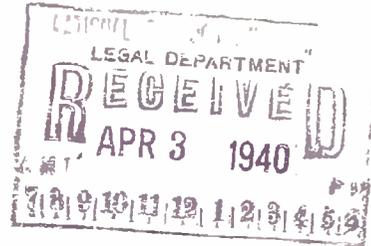


# HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

WASHINGTON, D. C.

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No. 1222

*S. G.* *My* *H.* *J.H.*

April 2, 1940.

## LUNDEEN ASKS PROBE OF FCC ON TELEVISION ORDER

An investigation of the "confusion of orders" by the Federal Communications Commission was asked of the Senate Monday by Senator Lundeen (Farmer-Labor), of Minnesota, as the latest development in the FCC television controversy.

As editorial writers and columnists assailed the decision of the FCC to reopen the television case next Monday, the Commission stood firm.

Senator Lundeen's resolution, which was referred to the Senate Interstate Commerce Committee, follows:

"Whereas the Federal Communications Commission on February 29, 1940, issued an order permitting limited commercial sponsorship of television beginning September 1, 1940; and

"Whereas television interests immediately launched a manufacturing, advertising, and sales promotion campaign; and

"Whereas the Federal Communications Commission on March 22, 1940, rescinded its order of February 29, 1940, with resultant confusion in the minds of the public and causing abandonment of manufacturing, advertising, and sales programs which had, in effect, been authorized by the Commission's earlier ruling: Therefore be it

"Resolved, That the Senate Committee on Interstate Commerce is hereby requested to investigate the actions of the Federal Communications Commission in connection with the development of television and, in particular, to ascertain whether the Commission has exceeded its authority, and whether it has interfered with the freedom of public and private enterprise."

Another indication of Congressional interest in the FCC order was the placing in the Congressional Record appendix an article by David Lawrence, Washington columnist, attacking the television order. The insertion was made by Representative Stefan(R) of Nebraska.

Asserting that the FCC order, if sustained, will add to the unemployment problem, Mr. Lawrence charged the Commission with "usurpation of power" and "arbitrariness".

In a subsequent column Mr. Lawrence said that the Supreme Court decision in the Sanders case clearly showed that the FCC has no authority to regulate the business activities of the radio industry. The FCC, he added, should rescind its order immediately "and let the American people have television".

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David Sarnoff, President of the Radio Corporation of America, called at the White House last Friday and talked with President Roosevelt regarding the FCC order but made no comment. officials at the FCC expressed the belief that the President would back up the Commission.

As other pioneers in the television industry protested the FCC action, Lewis Allen Weiss, Vice President and General Manager of the Don Lee Broadcasting System, and Harry R. Lubcke, Director of Television for Don Lee, started for Washington to represent Thomas S. Lee's W6XAO, Los Angeles television station, at the hearing next week.

As editorial writers in the leading newspapers condemned the FCC action, Edgar Jones, radio news writer, in a letter to the Washington Post came to the defense of the Commission.

After pointing out that a television receiver might be made obsolete overnight by a change in the number of lines used in transmission, Mr. Jones said:

"If receivers in their present state were sold widely and such a change did come about - to blackout existing public investment - no doubt your editorial writer would dash off a piece on Government responsibility for preventing blue-sky sales.

"Television will have to forge ahead, but since it is an unknown and untried development and since its use depends upon a thumping public investment, it will have to go forward at a snail's pace. The FCC in this case appears to be right in its insistence for caution."

Industry observers generally regarded the FCC action as unwarranted. The Commission, meanwhile, was none too happy under the barrage of criticism. An observer close to the Commission commented that the members were "acting like a bunch of wild men" and there were indications that the FCC majority might "crack down" the harder on the Radio Corporation of America once the inquiry begins.

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#### WSAL LICENSE REVOCATION AFFIRMED

The Federal Communications Commission has affirmed its order revoking the license of radio station WSAL, Salisbury, Maryland, effective at 3 A.M., March 31. In doing so, it adopted its proposed findings of fact and conclusions of October 24, 1939, with supplement and modification.

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FIVE RADIO PROGRAMS CITED ON LOTTERY CLAUSE

Five radio programs deemed to violate that section of the Communications Act prohibiting lottery broadcasts were last week referred to the Attorney General by the Federal Communications Commission.

They are "Musico", broadcast by Station WGN, Chicago; "Songo", broadcast by Station WIP, Philadelphia; "Especially For You", broadcast by Station WFIL, Philadelphia; "Sears' Grab Bag", broadcast by Station WISE, Asheville, N.C., and "Dixie Treasure Chest", broadcast by Station KRLD, Dallas, Texas.

"Musico" is sponsored by the National Tea Company, Chicago. Cards are supplied by National Food Stores and other sources. Each card has five rows of squares and five squares in each row. Names of songs are involved. To win a cash prize in this "game" one must be lucky enough to get a card with the songs listed that are broadcast, must listen to the program broadcast, and must fill out or check the correct names of the songs or musical selections broadcast, and must be the first to telephone the answer to the radio station.

"Songo" has similar characteristics, employing cards furnished by the Nevins Drug Company, Philadelphia.

In "Especially For You", a wheel is spun to determine from Philadelphia and suburban directories the person who is to be given a chance to win a Farnsworth radio. If the party selected has a telephone he is called. If he answers the phone and answers two questions satisfactorily, he receives a radio. If he does not respond correctly, he is given two tickets to "Mystery History", a network show.

"Sears' Grab Bag" involves a box of numbered slips of paper placed in front of the Sears' store in Asheville. The advertising manager of the store selects the numbers. If the holders of the numbers are in the broadcast audience they receive prizes. If they are not listening in the nearest numbers get the prizes.

In the "Dixie Treasure Chest" program the announcer selects a number from the Dallas telephone directory. If the party called answers the telephone he or she is asked, "What is the color of the border of the Dixie Margarine package?" If the party answers correctly, a prize of fifty dollars is the stake.

As in the case of Tums "Pot O' Gold" and the Mead's Bakery programs previously referred to the Department of Justice, complaints allege that such gifts by chance, and public announcements of them, violate Section 316 of the Communications Act which bans broadcast of "any advertisement, or information concerning any lottery, gift enterprise, or similar scheme."

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## RADIO WOULD PAY ASCAP \$8,500,000 IN '41, SAYS MILLER

Acceptance of the terms of the American Society of Authors, Composers, and Publishers by the broadcasting industry would cost radio \$8,500,000 in 1941, according to an estimate by Neville Miller, President of the National Association of Broadcasters, in the current NAB Reports.

Due to several indefinite features of the ASCAP proposal it is possible only to estimate what it would mean to the broadcasters in dollars and cents, NAB said.

The radio industry paid ASCAP \$3,878,752 in 1937, the most recent year for which figures are available. Under the ASCAP proposal, broadcasters would have paid \$6,508,036.

Projected to the business reasonably expected in 1941, NAB estimated that the proposal would require payment of \$8,500,000 in that year.

In a "Letter to All Broadcasters", Mr. Miller said:

"In spite of the taunts and sneers of ASCAP, BMI, only recently organized, forced ASCAP's hand and proposals intended to be made public in December, 1940, were announced on March 21st. Although, upon first reading, these proposals may appear attractive, especially to the small stations, a careful study reveals that it is ASCAP's purpose to divide the industry so as to levy increased tribute. Also, by the continuation of the blanket tax on gross receipts, eliminate the incentive to the development of non-ASCAP music and thereby perpetuate ASCAP's monopoly in the music field.

"The proposal, although indefinite in many aspects, is sufficiently definite to outline ASCAP's general views concerning the terms for renewal of licenses, and the proposal, plus ASCAP's actions, clearly indicates that although lip service is given to the idea of negotiation, in effect, ASCAP has summoned its largest customer to another Munich and dictated the terms of surrender.

"In studying the proposal, it would be well to keep in mind at least the following facts. Briefly analyzed, ASCAP's proposal demands a payment of approximately \$8,500,000 for 1941. This means that, considering the reasonable expected increase in business, over the next ten years broadcasters will pay a total of at least \$100,000,000, not for the purchase of ASCAP catalogues, but merely for the use of same. Without consideration of the stations' views, operating problems or other interests, and without consultation with the industry, ASCAP rejects the 'per program' basis of payment. We shall continue to pay on news broadcasts, sports events, programs of classical music and other programs containing no ASCAP music. Regardless of the decline in the use of music, we pay the same percentage; regardless of the popularity or merit of ASCAP music or the development of other sources of music, we pay the same percentage of our gross to ASCAP.

"ASCAP recognizes the principle of clearance at the source, but without any consultation with the industry as to a feasible or equitable plan, announces a plan designed to divide the industry into warring groups. No one group within the broadcasters' ranks is obligated to fight the battles of any other group, yet we know that the interests of all are related, that an additional burden of \$3,500,000 placed upon the industry, regardless of where it first falls, later adjustments will spread the burden over most of the industry. The networks have definitely stated that they cannot accede to the terms and the question immediately arises of the value of an ASCAP license to the affiliates and even to the independents if ASCAP tunes are not played on the networks.

"Last July, the broadcasters decided to definitely solve the copyright problem, BMI has been incorporated, 284 stations have pledged \$1,253,189.05, a staff has been organized, contacts made within the music field, and we are on our way for once to really constructively solve one of our most troublesome problems. The real danger which threatens the industry today is that the apparent attractive features which are dangled before the industry in the ASCAP proposal may tempt some to accept temporary benefits rather than to continue the fight for a permanent solution.

"My advice to each broadcaster is to study the proposal carefully, especially regarding the effect upon affiliates in the absence of any agreement between networks and ASCAP, the effect upon independents in the absence of agreements with networks and affiliates with ASCAP, the effect upon our efforts to ever secure a 'per program' basis of payment and the opportunity to develop non-ASCAP music, and the effect upon BMI.

"In the future, we shall have other problems to meet on an industry wide basis. BMI has already produced some tangible results. Shall we grab the first benefits and live to regret not ascertaining the full possibilities of industry wide cooperation?"

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NEW "SUN SPOT" ATTACK SCHEDULED APRIL 20

Stricken with a hangover from Easter's seizure of sun spots, short wave radio and telegraph lines Monday were reduced again to sporadic attacks of gibberish. The tangled communications were nothing, however, to what may be expected about April 20. Then, when the sun has made one of its 27-day revolutions, the agitated face it presented Easter Sunday will bear once more on the earth. Should the sun spots still be present, according to Dr. John A. Fleming, Director of the Bureau of Terrestrial Magnetism of the Carnegie Institution, a slightly milder repetition of the Easter disruption of communications will result.

Monday's surge of earth currents, which affected short-wave radio and all grounded wire circuits, followed what Dr. Fleming described as a "flare" on the sun Thursday.

Radio reception from Europe was disrupted and trans-Atlantic telephone service was silenced but regular broadcasting programs went ahead as usual. The telephone company reported no disturbance on its lines.

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## A. T. & T. FOREIGN COMMUNICATIONS SERVICES EXTENDED

The American Telephone and Telegraph Company has been authorized by the Federal Communications Commission to augment overseas point-to-point telephone service from its transmitting station at Lawrenceville, N. J.

The company's license was modified to permit the use of seven frequencies (7315, 10110, 10560, 14615, 15395, 18370 and 21310 kilocycles) to provide additional facilities for public service to Europe and South America, and a construction permit was issued for two additional transmitters and one power amplifier to enable that station to do this work.

Subject to provision to prevent interference to other stations, WMA-2 (7315 kc), WMA-3 (10110 kc), WMA-5 (14615 kc), and WMA-7 (18370 kc) will operate in transatlantic service, while WMA-4 (10560 kc), WMA-6 (15395 kc) and WMA-8 (21310 kc) will be used in South American service.

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REALLOCATION WORK STARTS AS TREATY IS FILED

Engineers of the Federal Communications Commission started work this week on drawing up preliminary reallocation orders for the FCC based on the Havana Treaty as the document became operative with the filing of a signed copy by Mexico at Havana last Friday.

Completion of the reallocation lists is expected within a few weeks although FCC engineers are still occupied with frequency modulation and television technical problems.

While the FCC has renewed all licenses of standard broadcast stations to expire as of August 1, it was predicted that because of the many variables involved this deadline could not be met. The date may be postponed until Fall or early Winter.

All of the nations parties to the Havana agreement, worked out in 1937, must submit their revised allocations to the Cuban Government before any final shake-up is effected. As conflicts in allocations are expected, an engineering conference probably will be held shortly after filing of their lists by Canada, Mexico, Cuba and the United States. With that accomplished, the nations can mutually agree upon an identical effective date, or time when all stations will assume their new assignments.

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## FARMER'S RADIO IN DANGER, CONGRESS IS TOLD

Calling attention to what he termed "a new type of bureaucratic domination now being attempted in Washington", Representative Andresen (R.), of Minnesota, this week inserted in the Congressional Record appendix an article from the April issue of the National Grange Monthly with the heading "The Farmer's Radio in Danger".

"Radio broadcasting service to American farmers is in jeopardy, according to reliable information in Washington", the article stated. "With more than 70 percent of the farm homes of the Nation dependent upon service from 'clear channel' radio stations, it is reported that there is a possibility that the Federal Communications Commission, the body that regulates radio, may curtail these stations in order to give more service to the big cities.

"It has well been said that 'eternal vigilance is the price of liberty'. This truth applies to the threat confronting the farmers and other remote radio listeners. While our liberty is not involved in the customary sense, the right and opportunity of farmers to hear the Nation's best radio programs at night is at stake.

"The danger to radio listeners living on many farms and in remote areas springs from the possibility that the Federal Communications Commission may abandon its heretofore consistent policy of having 'clear channels'; that is, certain channels on which stations of high power render radio service over wide areas....

"Under all the circumstances, farmers and others who dwell in the big open spaces of the country should become vocal. It would be entirely proper for residents of the rural districts to write the Federal Communications Commission, Washington, D. C. requesting that nothing be done to impair the fine radio service we now have. The point should be emphasized that clear-channel radio service for people living in small towns and in the rural sections is just as necessary today as it ever was."

