder if the Oxford Press is sharing revenues from the new, higher subscription rate with the National Cancer Institute? I wonder if copyright will prevent a librarian from sending a copy of an article to another

librarian?

I have no way of knowing the answers to these questions — because the details of the Cooperative Research and Development Agreement are not public information, according to NCI legal counsel.

Unfortunately, this is not an isolated case. There are other recent examples of information gathered by government employees disappearing from the public domain — for a price. I worry that these cases will become precedents and the precedents will set an irreversible trend.

I want to make it clear that I do not question the motives or goals of the agency publishers who take this course. They are doing what they feel is right in a new environment which calls for cutting costs and generating revenues. They are seeking to preserve valuable information.

But what if this new trend drives future Federal Government Information Policy? Since the founding of our nation, the cornerstone of information policy in the United States has been the principle of universal access to Federal information. This principle is being set aside without many of the usual checks and balances in our democratic society: Without any high level policy debate, without clear rules, without thought to unintended consequences, and often without full public disclosure of the negotiations and agreements.

Is all Federal information with sufficient demand going to be sent to market? If so, we should think about what that means.

Does it mean that a Government agency may sell its name as well as its information?

Does it mean that a wide array of private sector publishers will no longer have access to the information to add value and redistribute it to many different markets in different products?

Does it mean the public consumer must pay two or three times as much, or more, for the same information?

Does it mean that agency publishers will focus their attention on more popular, marketable information and eliminate other, perhaps more significant but less marketable information?

Does it mean that programs authorized by Congress will begin to move away from public needs, to focus instead on market needs never contemplated by our elected representatives?

Does it mean Government employees working at taxpayer expense to support the information requirements of private firms? And isn't that corporate welfare?

And what if the *Journal of the National Cancer Institute*, now owned by the Oxford University Press, does not meet the profit goals of the new owner? Does it mean that instead of a "Hammer" award, there will be the "axe" usually awarded sub-par performers in the market place?

Who represents the public in a Bottom-line Information Era?

What is to prevent our nation's bridge to the 21st Century from turning into a toll bridge for Government information?

In 1989, the late Office of Technology Assessment, may it rest in peace, declared that "congressional action is urgently needed to resolve Federal information issues and to set the direction of Federal activities for years to come."

Now, eight years later, there is some talk of legislation to update Federal Information Policy to the Electronic Era. The critical issues at stake today are preservation of official information, public access, Government accountability, and an informed electorate. Americans should not pass up this opportunity to define their own information future.

Those best positioned to know the value and power of information should take the lead. It is not an easy issue for the media because it lacks the essential elements of hot news. It is more significant than sensational.

It is not an easy issue for politicians because there is no visible crisis and framing sound policy seldom delivers votes.

So it may be up to those among us who by nature are reluctant to get out front. Remember those riveting lines of Yeats: "The best lack all conviction, While the worst are full of passionate intensity." Let's not let that happen.

Before it is too late, let the debate begin.

**Statement of Robert L. Oakley, Director of the Law Library and professor of Law, Georgetown University Law Center Edward B. Williams Law Library on behalf of the American Library Association, American Association of Law Libraries, Association of Research Libraries, Special Libraries Association before the Subcommittee on Legislative House Committee on Appropriations on the FY 1998 Appropriations for the Government Printing Office, February 12, 1997**

Good afternoon. I am Robert Oakley, Professor of Law at the Georgetown University Law Center and Director of the Edward B. Williams Law Library. I also serve as the Washington Affairs Representative for the American Association of Law Libraries. I am honored to appear before the Subcommittee today on behalf of the American Association of Law Libraries, the American Library Association, the Association of Research Libraries and the Special Libraries Association to support the FY 1998 budget request of the Public Printer of \$30,477,000 for the Superintendent of Documents Salaries and Expenses appropriations.

*Transition to a More Electronic Federal Depository Library Program*

Recognizing the need to centralize government printing and to establish a mechanism to provide our Nation's citizens with no-fee access to Federal government information, Congress passed the Printing Act of 1895 that established the Federal Depository Library Program (FDLP) within the Government Printing Office. The FDLP has evolved over more than one hundred years to become one of the most effective and successful partnerships between the Federal government and the American people today. The goals of the FDLP are based on principles that Congress and the library community have long affirmed as being essential to our democratic society. These principles