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SCIENCE, now combined with THE SCIENTIFIC MONTHLY, is published each Friday by the American Association for the Advancement of Science at National Publishing Company, Washington, D.C. SCIENCE is indexed in the *Reader's Guide to Periodical Literature*.

**Editorial correspondence** should be addressed to SCIENCE, 1515 Massachusetts Ave., NW, Washington 5, D.C. Manuscripts should be typed with double spacing and submitted in duplicate. The AAAS assumes no responsibility for the safety of manuscripts or for the opinions expressed by contributors. For detailed suggestions on the preparation of manuscripts, see *Science* 125, 16 (4 Jan. 1957).

**Advertising correspondence** should be addressed to SCIENCE, Room 740, 11 West 42 St., New York 36, N.Y.

**Change of address notification** should be sent to 1515 Massachusetts Ave., NW, Washington 5, D.C., 4 weeks in advance. If possible, furnish an address label from a recent issue. Give both old and new addresses, including zone numbers, if any.

**Annual subscriptions:** \$8.50; foreign postage, \$1.50; Canadian postage, 75¢. Single copies, 35¢. Cable address: Advancesci, Washington.

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"Neither snow nor rain nor . . ."

Since 1940 the Bureau of Customs and the Post Office have been impounding mail deemed to be foreign political propaganda. During World War II millions of pieces of mail were impounded and destroyed without notification to those to whom it was addressed. In 1946 the program virtually lapsed, only to be resumed in 1950 when propaganda began to increase with the onset of the Korean War. During the early '50's the policy of not notifying addressees was continued; propaganda was so loosely defined that even works on art, philosophy, and religion, some 19th-century literature, and some scientific and scholarly journals were destroyed. Research libraries, bookstores, and individuals often did not receive books that they had ordered or journals that they had subscribed to.

By 1955, research libraries, universities, and specialists in Asiatic studies had applied enough pressure to persuade administrators in Customs and the Post Office that they had a scholarly need for the materials that were being delayed or destroyed. Accordingly, a "white list" of those eligible to receive such mail was prepared. Material addressed to a professor at his university address would be delivered; that addressed to his home, impounded.

In 1958 the Post Office adopted the policy (still in effect) of notifying all addressees that it was holding mail containing foreign political propaganda—material which, though ordinarily nonmailable, would be delivered to the addressee provided it "has been ordered, subscribed to, or desired, and is not for dissemination." To receive the material the addressee must sign a statement that he has ordered, subscribed to, or desires the publications listed. And what is meant by "dissemination"? Read by two people? Available in a library? Referred to in an article? No one knows.

Still more remarkable, the entire program, from its inception, has had no statutory basis. Congress has passed no law giving the Bureau of Customs or the Post Office the right to impound, destroy, or delay delivery of mail. The legal basis is a 1940 ruling by the Attorney General that depends upon a strained interpretation of two statutes. A *non-registered* foreign agent resident in the U.S. would violate the Foreign Agents Registration Act of 1938. He would thus also be violating the provision of the Espionage Act of 1917 that makes it a criminal offense for anyone "in aid of any foreign government" to have or control papers to be used in violating any penal statute. Such papers are nonmailable under the Espionage Act. The Attorney General then ruled that foreigners in foreign countries who used our mails for transmitting propaganda became *unregistered foreign agents here*, and that their papers were therefore unmailable. If taken literally, this means that the clerk who mails an issue of the *London Times* that contains an editorial distasteful to a U.S. customs or postal official could be regarded as an unregistered foreign agent and the issue could be impounded.

During the two decades in which this legal fiction has been used to justify censorship, numerous efforts have been made to get a court test, but the challenges have so far been successfully evaded. In general, threat of a suit has been sufficient to bring about delivery of the material. But three suits are now pending in the District of Columbia, and it is encouraging that the Department of Justice has asked for an extension of time to permit it to review the entire question.

Regardless of the outcome in these cases, we hope that Congress will review the program and come up with some legislation that will protect the traditional freedom of a citizen in a democracy to decide for himself what to read without having to sign a document, and that will not put him in jeopardy if he "disseminates" what he has read.—G.DuS.