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MONOPOLY REPORT'S APPROVAL DELAYED INDEFINITELY

Another postponement in the release of the Federal Communications Commission's Monopoly report was forecast this week as new complications arose. The report, already a year in the making, may be tied up indefinitely, it was learned.

Although the report has been back and forth between the Committee which conducted the inquiry and members of the FCC staff several times in the last few months, it is again before the Committee, and it will be at least a month before the Committee can meet on the matter again, it was said. The Commissioners are not inclined to discuss even the possible time of its completion.

Both Committee Chairman Thad H. Brown and Commissioner Frederick I. Thompson put it in the very indefinite future.

As originally written, it was learned, the report had a number of recommendations for obtaining control over operation of the broadcasting chains now outside the Commission's jurisdiction. One, it was learned, dealt with control of contracts between chains and their affiliate stations by requiring FCC approval.

The original draft of the staff report has been rewritten several times, it was said, and one of the drafts has even been to the White House, and now is back with Chairman James L. Fly, the only other FCC member to get a copy aside from Committee members

One explanation of the delay on the report is that many collateral matters are being developed before the Commission, and results of these inquiries will give the report strength if and when it is presented. Former Chairman Frank R. McNinch promised it to Congress months before he resigned, and Mr. Fly, in the course of questioning before the Senate Appropriations Committee in January promised it in a few weeks.

Chairman Fly said, however, that many conditions had arisen which have prevented Committee consideration of the report. One was that matters requiring attention of the Commission had kept the Committee from meeting, and the other was that Commissioners had to be out of town on various other matters.

There have been changes in the Committee since the investigation, which included six months of public hearings, was started. The original committee consisted of Chairman McNinch, Commissioners Brown, Eugene O. Sykes and Paul Walker. Commissioners McNinch and Sykes resigned, and only one place on the Committee was filled, that of Judge Sykes, whose place was taken by Frederick I. Thompson.

The staff work was completed early last Fall. Because of the rather broad recommendations for controlling big business, it was said there have been wide differences in the Committee, with the majority, favoring broad control of the chains.

Commissioner Walker left last week for the Pacific Coast where he is to conduct hearings on telephone rate cases, and it was said it will be a month before he returns during which time there will be no consideration of the report. It was said the members are not disposed to consider such a drastic measure without having the full Committee present.

Without considerable revision of the Communications Act by Congress, it was asserted, the Commission is without authority to put into effect any reforms it might deem desirable to get control of the broadcasting chains. And this was emphasized in the Supreme Court opinion in the Sanders Bros. case in which Justice Roberts drew a rather close line as to the jurisdiction of the Commission.

MILLER NAMES ASSISTANT; SPENCE QUILTS NAB

C. E. Arney, Jr., Public Relations Director of KOMO-KJR, Seattle, has been appointed as Assistant to Neville Miller, President of the National Association of Broadcasters, effective April 1, it was announced this week.

At the same time, NAB announced that Edwin M. Spence, Secretary-Treasurer of the NAB, has presented his resignation to the Board of Directors. The resignation is to become effective May 1.

Mr. Arney, who received his grade school and high school education in Pocatello and Boise, Idaho, and Washington, D. C., was graduated with an LL.B. degree from the University of Washington in 1915. He spent the next three years in the United States Attorney General's office in Washington. He then returned to the Northwest where he engaged in association work with various organizations until 1932 when he became editorial commentator and news reporter on Station KOL. Since then he has engaged in various radio activities, including the conducting of radio programs from the State Capitol.

Mr. Spence has been Secretary-Treasurer of the NAB since its reorganization in 1938. He is one of the oldest members of NAB and served as a member of its Board of Directors for many years and was Vice-President of the Association in 1930-31. He also has been Chairman of the Annual Convention Committee for the past fourteen years.

Recently in association with Stanley Horner and Dyke Cullum, both well-known Washington residents and business men, he formed the Capital Broadcasting Company and applied for a license to operate a local, full time station in the District of Columbia. Mr. Spence will be General Manager in charge of the station if the FCC grants the application.

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THREE TYPES OF SHIP AUTO ALARMS APPROVED

As a result of extensive tests, the Federal Communications Commission has approved three types of ship auto alarms as complying with requirements promulgated by the Commission in 1935. They are Mackay Radio and Telegraph Company types 101-A and 101-B, and Radiomarine Corporation of America model AR-8600. The approval is effective April 1 for a period of seven years.

"The Commission recognizes that the art of radio communication is in a state of rapid development and that improvements to automatic alarm receivers may be expected", an FCC spokesman said. "For the time being, however, the alarms just approved are capable of meeting the requirements of the Commission applicable to such

equipment as used on board cargo ships in compliance with the Safety of Life at Sea Convention, London, 1929, and Title III, Part 2, of the Communications Act."

At the same time the Commission modified its Ship Service Rules 8.164 and 8.212 and adopted two new rules, 8.131 and 8.168, in connection with the final approval of existing ship auto alarm equipment.

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LA GUARDIA THREATENS TO GO OVER FCC'S HEAD

Mayor Fiorella LaGuardia of New York on Friday threatened in an FCC hearing to "see Congress" if the Commission refuses to extend the operating hours of WCNY, New York's municipally owned radio broadcasting station.

The colorful mayor spoke caustically of some programs on the commercial stations.

Testifying at an FCC hearing, the Mayor surprised a packed room when he asked dramatically:

"What will happen if we go on the air anyway - without your permission?"

Trial Examiner R. H. Hyde appeared taken aback and offered no reply.

Station WCNY now has a temporary license for operation from 6 A.M. to sundown. Mayor LaGuardia, who testified that as Mayor he directed this non-commercial station in the interest of New York citizens, asked for an extension of the operating time to 11 P.M.

Opposing him at the hearing were attorneys for Station WCCO, of Minneapolis, a Columbia Broadcasting System outlet which is on the same operating frequency.

"A publicly owned station, operating in the public interest, should take precedence over a private commercial station", Mr. LaGuardia shouted, coincident with an attack on the big broadcasting companies for their "arrogance". "They need a good dressing down", he said of the major networks. "The quicker, the better for the American people."

Previously Mayor LaGuardia insisted on making a speech, which was stricken from the record at the instance of the opposing attorneys, eulogizing the public service rendered by his station in disseminating everything from market produce information to the housewife to broadcasting spiritually elevating and educational programs.

"Some of their programs are darn good, but some are terrible. In fact, they're lousy", he said of commercial programs. "Our programs are not connected with soap, toilet water or breakfast foods. We don't get a dime for our time."

Mr. LaGuardia came to the hearing armed with two copies of the Congressional Record, from which he read liberally.

"Like all former Congressmen", he cracked, "you'll notice I'm only quoting my own remarks. . . . I never thought any of this stuff would ever become useful." He read excerpts from his House remarks in 1926 dealing with governmental powers over radio.

In cross-examination, Mayor LaGuardia chided the Columbia-owned station for opposing him.

"You shouldn't be here in the first place", he replied to a pointed question from Attorney Duke Patrick. "It certainly is very bad taste for Columbia to come here to oppose the City of New York."

He described the whole procedure as contrary to the spirit and intent of the law.

"If the law doesn't suit you, then you claim you're going to take other action?" he was asked by Patrick.

"You bet I am", the Mayor replied. "I'm going to take it before Congress. It's the right of every American citizen."

The hearing was adjourned to April 10, when engineers will argue the technical aspects of the New York station's request.

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#### RADIO ADVERTISING HOLDS LEAD IN AD GAINS

"Despite the fact that the business indices which were soaring in the last quarter of 1939 have been declining, national advertisers appear to be regaining confidence rapidly and a fairly well-sustained spurt in ad expenditures is under way, agency men remarked yesterday", the New York Times, business page, commented this week. "The gains are still confined to the flexible media, newspapers, weekly magazines and radio, but April issues of the monthlies are making a better showing than did the March publications.

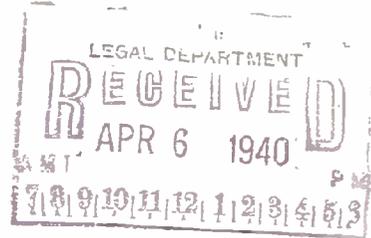
"Newspapers and radio had good gains in February and indications are that March will also show fairly substantial increases over a year ago. The automotive, electrical appliance and cigarette fields are contributing most to the upturn with sharply increased campaigns. Makers of toilet goods and foods are also expanding their budgets. The foreign situation and the so-called uncertainty of a presidential year still bother advertisers but they have apparently come to the conclusion that a considerable volume of business can be done, if they go after it, agency executives said."

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No. 1223

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## TELEVISION COURSE IN DOUBT AS HEARING NEARS

The Federal Communications Commission stated this week that the television hearing scheduled to begin Monday, April 8, at 10 A.M., will be open to all interested parties so that the subject may be explored from every angle.

There was an unusual lack of confidence in the speculation of radio industry observers as to the outcome of the inquiry ordered by the FCC because of the promotional activities of the Radio Corporation of America.

While there were indications that the FCC might be ready to come to an amicable understanding with the RCA and other television licensees and permit its former order to stand, persons close to the Commission said that Chairman James L. Fly and the other three members who voted for the probe are still determined to "crack down" on RCA.

Likewise there were contradictory rumors as to the attitude of President Roosevelt in the controversy. One report was that he was backing the FCC majority, while another held that he had told Chairman Fly to settle the matter without any further fuss because of the avalanche of press criticism of the Commission's action.

The FCC in a statement outlining the procedure of the television hearing, which will be held in Room A of the Interstate Commerce Building, said the purpose of the inquiry is two-fold, to determine:

"(1) whether research and experimentation and the achievement of higher standards for television transmission are being unduly retarded by recent promotional activities, requiring any additions, modifications, revisions, or amendments of the rules adopted February 29, 1940, governing television broadcast stations, or other action by the Commission; and

"(2) whether the effective date for the beginning of limited commercial operations set forth in Section 4.73 Subsection (b) of the Commission's Rules and Regulations should be changed from September 1, 1940, to some subsequent date.

"The Commission desires to hear all parties who at the January 15 hearing offered testimony that they were carrying on substantial research tending toward improvement in broadcasting of television", the FCC statement added. "The evidence of such parties should, in summary form, state the scope of their present television experimentation in terms of subject matter, staff, and time devoted to the same and should indicate what proportions of

such work are directed toward technical ends and toward commercial production. This information should be broken down with respect to the periods prior and subsequent to March 1, 1940. Any changes made or under consideration as a result of sales promotional activities should be stated.

"General conclusions should be offered as to the prospects for improving the performance of television broadcasting but descriptions of recent improvements are desired only if they have taken place since the date of the original hearings or are the final results of previous experimentation. Evidence will be received also as to the effect of the above matters on the prospects for higher transmission standards and as to whether there has been any retardation of progress. Parties are also requested to express their views, based upon the facts on the foregoing matters, as to the appropriate date for commencing limited commercialization.

"No invitation is extended to parties who did not appear at the hearing of January 15, 1940. Limited testimony may, however, be accepted from new parties upon a showing that they are engaged in substantial research and have evidence bearing upon the above matters which includes information not heretofore presented to the Commission and which relates to the present status of the technical phases of the science. At least 18 copies of printed or typewritten material to be submitted should be made available at the hearing, and appearances should be handed to the Docket Clerk at the hearing prior to its opening."

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#### NAB STARTS MUSIC LICENSING IN ASCAP FIGHT

With the broadcasters and music copyright owners deadlocked on their respective Maginot and Seigfried lines, Broadcast Music, Inc., this week began issuing licenses for the use of its music for public performances as neither the American Society of Authors, Composers, and Publishers nor the National Association of Broadcasters showed any signs of surrender.

The Columbia Broadcasting System announced that it saw no prospect of using the composer group's music after 1940 on the basis of present ASCAP demands and that it was so notifying its 114 affiliates. The National Broadcasting Company said that the Society's increasing fees were becoming "intolerably burdensome" and that it would take any action necessary in unison with the industry.

The reservoir of music for radio was started with the acceptance of six new popular songs by non-ASCAP writers. They will be heard for the first time on sustaining (unsponsored) programs, and sheet music will be published within "two or three days". To meet the demand for popular music, it was explained, opportunities to be heard will be given to new composers.

Since the Society now controls an "overwhelming portion" of the music available for use on the air, the radio group is endeavoring to arm itself by December 31, when the current agreement between the two factions expires, with such supplies of, or access to, music to build a catalogue capable of sustaining broadcasting.

So far \$1,253,189 has been pledged by 284 radio stations in support of Broadcast Music, Inc.

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### SOVIETS COPYING RADIO PATENTS, SAYS U. S. REPORT

The Union of Soviet Socialist Republics is "engaged in copying on an extensive scale machinery and other articles which have been invented and patented in other countries, samples or descriptions of which have been obtained by purchase or otherwise", the U. S. Bureau of Foreign and Domestic Commerce stated this week in a "World Radio Markets" report on the Soviet radio industry.

The document, issued by the Electrical Division, of which John H. Payne is Chief, also disclosed that despite claims that Russia has made considerable progress in television broadcasting no television receivers have been offered to the public.

"The Soviet press has claimed that considerable progress has been made by the Soviet radio industry since 1938", the report states, "in the technique and quality of television transmission, which is taking place at more or less regular intervals in Moscow and Leningrad."

Regarding the patent copying the governmental report states:

"Soviet industry is engaged in copying on an extensive scale machinery and other articles which have been invented and patented in other countries, samples or descriptions of which have been obtained by purchase or otherwise. This practise has been facilitated by the fact that it is not illegal in the Soviet Union to copy articles or processes not patented in that country, and that relatively few Soviet patents have been granted to persons or firms resident abroad. The Soviet Government is not a party to the Convention for the Protection of Industrial Property or to any of its revisions.

"Certain patents have been granted to foreign nationals, but the extent to which the holders have benefitted is not known. In a number of cases the patents were granted under contract whereby technical assistance would be given the Soviet industries in making use of the inventions.

"It would appear that two factors are primarily responsible for the relatively small number of Soviet patents granted to

persons and firms resident abroad: (a) the policies of the Soviet Government which result in a curtailment of the number of patents thus granted; (b) a reluctance on the part of foreign inventors to apply for Soviet patents since they feel that even if following protracted and expensive proceedings, they are successful in obtaining patents, they may be unable, in view of the peculiar economic structure of the Soviet Union, to derive any material benefit therefrom.

"Foreign citizens resident abroad may make application for Soviet patents on inventions regardless of whether they have already obtained patents on such inventions in other countries. The question of whether the applications will be acted upon favorably depends upon the decision in each case of the inventions committee of the Soviet of Labor and Defense, which is given very wide discretion in the matter.

"Since practically all industry is carried on by organizations owned or controlled by the State and since there is little scope for private enterprise, a Soviet patent is in effect a guarantee only of the right to seek remuneration for the use of the invention.

"If an invention is of substantial importance to the State and no agreement is reached with the patent holder, the inventions committee may empower the State enterprise concerned to use the invention and may fix the amount of the remuneration to be paid the patent holder. The inventions committee may also issue a compulsory license for putting the invention to practical use and fix the amount of remuneration to be paid the patent holder in case the invention has not been utilized on an industrial scale within 3 years of the date of issuance of the patent. It is understood that the inventions committee has thus far not found it necessary to make use of its powers to fix amounts to be paid foreign holders of Soviet patents, nor to issue compulsory licenses on such patents.

"Any person or firm not resident in the Soviet Union who desires to obtain a Soviet patent must appoint an agent permanently resident to represent him during the proceedings. He must also be represented by such an agent during the life of the patent. The number of persons, or organizations, who may act as patent agents is strictly limited. It is understood that at the present time the agent of practically all foreign applicants is the All-Union Chamber of Commerce.

"The fees which a Soviet agent is entitled to charge as well as the fees for obtaining and holding the patents are prescribed in a published tariff. The fees payable to the patent agent and to the Soviet Government in connection with the making of an application for patent amount to at least 150 rubles. In the event that the proceedings should become involved or protracted the costs will be much greater. On an average of 2 to 6 years elapse between the date of filing of the application and the final decision by the inventions committee. A Soviet patent is valid for 13 years, during which the holder is required to pay annual fees to the Government totalling 3,825 rubles and to the agent totalling 180 rubles. The holder of a patent must be prepared at any time during the life of the patent to defend his rights against other claimants. Fees from non-residents must be paid in foreign currency."

## FLY SAYS FCC DOESN'T WISH TO HALT TELEVISION

James L. Fly, Chairman of the Federal Communications Commission, went on the air over NBC and MBS last Tuesday night to defend the recent decision of the Commission to reopen the television inquiry because of the promotional activities of the Radio Corporation of America.

Mr. Fly insisted that "we neither have nor desire any regulatory power over the sale of receivers or over advertising". The only "axe we have to grind", he said, is "the long range interest of the public".

The FCC Chairman opened his address with an explanation that during the last several weeks much has been said and more written about television and that he felt it incumbent upon him to make a report to the radio public on its status.

"In view of international conditions, American industry has the opportunity to lead the world in the development of the art of visual broadcast", he said. "Where television was advancing with youthful faltering steps in Europe, darkness has descended. Research has been stopped while all energies are devoted to war. Foreign television for the time being is paralyzed. It is singularly fortunate that in our own country neither war nor any other ruthless force can lay a heavy hand upon the youthful television industry and impede its normal progress.

"In the present state of radio, broadcasting of sound has progressed to the point where reliable service can be received in nearly every home. Receiving sets are within the means of almost every family. In the meanwhile, television has been gradually approaching the threshold of the American home.

"Most of us have witnessed radio grow from its laboratory stages. All of us will have the thrill of seeing television ripen into a reality for everybody to enjoy. While television is still in the experimental stage, it is moving out of the laboratory. We know that it is a practical thing, and that it has great potentialities for development into a permanent instrument of entertainment, of information, and of education. Our generation has been entrusted with the responsibility of carrying forward this advance. There may be differences of opinion as to what is best for television, but no one would favor other than its orderly and healthy growth into an instrument of permanent public good."

Explaining why the FCC is concerned with the development of television, Chairman fly said:

"Congress has placed upon the Commission the duty to issue licenses for experimental operations; the duty to foster research and development, and to encourage the achievement of high standards, and, ultimately, to recognize those high standards - once they have been achieved by the industry's engineers.

"It is likewise under a clear mandate to regulate the kind of apparatus to be used in radiobroadcasting, including television, and to promulgate appropriate regulations. We should be derelict in our duty to the public if we should disregard this mandate of the Congress, or if we should permit any business interest to render it ineffective.

"We should also be avoiding our obligation if, in the regulation of the experimentation, and of the transmitting apparatus, and its methods of operation, we ignored the current state of the science. . . . .

"There is at present in the television industry a very wholesome state of competition between rival manufacturers to develop their transmitting apparatus to a point where the quality of reception of their telecast pictures will be superior to those of any other manufacturer. It was the Commission's considered judgment and, in this judgment I might say there has been the universal concurrence of the engineering profession, that no one manufacturer of transmitting equipment has yet perfected his apparatus to a point where it should be accepted as the standard for universal application. On the contrary, no voice has dissented from the proposition that further research and experimentation is needed.

"The recently adopted rules and regulations of the Commission governing television broadcasting recognize this engineering fact. The Commission, therefore, deliberately refused to place its final approval upon any present type of transmitting equipment as the type which all must use. This attitude is merely a reflection of the engineering opinion in the television industry that there were still too many improvements in sight to warrant standardization at this time. It seems clear that the research should continue, and that order and caution should be the keynote to foster that improvement.

"What a great tragedy it would be if today some heedless power, for the sake of an immediate short-sighted interest, should obstruct television's progress and leave it dwarf-like in the shadow of its own great potentialities. But, you may readily ask, 'How can this happen to television; it didn't happen to motion pictures; it didn't happen with automobiles; it didn't happen with the advance of ordinary broadcasting itself.' Why, then, the special solicitude for the future advance of television?

"The answer is not readily obvious, but it is fundamental and, I think, thoroughly understandable.

"The fact is that television is not like ordinary broadcasting, not like the automobile, not like motion pictures. . . . .

"Now let me be perfectly plain in stating the position of the Federal Communications Commission on the question of public participation in the future development of television. Does the Commission wish to discourage members of the public from purchasing television receiving sets today?

"The answer is emphatically 'No'. As a matter of fact, it is only by having receiving sets in the homes of members of the public that experimentation in program techniques can be successfully carried on. But it is important that the general public know that when they buy television sets they are definitely partaking in a program of experimentation. If the public knows the facts about the limited number of stations which are now operating, the few hours of programs that are on the air, the experimental character of their operation, and finally that new standards of television transmission may convert the sets of today from instruments of enjoyment to articles of furniture of doubtful usefulness, then there can be no danger in public participation. . .

"Let me make it clear that we neither have nor desire any regulatory power over the sale of receivers or over advertising. But any action we take under our duty to license experimental operations and to encourage advances in radio, must of course be taken in the light of actualities. Our course can be influenced, for example, by the rare case where a licensee might engage in extravagant promotion of sales to people of modest incomes while failing to inform the public of the limited and experimental character of the service now available, and of the mobility of the science, where it appears that such activities threaten to make his system dominant among both transmitting stations and the public. For the result would be that his competitors - continuing their research - might find themselves with an improved system of broadcasting television which cannot be given to the public.

"By this sales activity alone the standards of the science might be locked against their improvements. Under such circumstances it is rather more likely that the competitors too would be crowded into production and sales promotion. This would make it even more probable that television would be shackled at its present state and future progress obstructed. These are the unanimous views the Commission has clearly and repeatedly expressed in recent months.

"The American people, I am certain, do not want to stop short of improvements which the industry's engineers assure us may be just over the horizon. The Commission must not lose sight of the long range interest of the public. We shall not. This, I might add, is the only axe we have to grind."

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#### NETWORKS' TIME SALES POINT TO NEW RECORDS

New records in the volume of radio advertising carried by the major networks are being set this Spring, according to reports on time sales made in March.

The National Broadcasting Company announced that it did the greatest business for a quarter, ending March 31, in its history. Both Columbia Broadcasting System and the Mutual Broadcasting System were far ahead of their 1939 sales.

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Gross network revenue for the NBC networks for the first quarter of 1940 amounted to the greatest quarter business in the company's history, with the total figure of \$12,841,636 showing an increase of 7.4 percent over the 1939 figure of \$11,953,447.

Contributing to the record-breaking quarter was the biggest March volume of business ever reached at NBC with the total gross revenue figure of \$4,304,344 showing an increase of 3.2 percent over the March, 1939, figure of \$4,170,852.

Total gross network revenue on the NBC-Red Network for the first quarter of 1940 amounted to \$10,061,816, an increase of 6.1 percent over the 1939 total of \$9,484,411. The 1940 figure on the NBC-Blue Network was \$2,779,820, an increase of 12.6 percent over the 1939 figure of \$2,469,036.

The March, 1940, revenue from the NBC-Red Network amounted to \$3,338,440, an increase of 1.2 percent over the 1939 figure of \$3,297,992. The NBC-Blue Network figure for this year was \$965,904, an increase of 10.7 percent over the March, 1939, figure of \$872,860.

Gross billings for time on the Columbia Network - prior to deductions for agency commissions and time discounts to sponsors - totaled \$3,513,170 during March, 1940. The March figure brings the three-month cumulative total for 1940 to \$10,419,743.

March sales by CBS were 20.1 percent above last year, whereas the quarter's billings were up 28 percent.

Mutual Broadcasting System billings for March, 1940, totalled \$390,813, representing an increase of 27.3 percent over a similar period in 1939 when billings reached \$306,976. 1938's March billings were \$232,877.

Mutual's cumulative billings for the first three months of 1940 totalled \$1,046,191, a rise of 16.8 percent over 1939's first three months when the figure of \$898,659 was attained. 1938's first three months totalled \$756,021.

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Columbia Broadcasting System, Inc., this week reported for the 52 weeks ended December 30 last a net profit of \$5,001,529, equal to \$293 a share on the combined Class A and B stocks. For the 52 weeks ended December 31, 1938, the net profit was \$3,541,741, or \$2.07 a share on the combined Class A and B stocks.

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## DID FLY HOLD GUN IN NBC'S FACE FOR BROADCAST?

The circumstances of the Tuesday night broadcast by Chairman James L. Fly over the NBC and MBS networks this week stirred up as lively a controversy as the argument over television itself.

Publication of a story by the New York Times that Commissioner Fly had demanded specific facilities of NBC with the result that the network had to cancel a commercial program at a cost of \$10,000 started the debate.

Chairman Fly subsequently denied the charge and stated that he merely had offered the address to NBC after he had been invited to speak over MBS.

In a statement explaining the arrangements for the broadcast, the FCC Chairman disclosed that he had conferred with David Sarnoff, President of RCA, on the television dispute Sunday morning.

Said the New York Times, in part:

"An official of the Mutual Broadcasting System said that Mr. Fly had been invited to broadcast from the WOR studio. From that point the speech was 'fed' to the NBC network. Originally, it was explained, Mr. Fly was to have broadcast from the Tuesday luncheon of the Advertising Club, and WOR, because of commercial commitments, was unable to handle the broadcast but had arranged to broadcast a recording of the speech in the evening. When the noontime broadcast was canceled upon Mr. Fly's request, executives of WOR suggested that he go on the air in person in place of the scheduled recording. WOR had the time free and no commercial programs were sidetracked.

"According to a representative of NBC, who explained that there was no way of checking how many stations actually transmitted the talk, he said that he could not confirm or deny that Mr. Fly had requested the facilities. It was learned on good authority that Mr. Fly had asked for the radio time through the NBC office in Washington."

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Station WMCA, New York, last week applied for an application to operate an FM transmitter to the Federal Communications Commission. Permission to construct a high frequency broadcast station employing frequency modulation was asked.

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: : : TRADE NOTES : : :  
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The U. S. Bureau of Foreign and Domestic Commerce this week issued world radio market reports on the following: Japan, Colombia (regulations), Denmark, Ireland, Union of Soviet Republics, Bermuda and the Bahamas.

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In response to the many requests, the daily schedule of W2XOR, WOR's frequency modulation outlet, was stepped up to 15 hours daily effective Thursday (April 4). W2XOR will relay Mutual programs at 9 A.M. and continue throughout the day until midnight, providing the longest service of any FM station in the entire New York area.

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The Federal Trade Commission has ordered J. W. Marrow Manufacturing Company, 3037 North Clark Street, Chicago, manufacturer and distributor of cosmetics, to discontinue certain misleading representations made in magazine, radio and circular advertising.

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John Thomas McManus, radio editor of Time for the last 18 months, has been appointed Radio Editor of P.M., the no-advertising 5-cent newspaper to be published soon in New York. P.M. will devote two to three pages to this subject.

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G. H. Beasley, President of Utah Radio Products Company, reported this week at the annual meeting that shipments in the first quarter were \$695,290, against \$624,132 in the 1939 period. Fred R. Tuerk was elected a Director to replace M. M. Corpening.

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Station WSJS, Winston Salem, N. C., will join the NBC networks on June 26, William S. Hedges, NBC Vice-President in Charge of Stations, has announced.

WSJS is operated by the Piedmont Publishing Company, of which Gordon Gray is President, on a frequency of 1310 kc., with a power of 250 watts, day and night. The station will be a member of the NBC Southeastern Group. It will be the 188th affiliate of NBC.

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Stockholders of the Columbia Broadcasting System will be asked at their annual meeting in New York on April 17 to approve a five-year contract with William S. Paley, President, providing for a base salary of \$40,000 annually plus 5 percent of the first \$1,000,000 of consolidated net profits, 4 percent of the second million dollars, 3 percent of the third million, and 2 percent of all earnings in excess of \$3,000,000, according to the New York Times business page. Had this contract been in effect in 1939, Mr. Paley would have received \$203,370, the notice says.

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## VALENTINE BANS RADIOS FOR TAXI DRIVERS

A police order silencing all New York City cab radios except for passengers threatened this week to eliminate for drivers a widely enjoyed way to pass the time between fares, according to the New York Times. It was estimated that 90 percent of the radio use is by the cabbies.

Commissioner Valentine ordered enforcement of the year-old ban on such use in connection with hack medallion renewals begun on April 1. Under the old ruling the police hack bureau granted owners six to eight weeks to wire radios through the taxi meter, so that the radios will play only while the meter is running.

The action was believed to have resulted from a plea made by the Broadway Association on February 19th. The Association asked removal of the radios for greater safety and less noise.

A canvas made later by the hack bureau showed owners of 8,000 of the city's 11,138 taxis favoring removal. Fleet owners desired attendant cost reductions, while individual owners largely sought to retain their radios. About 50 percent of the taxis have radios, it was estimated.

Commenting on the order, Maurice Hotchner, Executive Chairman of the United Taxicab Board of Trade, Inc., and former Chairman of the City Board of Taxi Control, said:

"The police have no more jurisdiction over the cab radios than over private car radios. These are accessories having nothing to do with safety equipment. Insurance company studies show that radios do not increase accidents."

A spokesman for three taxi fleets declared that radio-equipped cabs had the best drivers.

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## GERMANY TRYING TO REVIVE RADIO-LUXEMBOURG, SAYS BBC

"Anybody who listened to Radio-Luxembourg before the war will have noticed that the station closed down on the outbreak", the BBC's "Radio Time" comments. "The reason was that it was operated by a French company, and the authorities of the Grand Duchy feared complications with Germany if it went on. Since then, we have heard, the Germans have been trying to put the station on the air; again by means of broadcasts from Frankfurt; they have approached the staff of the old station, eighty of whom lost their jobs when it closed, with the idea of putting on programs that listeners would think came from the original Radio-Luxembourg. According to our information, however, only one of the eighty has accepted their offers, so prospects of a convincing impersonation do not look too good."

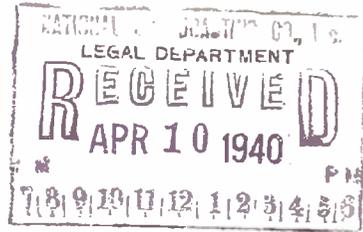
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# HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

WASHINGTON, D. C.

*Handwritten initials: HEC*



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No. 1224

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April 9, 1940

## AMICABLE ADJUSTMENT OF TELEVISION ROW FORESEEN

An early and amicable adjustment of the current row over television was forecast this week by observers in the radio industry as the Federal Communications Commission opened hearings called because of the promotional activities of the Radio Corporation of America.

Attention was turned meanwhile on Capitol Hill, where Chairman Wheeler, of the Senate Interstate Commerce Committee, called a special meeting for Wednesday to consider the Lundeen resolution asking for a Senate investigation of the FCC action.

James L. Fly, Chairman of the FCC, and David Sarnoff, President of RCA, and other interested parties will be heard before the Committee decides whether or not to report the resolution, Senator Wheeler said.

Congress took increasing cognizance of the controversy as members inserted copies of the radio addresses of Senator Lundeen (Farmer-Labor), of Minnesota, and Chairman Fly, in the Congressional Record appendix.

Representative Eugene Cox (D.), of Georgia, member of the powerful House Rules Committee, came to the defense of the FCC on the House floor.

"An attack is being made upon the Federal Communications Commission on the ground that the Commission is retarding the development of television", he said. "The investigation I have made discloses the fact that the reason for the attack is that the Commission will not permit the Broadcasters' Trust to exploit the public through the sale of near-obsolete television sets. What we probably need more than anything else is an investigation of the Broadcasters' Trust. It is time they were stopped from monopolizing the air."

The FCC disclaimed any intention of trying to regulate the sale of television receivers as it opened its rehearing to determine whether RCA's promotional activities were "freezing" television development.

Chairman Fly, smarting under a barrage of criticism directed at the FCC since it cracked down on RCA, interrupted the testimony of Allen B. Duffont Monday afternoon to demand of RCA officials whether they considered the FCC had acted improperly or without jurisdiction.

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When Frank W. Wozencraft, attorney for RCA, who was conducting the examination of DuMont, declined either to "affirm or deny" the statement of the FCC Chairman, Mr. Fly abruptly called upon Col. Manton Davis, RCA Vice President and General Counsel for a reply.

"Most certainly we do not challenge the jurisdiction of the Commission to fix standards for television transmission", Mr. Davis said, "or to make any investigation or collect any facts that might be helpful in that connection."

Chairman Fly, in a statement read at the opening of the hearing, said that the Commission would make "no effort to determine the legal propriety of the promotional activities of the industry" and "has no intention of adopting any rules as to the design or as to the marketing of receiving sets".

"It should be borne in mind that this is not a trial", he said.

With all indications pointing to the probability that the FCC would permit its former order spurring the development of television to stand, reports were current that President Roosevelt has suggested that the controversy be settled amicably and as promptly as possible. Radio industry observers predicted that the FCC's action may become a campaign issue.

Allen B. DuMont, President of the DuMont Laboratories, Passaic, N.J., was the only witness called on Monday. Examined and cross-examined, he pointed to flexibility of design in television receiving sets as the safe key to the future. He announced that he had developed a flexible receiver which would handle picture reception in any range from 400 to 800-line texture. By means of a switch, he explained, the operator could select, for example, 441-line or 605-line pictures.

The set was designed, he said, to operate automatically with any synchronization pulse now in use, so that it could pick up the telecasts of the DuMont transmitter at Passaic or the programs from Radio City through the Empire State Building transmitter of the NBC, which employs the standard pulse suggested by the Radio Manufacturers' Association.

To protect the public against obsolescence, Mr. DuMont reported, his company guaranteed to keep its present sets up-to-date until January, 1942. Contending that there is no such thing as final research in radio or television, he went on record for a flexible non-obsolescent system designed to meet any new conditions that might arise.

The testimony indicated the views that no revolutionary developments in television were on the immediate horizon and that since a decision must be made some time to "go ahead", the present seemed opportune.

Counsel for RCA, during cross-examination of DuMont, produced copies of a page newspaper advertisement by DuMont on April 28, 1939, announcing plans for televising the opening of the New York World's Fair. The advertisement, headed "Television Gives Its 'Coming Out Party'", spoke of the "magic privilege of witnessing the Fair's dedication while comfortably seated before a television receiver.

DuMont said his company is second only to RCA in the manufacture of television receivers, but it has sold only 500 to 600 sets, chiefly in the New York area.

Under questioning by William J. Dempsey, FCC counsel, DuMont said that he thought program experimentation should not be engaged in extensively until after a uniformity is achieved on technical transmission.

DuMont told the Commission that transmission with 625 lines, as practiced by his company, is superior to that of RCA on 441 lines. The sale of a projected 25,000 or 30,000 television sets manufactured under RCA patents, he intimated, would tend to discourage further research.

The witness admitted, however, that television sets might be altered at little expense to meet a change in the number of transmission lines and frames.

Despite suggestions by RCA counsel that DuMont system pictures are "tinged with pink", DuMont insisted that they are "very close to black and white" images.

DuMont, who during the day issued a press statement upholding the FCC and complaining of a "misinformed or at least inadequately informed press" in the television controversy, occupied the stand throughout the first day.

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#### CRAVEN ASSAILS FCC MAJORITY ON TELEVISION ISSUE

Commissioner T.A.M. Craven, who cast the single vote recently against reopening the television inquiry, called the reasoning of his colleagues "absurd on its face" in a frank attack on the FCC order late last week.

A letter published in the Congressional Record on Saturday by Senator Lundeen (Farmer-Labor), of Minnesota, signed by Commander Craven was written in response to a request for his views from the Senator.

Commissioner Craven first cited the history of the order of the Federal Communications Commission placing television on a limited commercial basis as of September 1 and then of the Commission's decision to retract. After quoting excerpts from Chairman James L. Fly's addresses on the subject, Commissioner Craven said:

"It appears to me that these actions of the majority are inconsistent and confusing not only to the public but also to a new industry which needs encouragement from the government. The original February 29 report concerning the new rules, which were adopted by the unanimous action of the Commission, evidently encouraged the promotion of television and its participation by the public. The March 22 majority action of the Commission, suspending the original rules, discourages the sale of receivers. On the other hand, the broadcast address of the Chairman of the Commission on April 2 is consistent with the original order of the Commission adopted unanimously on February 29, 1940, and again encourages public participation through the purchase of receivers. The question now arises as to the logic of the action by the majority of the Commission in repudiating the adoption of the original order.

"At this point, let me make it clear that I do not disagree with the majority insofar as their actions are limited to keeping the public informed of the facts. Neither, in dissenting, am I concerned with the sale of receivers by the Radio Corporation of America. My full concern is the general public and the industry as a whole. I am in entire sympathy with the Commission in its desire that television research be continued, and that standardization be deferred until the art progresses further.

"Nevertheless, the principal reasons for my dissent from the majority action of March 22 may be summarized briefly as follows:

"(1) The majority concludes that recent promotional activities of a television-receiver manufacturer will effectively stop research and freeze technical development in television.

"In my opinion, such a contention is absurd on its face, and is not justified by either facts or experience. Nothing can stop scientific research and technical progress in a free democracy if incentive is not discouraged by Government. The Commission itself, by order of suspension, such as in the instant case, can create such confusion as to retard the development of television and discourage the incentive and initiative of private enterprise.

"In my opinion, the technique of television has advanced to the stage where an initial public trial is entirely justified. Such a trial would spur television onward, not only more rapidly, but also more effectively than any other method. I agree with the majority that technical improvements are required in television and I agree that the Commission should not approve standards at this time. However, no one can foretell accurately how these technical improvements will be secured and what public reaction will be. It is already obvious that some of the technical methods suggested by the Commission in its previous report may not be the best. This is not surprising, since the Commission has had no practical experience in technical research for television nor is it equipped to undertake such problems.

"There is no need, in the present state of development of television, for a Commission in Washington to substitute its judgment for that of the public. The public is the wisest judge of scientific achievement and will be most effective in securing the technical improvements it desires.

"In this case, the Commission would have been on more logical grounds had it merely made public the facts concerning obsolescence of television receivers, rather than taking action which prevents

the public from exercising its own judgment. The Commission will have performed its duty to the public, insofar as obsolescence of receivers is concerned, when it has informed the public of the facts.

"The present prices of television receivers automatically restrict their use to those who can afford replacements as technical progress requires. The burden of experiment falls on wealthy people, as it should, to pave the way for ultimate inexpensive television to all.

"(2) The action of the majority on March 22, coming less than a month after the encouragement given by the entire Commission to television-receiver sales, is inconsistent and creates confusion, resulting in a retardation of technical development as well as delays in creating a new industry with added employment.

"(3) There is no way in which to secure a public trial of television without selling receivers to the public. While I concede that receiver design is inextricably interwoven with television transmitter performance and is closely related to any transmission standards which may be approved by the Commission at some future date, this is no logical reason why the Commission should at this time add confusion to the development of television. The Commission can grant licenses for different types of transmission, and in so doing it can keep the public informed of the fact that it will grant licenses for any good television transmission and that ultimately it may change the standards. Those engaged in research need not be prevented from attempting to demonstrate to the public the latest television systems available in their laboratories. Everyone, including the Commission, should benefit from experience secured as a result of these early trials of television as a service to the public.

"(4) I am very much concerned in the instant case as to the significance of a recent decision of the Supreme Court of the United States, which states that the Communications Act 'does not assay to regulate the business of the licensee. The Commission is given no supervisory control of the programs, of business management, or of policy'."

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PRESIDENT OPPOSED TO CURB IN U.S. AGENCIES

President Roosevelt has interposed an implied objection to the pending Logan-Walter bill providing for broadened judicial review of the operation of certain quasi-judicial Government agencies such as the Federal Communications Commission.

In discussing the bill at a press conference, Mr. Roosevelt emphasized that he has not read the measure itself and is unaware of its present status. He made clear, however, that he feels there are certain objections to submitting administrative agencies of the Government to continuing restrictive action by the courts. In amplifying his position, he declared his feeling that if departments of the Government, including the quasi-judicial agencies, are required to transact all their business in accordance with the usual practices and procedures of the courts, it would result in giving the party with the most money opportunity to slow up procedure to an unconscionable degree.

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LA GUARDIA WINS SUPPORT OF FCC COMMITTEE

Recommendation that Station WNYC, New York City's municipal and non-commercial broadcast station, be permitted to pick up and rebroadcast international programs of Station WRUL, Boston, was made to the Federal Communications Commission last week by a special committee comprising Commissioners George Henry Payne, Acting Chairman in the absence of Norman S. Case, and T.A.M. Craven.

This general recommendation, which climaxed hearings on the subject, was unanimous. The Committee called attention to testimony by Mayor Fiorello H. LaGuardia of New York City, and Professors William Y. Elliott and Harry Rowe Mimno of Harvard University. Professor Elliott contended that such a grant would be in the interest of education in general, as it would make available to the public at large the great resources of our universities; that it would enable non-profit radio stations to render better public service; that rebroadcasting without the use of wires is feasible; that there would be no interference with existing communications, and no one's interest would be injured.

The Committee points out that rebroadcasting of international programs is not prohibited by international convention; that no use of an international frequency for primarily domestic purposes is involved; that the use of wires for feeder purposes places a serious expense on non-profit stations; that there are no legal bars to picking up and rebroadcasting such programs, and, further, "if there exist technical obstacles to this form of rebroadcasting, it is important to learn how these obstacles can be removed".

Accordingly, the Committee proposes amending rule 4.10(d) of the Commission to make the authorization possible. There is some difference of opinion as to the exact wording. Commissioner Payne recommends the following change:

"4.10(d) Authority will not be granted to rebroadcast in the United States the programs of an international broadcast station located within the limits of the North American Continent, except upon a satisfactory showing that the rebroadcast programs in question are intended solely for non-profit purposes and are not commercially sponsored."

Commissioner Craven suggests this rewording of the rule:

"4.10(d). Authority will not be granted to rebroadcast in the United States the program of an international broadcast station located within the continental limits of the United States, except upon a satisfactory showing in the following respects:

- "(1) that such rebroadcasting will not detract from the primary function of an international broadcast station, the programs of which are being rebroadcast; and
- "(2) that the technical quality of the rebroadcasting will be reasonably free from distortion and noise, as well as reasonably free from the effects of fading. The Commission will afford to applicants a reasonable opportunity to secure facts concerning the proposed technical performance."

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### SHIP, COASTAL AND MARINE RELAY SERVICES RULES ALTERED

The Federal Communications Commission has modified certain rules governing ship, coastal, and marine relay services, effective immediately, in an effort to improve operating procedure, provide for the more effective use of assigned frequencies, and minimize interference between stations in the short distance ship to shore radiotelephone service.

The requirement that call letters be announced by ship telephone and coastal harbor stations has been eliminated. The exchange of operating signals, in addition to calling and answering, is now permitted on the safety frequency 2182 kilocycles. When operating on frequencies in the band 2000 to 3000 kilocycles, ship telephone stations on the Great Lakes must normally call shore stations by transmitting on 2182 kilocycles; likewise coastal harbor stations must normally call ships on 2182 kilocycles, and thereafter direct the ship stations when to change to a "working" frequency in this band for the exchange of message traffic.

The frequency 2572 kilocycles which was formerly available on the Great Lakes for the transmission of marine broadcasts is no longer available to commercial stations for this purpose, since it was not used by these stations and future use would undoubtedly create interference to Canadian stations using the frequency 2582 kilocycles. Coastal harbor stations in the Great Lakes area are now required to call ship stations (on frequencies in the band 2100 to 2600 kilocycles) by transmitting the type of signal necessary to actuate the receiving equipment known to be in use in the particular ship station.

Existing stations are already equipped to comply with these requirements of the Commission, which involve only changes in operating procedure designed to increase the effectiveness of the service.

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## NEW INDUSTRY THROTTLED BY FCC, SAYS LUNDEEN

Taking to the air over the same networks used earlier by Chairman James L. Fly, of the Federal Communications Commission, Senator Lundeen (Farmer-Labor), of Minnesota, Saturday night assailed the Commission for "bureaucratic seizure of power" and accused it of "throttling" a new industry by reopening the television inquiry.

"Having had a hand in passing the law under which the Federal Communications Commission operates, I knew of no authority Congress had given the Commission to regulate, control, or supervise the marketing of radio or television receiving sets", he said. "On the contrary, authority to cope with misleading advertising rests in the Federal Trade Commission. In fact, just a week earlier the Supreme Court of the United States handed down a decision in which the Court stated that the Communications Act does not essay to regulate the business of the licensee.

"A new industry is being throttled by a Government bureau exercising power never granted by Congress."

The Minnesota Senator recalled that Chairman James L. Fly of the Commission had explained that "it is important that the general public know that when they buy television sets they are definitely partaking in a program of experimentation", the Senator added.

"All I can say to that is that if the Chairman had issued a statement along similar lines instead of having the Commission revoke its order of February 29, there would have been no such apprehension as has now been created."

"My studied opinion is that the Federal Communications Commission was in error when it rescinded its permission for limited commercial television", he continued. "Accordingly, I believe the best interest of television development calls for abandoning the new and unnecessary hearings which are scheduled to start on Monday and a return to the status quo of before its unfortunate action of March 22. I believe the FCC should stay within the authority granted it by Congress and defined so recently by the United States Supreme Court. I believe it and every other bureau or Government agency should use common sense and encourage, not block, the development of television or any other industrial activity that will put unemployed men and women back on private pay rolls and speed up the return of a prosperous United States."

Senator Lundeen's address was published in the Congressional Record appendix Monday by Senator Frazier (R.), of North Dakota, while Chairman Fly's address on April 2 was inserted by Senator Hill (D.), of Alabama.

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PUBLISHERS' COUNSEL RAPS FCC TELEVISION PROBE

Newspaper publishers, who have attacked the decision of the Federal Communications Commission for reopening the television inquiry, lent further support to the Radio Corporation of America last week when Elisha Hanson, General Counsel of the American Newspaper Publishers' Association, assailed the FCC action in an address on Federal curbs on advertising.

Speaking in New York, Mr. Hanson said:

"The effort to regulate, control, censor and restrict advertising is but one phase of the seemingly prevalent philosophy that an all-wise and benevolent government should regulate all human activity. In the development of this philosophy we are being regulated to death."

He referred specifically to the recent ruling of the Federal Communications Commission that R.C.A. should not "offer television sets for sale at this time because present-day sets may become obsolete within two years or so."

"What", he asked, "would we have today if bureaucracy could have stepped in 20 years ago and prohibited broadcasting until it had been perfected; prohibited the sale of crystal receiving sets because in a year or so the battery receiving set would be proved better; then have restricted the advertisement of battery sets because of the possible development of electrical receiving sets? What would have happened to our great automobile industry if in its early or middle stages such a restraining hand had been laid upon it?"

"I do not contend that the government should not exercise its power to punish those guilty of unfair and deceptive acts in commerce. But I do deny that any government agency can be vested with the power to restrict the dissemination of information, whether in the nature of news, editorial comment or advertising, by resorting to the process of injunction."

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POSTAL TELEGRAPH CO. (PA.) VIOLATES COMMUNICATIONS ACT

In prosecution instituted upon request of the Federal Communications Commission, Postal Telegraph-Cable Company (Pennsylvania) was found guilty in the District Court of the United States for the Eastern District of Pennsylvania at Philadelphia, on March 3, 1940, of violating the Communications Act, the FCC announced this week.

The prosecution and conviction was the outcome of an investigation conducted by the Commission of the circumstances in connection with the settlement of a traffic damage claim against the company filed by John C. Moritz & Bros. The Telegraph Company had settled the claim in the amount of \$540, which is \$40 in

excess of the limitation of liability stipulated in the company's tariff schedules, and instead of paying the amount of the settlement in cash the company settled in communication service.

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TRADE NOTES

C. B. Wikoff has been appointed Treasurer of the Columbia Recording Corporation. His headquarters will be at the Columbia Recording Plant in Bridgeport, Conn. Mr. Wikoff went to his new post with many years of experience in financial and allied fields. Previous to his Columbia Record affiliation, he was supervisor at Price, Waterhouse & Co. for nearly two decades, handling such accounts as Columbia Pictures Corporation and the Columbia Broadcasting System.

Replying to a letter from an anonymous managing editor printed in the Bulletin of the American Newspaper Publishers' Association March 14 criticizing Walter Winchell, Hearst columnist, for "the repetition in his Monday column and sometimes more often during the week of the material he uses on the air in a commercially sponsored program on Sunday night", Mr. Winchell stated April 3, "I have never put the air stuff ahead of my newspaper column, which always comes first."

An extensive newspaper campaign has been planned by the Manhattan Soap Company to supplement the twice-weekly NBC broadcasts by Mrs. Franklin D. Roosevelt in the interests of Sweetheart Toilet Soap. According to M. J. Kleinfeld, radio director of the Franklin Bruck agency, which handles the Manhattan Soap Company account, newspaper advertisements will be placed in every city in which the programs are broadcast. Plans also are being made, he said, to advertise in cities within the primary service area of the individual stations.

David Sarnoff, who as Chairman of the Radio Division of the Metropolitan Opera Campaign has led a drive for funds realizing to date nearly one-third the \$1,000,000 sought by the Metropolitan, will bring the campaign to a close Saturday, April 13, in a talk over the NBC-Blue Network.

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## ZENITH DOLLAR DIVIDEND VOTED

Zenith Radio Corporation reports a consolidated operating profit for the first nine months ended January 31, 1940, of its current fiscal year, amounting to \$598,852 after depreciation, excise taxes and liberal reserves but before Federal Income Taxes.

The production difficulties experienced during the humid Summer months delayed the introduction of the company's regular line of receivers until mid-September, according to E. F. McDonald, Jr., President. In order to maintain the company's position in the industry, it was necessary to produce and ship in the months of October, November and December, the largest number of receivers ever produced and shipped during this period in the company's history.

Due to the excessive amount of overtime and other expenses required to produce such a large volume in so short a period, overhead and costs were necessarily increased, thereby resulting in a lower-than-normal profit, Commander McDonald added.

The Directors, at a meeting last week, voted a dividend of \$1.00 per share, payable April 25, 1940, to stockholders of record April 15, 1940.

Zenith will introduce its new 1940-41 line of receivers containing new and novel developments the latter part of this month.

The company's new combination battery electric portable receiver incorporating the removable Wavemagnet, an exclusive Zenith feature, was announced to its distributors early in March. Orders received from distributors for April and May delivery greatly exceeded the expectations of the management.

The company commenced broadcasting from its Frequency Modulation station, using the new Armstrong System under which it is licensed, on February 1st and is now transmitting daily programs of approximately sixteen and one-half hours duration, from its permanent location in the tower of the Chicago Towers Club on North Michigan Avenue.

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Advocating the theme "City Government is a Business -- Make It Your Business", 15 original radio dramatizations on "Municipal Government" are now available free to local school and civic groups actively interested in better government through educational radio, U. S. Commissioner of Education John W. Studebaker announced this week.

The various scripts of the Municipal Government series, together with nearly 500 other specially-selected scripts on a variety of subjects, are listed in the Fourth Edition Catalog, latest publication of the Educational Radio Script Exchange.

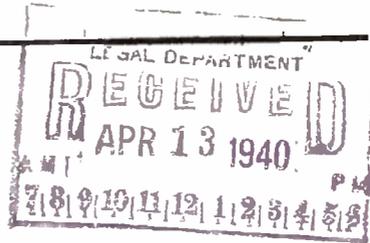
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# HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

WASHINGTON, D. C.

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## F. D. R. BACKS UP FCC AS HEARING DRAWS TO CLOSE

President Roosevelt at his Friday press conference came to the defense of the Federal Communications Commission in the television controversy as the FCC hearing drew to a close.

While the television industry stuck to its optimistic belief that it will be given another "green light" to forge ahead with limited commercialization, the President's comments gave new encouragement to the Commission and rivals of the Radio Corporation of America.

The President repeated many of the comments of the FCC Chairman relative to a fear that the new industry might be dominated by a monopoly. He expressed the opinion that Chairman James L. Fly and the FCC are doing the right thing. The President's comments started when he was asked what he and Chairman Fly had talked about on Thursday.

Mr. Roosevelt remarked that some persons had predicted a great future for the television industry and that it would put many men to work. He agreed that it would increase employment but would not provide the amount of work that the automobile and radio industry have done.

For the time being, he said, it would just mean another set in the home. Much more important, he added, is the question of monopoly. That gets into the technical question, he said. The Government doesn't want to get into the position of giving one company control of one type of sending and receiving equipment.

In radio, he pointed out, there is competition - national, regional, and local - on the transmission end, but on the receiving end any home in the country can pick up any broadcast. The development of television, the President added, should follow along the same lines so that a television set owner could have a choice of stations.

The President brought laughs when he suggested that anyone should be able to tune in either a prize fight or a town hall meeting and that there isn't much difference anyway.

Eventually this country may be able to receive foreign television, he said, but all the FCC is doing now is working along the lines of orderly development and trying to prevent any one organization from obtaining control of all sending stations. Every receiver, he said, should be able to tune in any television band. This Spring and Summer, the President added, should see the production of such sets.

A number of radio and television companies don't want to see a monopoly created in the new industry, Mr. Roosevelt concluded. He cited the name of one manufacturer off the record and said that it was the largest radio receiver maker and that it didn't want to put out a receiver that could not tune in all television transmissions.

When the industry agrees to accept this point of view, the President indicated, the television industry will be put on a sound basis.

A general belief that the television industry will be allowed to forge ahead with limited commercial programs was held by observers in the radio trade as the Federal Communications Commission drew to a close today (Friday).

Chairman Wheeler, of the Senate Interstate Commerce Committee, indicated similar optimism as he concluded a brief hearing on the Lundeen resolution and announced that the inquiry will be dropped.

Chairman Fly told newspaper men on leaving the White House Thursday that prospects were bright for an early adjustment of the differences between the Commission and the television industry. However, a short while later, disturbed by the interpretation placed on his remarks by some of the press associations, Mr. Fly issued a statement warning against premature predictions of what the FCC would do.

The White House story, following Chairman Fly's conference with President Roosevelt, reputedly boosted the stock of the Radio Corporation one and a half points before the "damper" statement was issued.

"As soon as the industry is ready to go ahead, the Committee is", Chairman Fly said on leaving the White House. He added:

"In a few months, I am hopeful that we will have a flock of receivers capable of receiving all types of transmissions. I think the industry will be capable of doing that job."

In reply to a question as to whether he meant by this to imply that when such receivers were ready, the present restrictions imposed by the Commission would be lifted, Mr. Fly replied, "Why not?"

But later, at the FCC hearing at which he presided, Chairman Fly warned that no statement made by him should be construed as indicating what action the Commission would take.

"The hearing will proceed to a conclusion and a decision will be rendered in due course", he added. "It is hazardous to conjecture now when proper standardization may be achieved and commercial operations undertaken."

Meanwhile, there were speculations in some quarters as to whether or not the Commission would postpone reaching a decision in the television case until after Congress adjourns.

It was recalled that Chairman Fly had suggested to the Senate Interstate Commerce Committee that it drop its investigation until after the FCC concludes its inquiry. A complete report would then be made to the Committee, he added.

A subpoena for the stenographic records of the Radio Manufacturers' Association's Board meeting on February 8th was issued by the FCC after Bond Geddes, Executive Vice President, said he could not furnish them without permission of the Directors. The meeting was addressed by David Sarnoff, President of the Radio Corporation of America.

The FCC also issued a subpoena calling for all RMA correspondence relating to television that was written between the two Commission hearings on television, the first of which was in January.

Previously, Chairman Fly had instructed Mr. Geddes to furnish all records relative to a meeting of the RMA Television Subcommittee on February 29, the date on which the original FCC order authorizing limited commercialization of television was issued.

The FCC Chairman halted the testimony of a Philco witness to inquire as to the meeting and the plans for another session last Thursday.

Mr. Geddes explained subsequently that there had been no secrecy about the Committee meeting and pointed out that its recommendations are subject to approval by the full Engineering Committee and the Board of Directors.

Among the witnesses heard Thursday were Alfred H. Morton, Vice President of the National Broadcasting Company in Charge of Television; Elmer W. Engstrom, Director of Television Research for RCA at Camden; and Edward M. Martin, attorney for the Farnsworth Radio & Television Corp.

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STATISTICAL SURVEY OF RADIO ISSUED BY U.S.

The sixth annual statistical number of the "Electrical and Radio World Trade News" was issued this week by the Electrical Division of the Bureau of Foreign and Domestic Commerce.

Radio statistics included covered all figures for 1939, sales in the United States 1922-39, "radio business at a glance", urban and rural radio census, a review of national network advertising, and foreign radio statistics.

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## CAPITOL INQUIRY STEALS TELEVISION SPOTLIGHT

The Senate Interstate Commerce Committee on Wednesday and Thursday mornings stole the show from the Federal Communications Commission when it conducted an informal hearing on the Lundeen resolution before a crowd of radio representatives that overflowed the Committee room.

David Sarnoff, President of the Radio Corporation of America, was the star witness Wednesday afternoon. He followed James L. Fly, Chairman of the FCC, who occupied the morning session in defending the Commission's action.

Mr. Sarnoff charged the FCC with retarding a potential billion dollar industry that ultimately would employ more than 500,000 persons and complained that the RCA had been treated unfairly and "publicly indicted" by the Commission.

One of the highlights of Mr. Fly's testimony was his admission that the FCC had made a mistake in issuing the February 29 order, which authorized limited commercialization of television beginning September 1. Mr. Fly said that the RCA ads were "not beyond the bounds of reason" in an interpretation of the order.

The FCC Chairman stood squarely by his guns throughout the day and showed little sign of relenting in his campaign to put a stop to RCA's promotional activities.

Sharp exchanges between Senator Reed (R.), of Kansas, and Senator Lundeen (Farmer-Labor), of Minnesota, author of the resolution, enlivened the first day's hearing.

Chairman Wheeler, while showing no inclination to recommend a Senate inquiry along the lines proposed by Senator Lundeen, suggested that the television industry's leaders get together and settle the present squabble so that the industry might go ahead at once.

Expressing the opinion that the introduction of commercial television at this time is "both timely and important", Mr. Sarnoff said the RCA is ready to launch a relay network, to market home television receivers with pictures as large as 18 x 24 inches, and to make available theater television receiving equipment which will project pictures on full size motion picture screens.

He said the television industry might be expected to employ between 500,000 and 600,000 persons on the basis of the broadcast industry's investment and employment.

While Mr. Sarnoff assailed the FCC order before the Committee, Senator W. Warren Barbour (Re.) of New Jersey, introduced a resolution specifically denying the FCC authority to control or interfere with experimentation, research, use, manufacture, or sale of television sending or receiving sets.

In the House, Representative Connery (D.), of Massachusetts, reintroduced his resolution for an investigation of the FCC.

Chairman Fly defended the Commission's recent order reopening the television inquiry on the ground that RCA's commercial promotion of receivers was threatening to "freeze" development and load the public with sets that may soon become obsolete.

Chairman Wheeler sought several times to persuade Mr. Sarnoff to agree to alter the design of the RCA television receivers so that they could receive any current system of visual broadcasting. The Senator expressed the opinion that this would remove the cause of the dispute.

Mr. Sarnoff insisted the additional expense of \$20 to \$40, which would be represented in an increase in the sales price, is not warranted, as competing systems do not have television stations in operation except in a very limited experimental capacity.

Chairman Fly retorted that the FCC shortly would grant transmission licenses to sponsors of television transmission different from that used by RCA; Allen B. DuMont, of Passaic, N.J., chief rival of RCA in the current fight, has an application for a permit to erect a station in New York.

At the conclusion of his testimony, Mr. Sarnoff engaged in a sharp exchange with William A. Roberts, attorney for DuMont, who challenged some of the RCA President's statements. When Mr. Sarnoff retorted that DuMont was owned by Paramount Pictures, Mr. Roberts denied it but admitted the motion picture company had backed DuMont financially.

Chairman Wheeler and other members raised the question as to why Great Britain had enjoyed television for two years prior to the outbreak of the war.

Mr. Sarnoff replied that England's progress was due to the fact that a Government commission investigated all phases of the art and then fixed transmission standards for a specified period.

Mr. Sarnoff termed ridiculous the contention of FCC that the sale of a projected 25,000 television sets in the New York area would "freeze" transmission standards and halt further research. He pointed out that experimentation in frequency modulation is going ahead although none of the 40,000,000 standard radio receivers, will be able to tune in FM stations.

He hotly denied that RCA was trying to obtain a monopoly of the infant industry when Senator Wheeler said such charges were being made against the corporation.

At one stage of the hearing Senator Lundeen exclaimed, "Do you want to regiment this industry?" "If it is the duty of the Federal Communications Commission to regiment the industry - yes I am going to regiment it", replied Chairman Fly.

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## / CRAVEN REPLIES TO CRITICISM OF LETTER TO LUNDEEN

Commdr. T.A.M. Craven, the lone dissenter on the Federal Communications Commission on the decision to reopen the television inquiry, on Thursday defended his conduct in writing a letter to Senator Lundeen (Farmer-Labor), of Minnesota, regarding his views of the action after members of the Committee had criticized him and then invited him to testify.

Commissioner Craven declined the invitation to appear before the Committee on Friday on the ground that he was busy with the FCC hearing, but he insisted that his actions had been regular, both as to protests voiced during the Commission meeting and as to the letter in which he criticized his colleagues.

The criticism of Commissioner Craven occurred at the close of the Thursday session of the Senate Committee when Senator Lundeen asked that he be heard.

Senator Reed (R.), of Kansas, said he had no desire to hear the Commissioner because he had criticized the FCC action in the letter to Senator Lundeen.

"No member of the Interstate Commerce Commission would think of doing such a thing", remarked Chairman Wheeler.

Chairman Fly chimed in that Commander Craven had not filed a dissenting opinion with the Commission and suggested to the Committee that his testimony was not necessary.

Commissioner Craven in a letter to Senator Wheeler explained why he was unable to appear before the Committee but expressed the hope that the meeting could be delayed until a time when he could testify.

"There are two matters which I understand were advanced in yesterday's hearings of your Committee, which should be clarified", Commander Craven added.

"The first is that I responded to an official written request from a United States Senator to give my reasons for my dissent in the disputed television order of the Commission. Being in public office and a Commissioner in an independent agency authorized by Congress, I feel that not only courtesy to the legislative body but also duty compels me to reply to requests from Senators on matters such as in the instant case. It should be made clear that I did not voluntarily write to any Senator concerning matters under dispute in the Commission.

"The second clarification of the record pertains to the statement of Chairman Fly of this Commission to the effect that I had not filed a dissenting opinion with the Commission in this matter. It is not usual in such matters as this, which is not a judicial proceeding, for members of this Commission to file written dissenting opinions. However, as the enclosed minutes

of the Commission will show, I voted 'no' when the decision to issue Order No. 65 was reached. Furthermore, I gave my reasons orally to the Commission at that time, and suggested that the Commission postpone action until sufficient time had elapsed for second thoughts. Furthermore, I urged the Chairman personally not to take the action which the majority has taken. I also suggested to the Chairman that if the majority was insistent upon taking some action, it modify the original action taken.

"I hope that you will either clarify the record in the foregoing respects, or permit me at some later date to testify under oath with respect to the matter."

In a "P.S." Commander Craven concluded:

"I wish to call particular attention to the fact that as late as 10:30 A.M., March 23, the day the order was published, I pleaded with the Chairman of this Commission to either delay or modify the action taken."

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#### RCA REFUNDS TO TELEVISION SET BUYERS DISCLOSED

A disclosure that the Radio Corporation of America has refunded approximately \$175,000 to buyers of its television receivers since reducing prices recently was made this week by David Sarnoff, President, in his testimony before the Senate Interstate Commerce Committee.

The average refund has been \$205 a set, Mr. Sarnoff said, on sets sold before the price reduction.

In a prepared statement read to the Committee, Mr. Sarnoff outlined the activities of RCA and its plans for the future.

"The Board of Directors and the Management of the Radio Corporation of America are of the considered opinion", he said, "that television offers the opportunity for the creation of a new industry, new employment and new services; that its introduction now is not only timely but important; and that substantial progress in the art can come only after its introduction upon a commercial basis.

"The Radio Corporation of America believes that in an art such as television there can be no shorter cut from promise to performance than through the process of laboratory development, field test, and service to the public.

"If the industry is left free to determine, through experimentation and test, the competitive advantages of every system, the practical standards prevailing in any given period will represent the best that the art has attained.

"The Radio Corporation has never proposed nor urged the freezing of standards. Nor is such action necessary to create the television industry and the new public services that would flow from it.

"It is a fallacy to assume that the commercial introduction of television, on any standard now conceivable, would affect the continuance of research in this art, or prevent the adoption of higher standards of service and performance. . . . .

"And while on the subject of research let me refer to the importance of increasing not merely the size of the television picture, but of the television audience -- in other words, to give more people in more communities the opportunity to enjoy television, and to participate in its activities. I submit that a greater public interest will be served at this time by research toward the methods that would extend television service to as many homes as possible, rather than in improvements that would merely add to the size or the definition of the picture now enjoyed by the few.

"To meet this need the Radio Corporation of America has developed a radio relay system designed to extend the service of television to the public on a nationwide basis.

"The Radio Corporation of America is ready, if commercial television is authorized, to ask for a license from the Federal Communications Commission for the construction of such a radio relay system, using higher frequencies than have ever before been utilized. Such facilities could serve broadcasters with programs moving simultaneously in both directions.

"Home television receivers giving pictures as large as 18 x 24 inches are now being developed in our laboratories. We shall also soon make available theater television receiving equipment which will project pictures upon full size motion picture screens. . . . .

"The Radio Corporation of America welcomes the keen competition promised in the industry in the development of the television art. The promise of this competition is increased, not lessend, by the present disagreement among a few engineers as to standards of transmission and reception, and the methods by which the highest standards may best be achieved.

"The phenomenal growth of radio in our country is due largely to the fact that the industry has had available, through licensing, the many inventions developed by those who spent millions of dollars to bring the art out of the laboratory and into commercial use. About 50 manufacturers are licensed by the Radio Corporation under its own patents and also under those of other domestic and foreign companies from which the Radio Corporation has acquired the right to grant such licenses.

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"It is the firm belief of the Radio Corporation of America that a truly new industry and new service and new employment could be created on a scale that would affect our whole economy, through the development of television that would give our own country leadership in this new art. I believe that, given the opportunity American ingenuity and enterprise can, in a reasonable time, develop a new industry in television amounting to a billion dollars annually."

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### PORTABLE RADIO CREATES BOMB MYSTERY SCARE

A furore was caused in bomb-conscious Chicago last week when Eugene F. McDonald, Jr., President of the Zenith Radio Corporation, of Chicago, sent distributors portable radios in a carton with the set turned on and tuned to the station in the city in which the distributor was located.

When the first set arrived in the Chicago express office the thunder storms that were in progress made it crack and rumble. The Chief of the Express Police was called immediately and he unhesitatingly identified it as a bomb or infernal machine. A call was put in for the Bomb Squad of the Police Department and it took them twenty-five minutes to get there. During these twenty-five minutes all work stopped in the express station. The employees and others in fear rushed out of the building and the crowd gathered on the outside of the building waiting momentarily for the infernal machine to explode. The crowd was so thick, that the Bomb Squad when they arrived had a job getting into the building itself.

The police dropped the package in water. It sank. Everybody waited. Five minutes went by, and the onlookers began to move cautiously forward. A Police Lieutenant removed the package from the water, and the onlookers moved cautiously backwards. He put it on a nearby truck and began tugging carefully at the wrappings. His audience held its breath . . . He removed the paper, uncovered the object . . .

"A radio!" everyone exclaimed.

The police tried to look nonchalant. They telephoned Zenith, who said they were sorry the radio had been left on and the batteries had hummed and sounded like a bomb.

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TRADE NOTES

The NBC press service this week set a new high in alertness when it announced under date of April 11 that a radio address by Ralph Starr Butler, Vice President of General Foods Corporation, would be repeated over NBC on "Monday, April 2". Presumably it meant April 22.

The Federal Communications Commission has extended for one week from April 15, the time for filing briefs in connection with the hearing on Frequency Modulation.

A 20-page promotional book for the NBC-Red Network, with nine illustrations by the famous cartoonist, Peter Arno, is being distributed by the NBC Sales Promotion Department. Entitled "It's Not Done With Mirrors", the book continues the title's theme with sub-heads reading, consecutively, "It's based on stations"; "It's done with programs"; "It's confirmed by listeners"; "It's proved by advertisers".

George Mateyo has been named assistant to Dr. Frank Stanton, Director of Research of the Columbia Broadcasting System. Mr. Mateyo comes to CBS after four years at Station WOR, where he headed the Research Division of the Sales Promotion Department. Prior to that he was in the media division of the Cleveland office of McCann-Erickson, Inc., which he joined in 1935, following his graduation from the Harvard Business School. Mr. Mateyo has been an instructor in the Department of Marketing of New York University since 1938.

An audience of 200 advertising men and their families watched with extreme interest a television demonstration staged by Esso Marketers on Wednesday, April 10, at the Advertising Club of New York. The affair was called a "Television Family Party". Arranged by Esso as part of the month-long celebration of the 35th anniversary of the Advertising Club, the demonstration followed a dinner, at which E. P. H. James, Advertising Manager of the National Broadcasting Company, was the speaker.

Extremely favorable reaction was reported among the audience who watched the demonstration on a dozen television receivers, installed by RCA at various vantage points around the room. Speaking "not as an engineer", Mr. James explained the workings of television in non-technical language.

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## WNYC UPHELD IN RELIGIOUS BROADCASTS

The New York Court of Appeals this week unanimously upheld the right of New York City's municipal radio station, WNYC, to make broadcasts from communion breakfasts held by the Holy Name and St. George Societies. It sustained decisions of lower courts in refusing to grant to Joseph Lewis of New York an injunction to make Mayor LaGuardia and other officials of the city cease using WNYC's facilities for such broadcasts.

Mr. Lewis' attorney contended before the court that habitual use of the broadcasting station at public expense by private persons and societies was a violation of the State Constitution, Article VIII, Section 1.

Counsel for the City of New York argued that Station WNYC, in permitting the broadcasts, made no distinctions based on color, race or creed; that the broadcasts were authorized by statute, and that there was no violation of the constitutional provision against gifts of public money.

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## VALUE OF FREQUENCY MODULATION ANALYZED

An indication of the value of frequency modulation and high fidelity reception to the consumer was recently disclosed by a study conducted under the direction of Samuel E. Gill, market research analyst.

Working on the assumption that if the consumers were interested and conscious of the value of high fidelity, they would attempt to obtain the highest fidelity reception possible from existing receivers, Mr. Gill interviewed several hundred radio equipped families in areas with a low noise level, questioning them in regard to the use of the tone control on their present radio. The position of the tone control was noted at the time of the call and in addition questions were asked relative to the use of the tone control when listening to speech and when listening to music.

As a result of this study Mr. Gill explained that a very small percentage of radio listeners use the highest fidelity obtainable through their existing radio equipment for only a small percentage keep their tone control toward the treble, i.e., at the point of highest fidelity reception.

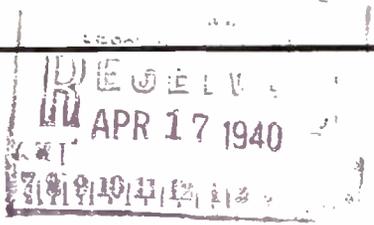
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# HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

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No. 1226

*Handwritten:* J. R. by H. J. H.

April 16, 1940

## TELEVISION DECISION AWAITS BRIEF; FLY OFF TO TEXAS

With the Federal Communications Commission awaiting the filing of briefs before reaching a decision in the television inquiry, James L. Fly, the Chairman, left this week for Texas on a trip which combined business and pleasure. Chairman Fly will be away for two weeks, or until April 29th, and the deadline for filing briefs in the television controversy is May 3.

Before leaving Washington, Mr. Fly carried out his promise made before the Senate Interstate Commerce Committee and at the FCC hearing that Allen B. DuMont Laboratories, of Passaic, N.J., would be granted a license to construct and operate a television station in New York City. DuMont's license has been pending before the FCC about a year. The new station will transmit on 625 lines and thus put to a test DuMont's contention that his system of video transmission is superior to the RCA-RMA standard of 441 lines.

As Manton Davis, General Counsel of RCA, told the Commission that his company would make its television receiving sets capable of receiving any video signals which the FCC authorized, it is expected that RCA receivers will be altered accordingly.

This move apparently will carry out the suggestion of Senator Burton K. Wheeler, Chairman of the Senate Interstate Commerce Committee, to David Sarnoff, President of RCA, that RCA alter its receivers and give the public an opportunity to decide whether the RCA or the DuMont system of transmission is superior.

Senator Wheeler last Friday placed in the Congressional Record the text of Colonel Davis' statement with regard to RCA's decision.

While observers predicted that complete commercial television will be authorized once the industry reaches an agreement as to standards, the general reaction to developments was that the motion picture industry, particularly Paramount Pictures, had won the first round with the Radio Corporation of America.

There was even speculation as to whether Jimmy Roosevelt, now a motion picture producer, had had a hand in the turn of events.

Paramount is the financial backer of DuMont, but other film producers are said to be interested in the RCA rival as they are anticipating the day when television will serve the theatre as a competitor of home reception.

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## HOUSE STARTS DEBATE ON BILL TO CURB AGENCIES

The House this week was debating the Walter-Logan Bill to curb the powers of Independent Federal Agencies, including the Federal Communications Commission. The measure is opposed by President Roosevelt, but it has substantial bi-partisan support in Congress.

While the legislation is not directed specifically at the FCC, but rather is intended to curb the powers of several New Deal agencies, it would have a restrictive effect on the Commission. It has the general backing of the nation's lawyers.

The general purpose of the bill is to give the courts broader reviewing authority over the actions of the independent governmental agencies.

"The purpose of this bill", said Representative Cox (D.), of Georgia, "is to recapture a part of the powers of Congress which it should never have delegated to the bureaucrats."

During the debate Representative Michener (R.), of Michigan, cited the Supreme Court decision in the Pottsville Broadcasting Co., case. Quoting from the decision of Justice Frankfurter, Congressman Michener said:

"It would seem clear that this distinguished Justice feels that our country is fast approaching the day when the people shall be ruled, regimented, and regulated by bureaus and administrators rather than by laws. This case would seem to indicate that in the opinion of the present Court these administrative agencies should not have their decisions reviewed by the court and that the legal doctrine as followed by the Supreme Court in the past should possibly not obtain in this new day."

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## EUROPEAN WAVE PLAN IS POSTPONED

According to the decisions of the Montreux conference of the European broadcasting companies, a new wave plan was scheduled to enter into effect on March 4, 1940 for the medium and long wave bands in Europe, including Germany and the Protectorate of Bohemia and Moravia, the American Commercial Attache at Berlin reports. It is now said in a report from Zurich that the European national broadcasting companies have decided that because of the war this change will be postponed indefinitely.

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REBROADCASTS OF NON-PROFIT INTERNATIONAL PROGRAMS AUTHORIZED

The Federal Communications Commission this week amended its rules and regulations to permit standard and non-commercial educational broadcast stations to pick up and rebroadcast the non-commercial programs of international broadcast stations. It was specified, however, that such rebroadcasting shall be on a non-commercial basis.

Briefly, this means that any broadcast station or a non-commercial educational station in the United States may, upon authority of the station originating the international program, pick up and retransmit the same for the benefit of its listeners. This applies to the program of any international broadcast station, whether it is located within or outside of the United States.

This action was taken on the basis of recommendation by a special committee of the Commission that, where possible, domestic listeners should enjoy the benefits of non-commercial international broadcasts.

The FCC action was taken after Mayor Fiorello H. LaGuardia, of New York City, had demanded permission for Station WNYC to rebroadcast programs of WRUL, Boston, and threatened to go over the heads of the Commission to Congress if his request was denied.

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WLW FACSIMILE REBROADCASTS DENIED

The Federal Communications Commission this week announced the adoption of its decision and final order denying the application of American Broadcasting Corporation of Kentucky (Station WLAP), Lexington, Ky., for special experimental authority to rebroadcast over the applicant's present broadcast assignment, with power of 250 watts, facsimile transmissions originating over Station WLW, Cincinnati, Ohio.

The Commission found that since the program of research and experimentation proposed by WLAP relate wholly to reception, and applicant has failed to show that the proposed program of research and experimentation has reasonable promise of substantial contribution to the development of facsimile broadcasting service, the granting of the application would not serve public interest.

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## PAST, PRESENT, AND FUTURE OF TELEVISION FORECAST

O. H. Caldwell, editor of Radio Today and one-time member of the old Federal Radio Commission, has chartered the past, present, and future of television on the basis of testimony given during the hearings last week before the Federal Communications Commission and the Senate Interstate Commerce Committee.

Here's the way he sees it:

PAST -- Expenditures for Research, to date:

Radio Corporation of America	\$10,000,000
Bell Telephone Laboratories	5,000,000
Philco Radio	2,000,000
Farnsworth Television	2,000,000
General Electric Co.	2,000,000
Westinghouse	1,000,000
Columbia Broadcasting System	1,000,000
DuMont	1,000,000
Miscellaneous	<u>2,000,000</u>
Total to date	\$25,000,000

PRESENT -- Current Outlays during 1940:

RCA - NBC	\$ 2,000,000
Other companies	<u>2,000,000</u>
Total	\$ 4,000,000

FUTURE -- Possibilities of New Industry:

Annual Sales Volume	\$1,000,000,000
Annual Sales, Sets	3,500,000
New industrial plant investment	200,000,000
New employment	500,000

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## 42-PAGE QUESTIONNAIRE DISTURBS BROADCASTERS

The broadcasting industry is in a state of alarm over what the Federal Communications Commission may have in mind as a result of the receipt of 42-page questionnaires which ask for the most detailed information on the financial setup of stations.

The FCC also asks for more data on network affiliations and even prospective tie-ups with the chains.

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"POT OF GOLD" PROGRAM EXONERATED BY U. S.

The Justice Department has decided not to institute "prosecutive action" against the NBC-Red "Pot o' Gold" and "Mead's Bakery" radio programs.

The Federal Communications Commission sent information concerning the two programs to the Justice Department early in February. The FCC said it had received complaints that the programs, "which involve gifts of money by chance", violate the lottery section of the Communications Act.

Assistant Attorney General O. John Rogge said in a letter made public by the FCC Saturday:

"After a thorough examination of the material submitted and a careful consideration of the facts presented, the Department has concluded that prosecutive action under Section 316 of the Communications Act of 1934, in these two matters, should not be instituted."

The FCC withheld comment on the Justice Department action, but the broadcast trade interpreted the action as a curb on the FCC. It was expected that five other program citations referred to the Justice Department by the Commission will be returned without action.

Nevertheless, there were indications that the industry itself may take steps to restrict the use of programs offering cash prizes such as "The Pot o' Gold". William S. Hedges, NBC Vice President, has sent a notice to NBC-Red stations that the agency for the "Pot o' Gold" program would be altered as of April 30. This notice was sent out, however, before the Justice Department's decision was announced.

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AMATEUR BAND AVAILABLE FOR FM TRANSMISSION

The Federal Communications Commission has modified the rules governing amateur radio operators and stations to make available to amateurs the band 58,500 to 60,000 kilocycles for radiotelephone frequency modulation transmission.

Previously amateurs were permitted to use radiotelephone frequency modulation in all amateur bands above 112,000 kilocycles. The change in the rules will make possible wider experimentation in this type of transmission, since equipment is quite generally available for the lower band.

The Commission also took the opportunity to re-arrange, in the interest of clarity, the other rules which specify the use to be made of the amateur bands, although no changes were made therein.

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## FTC CITES SOURCES OF ADS INVESTIGATED

The Radio and Periodical Division of the Federal Trade Commission, established in October, 1938, which examines newspapers, magazines, catalogs and almanacs for false and misleading advertising matter, and which also reviews advertising copy broadcast through radio for the same purpose, presents an analysis of advertisements reviewed by it during the calendar year 1939. The analysis discloses the following data concerning the principal sources and mediums of publication of those advertisements marked and set aside as warranting further investigation.

Of the total number of commercial radio continuities marked during the first half of 1939 (later data not available), the following shows the respective sources thereof:

	<u>Per Cent</u>
Nation Wide Networks	23.1
Regional Networks	4.2
Transcription Recordings	3.9
Individual Low Powered Stations	18.1
Individual Medium " "	34.2
Individual High " "	5.9
Individual Clear Channel Stations	10.6

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## RADIO WELL REPRESENTED AT GRIDIRON DINNER

The radio industry was well represented at the Gridiron Dinner Saturday night in Washington. Among those present were:

Gene Buck, President, American Society of Composers; Harry C. Butcher, Vice President, Columbia Broadcasting System, Washington; Gen. James G. Harbord, Chairman of the Board, Radio Corporation of America; William S. Hedges, Vice President, National Broadcasting Company, New York; Edward Kleuber, Vice President, Columbia Broadcasting System, New York; Edgar Morris, Zenith distributor, Washington; Louis Ruppel, Press Division, Columbia Broadcasting System, New York; David Sarnoff, President, Radio Corporation of America; Oswald F. Schuette, Radio Corporation of America, Washington; Frederick I. Thompson, Federal Communications Commissioner; Niles Trammell, Vice President, National Broadcasting Company, New York; and Senator Burton K. Wheeler, Chairman, Senate Interstate Commerce Committee.

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## BRITISH ABANDON HOPE OF REVIVING TELEVISION

The British Postmaster-General can see little prospect of the provision of a television service during the war, according to the American Commercial Attache at London. The Television Advisory Committee plans, however, to meet with representatives of the radio manufacturing industry to discuss the probable lines of development of television in the more distant future.

"Certain radio press correspondents and members of the trade have continued to advocate the resumption of a television service, even if in skeleton form, so that British television might retain its generally acknowledged lead in world television development", the U. S. Attache writes. "It had been suggested that a limited service for two hours daily, consisting of 75 per cent of film, could be resumed with a skeleton staff.

"Sponsors and promoters of television development in Great Britain continually express fear of the rivalry of United States in this field, particularly during the war-time with transmission being suspended."

One of the London papers carried the following reference to television developments in the United States:

"Reports from New York show that despite the abrupt closure of the Alexandra Palace station, America has not yet deprived Britain of her premier position in television development.

"In the New York area a survey just completed shows that there are fewer than 2,000 television sets installed in homes. By comparison, within a radius of 100 miles of Alexandra Palace, there are estimated to be between 10,000 and 20,000 television sets now lying idle.

"One American company televises twice a day on 5 days a week - a weekly total of 14 hours' entertainment. The British Broadcasting Corporation broadcast every day, and for a minimum of 20 hours weekly, sometimes greatly lengthened by outside sporting broadcasts.

"Thirty percent of this American company's programs consists of film, while only a small proportion of film was used by the British Broadcasting Corporation."

Since the Postmaster-General has reaffirmed his views, The Wireless and Electrical Trader, one of the leading radio and electrical trade weeklies, expressed the opinion that in view of the very definite official statements of the Postmaster-General, it was felt that any further suggestions to the public that there may be even a restricted wartime television service can only cause unnecessary trouble.

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## GERMANY SECOND TO U.S. IN NUMBER OF RADIO SETS

Although the United States still is far in the lead of all other countries in the number of its radio receiving sets, Germany ranks second with 16,000,000 sets, according to an estimate carried in the Sixth Annual Statistical Number of the "Electrical and Radio Trade News" issued by the Electrical Division, U. S. Bureau of Foreign and Domestic Commerce.

The statistical survey gives the United States 45,200,000 sets as of January 1, 1940, as against an estimated 52,000,000 for the rest of the world.

Radio sets in use in the United States are classified as follows:

U. S. homes with radios	28,700,000
"Secondary" sets in above homes	9,200,000
Battery portables	900,000
Auto-radios	<u>6,500,000</u>
Total sets in use, U.S.	45,200,000

The United Kingdom ranks next to Germany in the number of sets abroad. It has 9,085,050 receivers. France comes next with 5,104,689, and Japan follows with 4,666,058.

Other countries well up in the list are:

Argentina	1,000,000
Australia	1,148,021
Belgium	1,120,402
Canada	1,223,502
China	600,000
Denmark	820,100
Italy	1,100,000
Mexico	450,000
Netherlands	1,131,137
Brazil	500,000
Norway	401,931
Spain	800,000
Sweden	1,313,794
Switzerland	500,258
Union of South Africa	350,000
U. S. S. R. (Russia)	450,000

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::: TRADE NOTES    :::  
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WHBC, Canton, Ohio, became affiliated with the Mutual Broadcasting System last Saturday. Operating on 1,200 kilocycles with 250 watts, WHBC is located in a market that is 70th in city-country retail sales. With the addition of WHBC, the list of Mutual stations totals 131. WHBC is owned by the Ohio Broadcasting Co., Inc.

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The Federal Communications Commission has granted the applications of Pacific Telephone and Telegraph Co., San Francisco, Calif., for two new coastal harbor radiotelephone stations, one to be located near Fort Stevens, Ore., and the other near Portland, Ore., using frequency 2598 kc., unlimited time, the Fort Stevens station to operate with a maximum power of 400 watts, and the Portland station with a maximum power of 50 watts.

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Maestro Arturo Toscanini and the NBC Symphony Orchestra will leave for an extended tour of South America on May 31, 1940, Lenox R. Lohr, President of the National Broadcasting Company has announced.

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The Chief Engineer of the Federal Communications Commission has approved the following frequency monitors for use by standard broadcast stations as complying with the requirements of Section 3.60 of the Rules and Regulations and the provisions of Section 15 of the Standards of Good Engineering Practice:

General Radio Company, Oscillator, Type 475-C, Deviation Meter, Type 681-B, Quartz Plate Type 376-L; and  
RCA Manufacturing Co., Type 311-A

The above monitors are the only frequency monitors approved at the present time as complying with Section 3.60 of the Rules and Regulations, effective August 1, 1940. These are the only monitors which may be employed by new stations (original construction permit granted on or after August 1, 1939). However, several manufacturers have submitted, or have advised that they propose to submit data showing that with certain modifications, monitors that were formerly approved under Section 21 of the Standards of Good Engineering Practice are capable of compliance with Section 3.60 of the Rules and Regulations and Section 15 of the Standards of Good Engineering Practice.

If and when these modified monitors are approved, they will be assigned approval numbers and will be listed with the above units as approved frequency monitors under Section 21 of the Standards of Good Engineering Practice.

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The Federal Communications Commission has granted the application of the Martinsville Broadcasting Company for a new station in Martinsville, Va., to operate unlimited time on 1420 kc., with daytime power of 250 watts and nighttime power of 100 watts, subject to permittee filing an application specifying exact transmitter location and antenna system within two months hereafter. The application of the Patrick Henry Broadcasting Company for the same facilities was denied. Chairman Fly and Commissioner Case dissented.

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In connection with its investigation instituted by order of February 7, 1940, for the purpose of obtaining further information to assist the Federal Communications Commission in determining whether its rules should be amended to make available for use in the Great Lakes region frequencies capable of providing a longer distance radiotelephone communication service between vessels on the Great Lakes and points on shore, the Commission has amended Part 7 of its Rules Governing Coastal and Marine Relay services. Rule 7.58(c) allocating frequencies available for assignment to coastal-harbor telephone stations was modified to include certain frequencies above 3000 kc for assignment to Great Lakes Coastal harbor stations. The general purpose of such modification of rule 7.58(c) will be to compensate for the reduction in range due to transmission over fresh water and the exceptional static conditions experienced during several months of the season of navigation. Rules 7.7, 7.8 and 7.58(b) remain unchanged.

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#### \$5,300,000 INTERSTATE TELEPHONE RATE REDUCTION TARIFFS FILED

The Federal Communications Commission announced yesterday (Monday, April 15) that tariff schedules containing reduction in interstate message toll telephone rates representing approximately \$5,300,000 annual savings to the public have been filed with it by the American Telephone and Telegraph Company. These reductions are being made as a result of conferences between that company and the Commission without the necessity of legal proceedings. The new rates will become effective May 1.

This reduction brings the total estimated annual savings to the public in interstate telephone rates to approximately \$27,300,000 by reason of reductions made since the establishment of the Commission. If the reductions effected since the establishment of the Commission were computed on a cumulative basis, the savings to telephone users will have amounted to over \$95,000,000 by the end of 1940; and this is so without taking into consideration savings on increased traffic.

The new schedules provide for reductions in all classifications of interstate toll telephone rates.

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## JOHNSTONE TO BE RADIO DIRECTOR OF DEMOCRATIC COMMITTEE

G. W. (Johnny) Johnstone, for five years Director of Public Relations and Special Features at WOR-Mutual, this week announced his resignation from that post on May 1 to become Director of Radio for the Democratic National Committee. He will join the Committee on this date, making his headquarters in the National Press Building, Washington, D. C.

During his five years at WOR-Mutual, Johnstone has been the guiding hand in a succession of outstanding special events coverages that have won much attention for the network. Characterized by the "Saturday Evening Post" as "getting ahead of his huge network rivals with half their equipment and a quarter of their budget", Mr. Johnstone directed WOR-Mutual's thorough coverage of such spot news events as the Howard Hughes flight, the European crises and ensuing war, the maiden voyages of the "Queen Mary" and new "Mauretania", and a host of other news-making incidents.

Mr. Johnstone brings to his new post a varied experience in both radio and journalism. Prior to joining WOR-Mutual in November, 1934, he served as Manager of Press Relations and Assistant to the President of the National Broadcasting Company, dating from its formation in 1926.

His radio career began in March, 1923, as one of the pioneer employees of WEAJ, then under the banner of the American Telephone and Telegraph Company. In 1924, on the basis of varied experience as newspaperman, radio operator and professional musician, Mr. Johnstone became the station's publicity manager, a post which led to his later position with NBC.

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### FACSIMILE NO THREAT TO PRESS, SAYS EDITOR

Almost half a year as the editor of the radio-facsimile newspaper put out by the Dallas (Tex.) Morning News has convinced Gene Wallis that the potentialities of this work, still in its experimental stage, are unrealized, according to Editor & Publisher.

Mr. Wallis last week reviewed the progress of the daily broadcasts over short-wave station W5XGR, as he relinquished the editorship to devote his full attention to duties as business editor of the News.

Mr. Wallis has supervised preparation of copy for the broadcasts since they first went on a regular daily schedule last October. Prior to that time the broadcasts had been on an irregular basis and were first demonstrated to the public in an exhibit at the Texas State Fair last Fall.

"Nobody knows the future of facsimile", Mr. Wallis told Editor & Publisher. . . . "Newspaper publishers who think this work we're doing will some day lead to obsolescence of their properties can stop worrying. I can't see how radio facsimile can ever take the place of the newspaper, or provide effective competition for it. Its real value probably hasn't yet been thought of. While our engineers are slowly perfecting their technique, making constant improvements in efficiency and clarity of reception, it will take someone who doesn't know anything about facsimile to get a brainstorm and supply the answer we're still seeking."

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# HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

WASHINGTON, D. C.

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## HOUSE PASSES WALTER-LOGAN BILL; VETO FORECAST

By a three-to-one majority the House this week passed the Walter-Logan Bill designed to restrict drastically the authority of governmental administrative agencies, including the Federal Communications Commission, and sent it to the Senate.

Although the House spent three days discussing the measure, many members admitted they didn't understand just what it provided. Majority Leader Rayburn sought to have it returned to the Judiciary Committee because of its confusing features.

There was only an occasional passing reference to the FCC during the debate. Most of the members' ire against "bureaucrats" was directed at the New Deal agencies.

The bill was sent to the Senate, which last year passed almost an identical measure before the Administration leaders realized its full significance. They recalled it from the House and a motion to reconsider its passage is pending. Few believe that the Senate will consider the Walter-Logan measure this session and even if it finally is sent to the White House a certain veto faces it, in the opinion of many.

As it passed the House, the bill requires public hearings for all rules and regulations issued in the future by administrative agencies, and, upon request of anyone "substantially interested", for all rules now in force if they have been in effect less than three years.

Once the rules have been issued, they can then be appealed by anyone to the United States Circuit Court for the District. The court can invalidate them if they conflict with the Constitution or a statute, or if the agency exceeded its authority.

In addition to any person who is "aggrieved" by a decision of an officer or employee of an agency is guaranteed a hearing before a special three-man board. If he is still "aggrieved" by the agency's final decision, he may appeal to the Circuit Courts.

The bill covers the 100-odd executive departments and agencies with some exceptions, such as the State, War, Navy and Justice Departments, Federal Reserve Board, Interstate Commerce Commission, Federal lending agencies, Federal Trade Commission, Railroad Retirement Board and National Mediation Board.

Mark Sullivan, newspaper columnist, in a review of the bill suggested that the bill, if it had been a law at the

time, might have had its effect on the FCC in reopening the television inquiry.

Louis G. Caldwell, Washington radio attorney, in an analysis of the bill as published in the Congressional Record appendix by Representative Luther A. Johnson (D.), of Texas, said:

"The bill is really a combination of two bills: (1) to regulate Federal administrative agencies in the making of rules and regulations, in other words, their quasi-legislative functions; and (2) to regulate Federal administrative agencies in the determination of particular controversies, in other words, their quasi-judicial functions. Section 1 is devoted to definitions and section 7 to exceptions and reservations. Both sections are applicable to the two portions of the bill.

"Although the bill has been greatly improved over the original draft submitted to the American Bar Association, it still is full of flaws, ambiguities, and even incongruities. In order not unduly to extend this memorandum, I shall for the most part pass over such matters. Some of the more important will be mentioned under the appropriate headings below. . . . .

"Section 4(e) of the bill provides a procedure for 'independent' agencies, that is, agencies having two or more officers at the head.

"It should first be noted that the bill does not prescribe any procedure for such agencies. It is simply permissive or contingent. In effect, it states that such an agency may provide by rule that 'where any matter arises out of the activities' of such agency it may be heard in the first instance by one of its trial examiners. If the agency so provides by rule, the examiner shall file his written findings of fact and separate decision after public notice and a full and fair hearing, copies to be sent by registered mail to the aggrieved party. There follow rigid provisions giving the aggrieved party an opportunity within 30 days to file written objections; and if he does so, the agency shall not enter its decision without first according a public hearing upon reasonable notice to the party. There are other details which may be passed over.

"The foregoing is objectionable for the following reasons:

"1. Even if it be conceded that the procedure is meritorious, no independent agency is required to follow it, and any such agency may evade it by simply not providing by rule that matters may be heard by trial examiners. In fact, most of the statutes governing the important commissions specifically prescribe or authorize the delegation of the power to hear and decide controversies in the first instance to individual members or groups thereof, employees, examiners, etc., and it seems probable that the specific provisions of such statutes will not be considered to be repealed by the general and ambiguous language of the bill.

"2. The machinery now available at most of the important commissions is at least equal to, and in a number of instances is better than, the procedure specified in the bill.

"3. The bill attempts (on a contingent basis) to prescribe rigid details of practice such as the requirement of service by registered mail and the specification of a 30-day period; such matters should not be enacted into law without study of their actual effect upon existing procedures. It is my impression that in some instances the 30-day period is probably too long and in others too short. The Federal Communications Commission, for example, allows a longer period under certain circumstances for parties from the Pacific Coast, Hawaii, and Alaska than it does for parties farther east. Corresponding differences will be found in the procedures of other commissions, usually built on years of experience.

"4. So far as is apparent from the face of the bill, no existing evil in any of the independent agencies will be cured by its provisions.

"At this point a comment may be made that applies both to this and the preceding subheading. It is to be feared that, if enacted into law, the bill will have the effect of hindering or preventing any fundamental or far-reaching reform of Federal administrative agencies such as has frequently been proposed and as was endorsed by the President's Committee on Administrative Management. This type of reform would, broadly speaking, consist in returning all the regulatory functions of independent commissions, other than their quasi-judicial functions, to the executive departments, and setting up really independent quasi-judicial boards for the hearing and determination of controversies on the model of the Board of Tax Appeals."

In his conclusion Mr. Caldwell criticized the recent report on FCC procedure by the Attorney General's Committee.

"I do not want to leave the subject without adverting briefly to developments which represent a point of view at the other extreme from the Logan-Walter bill", he said. "It is evidenced by the monographs now being made public under the auspices of the Attorney General's Committee on Administrative Procedure, submitted to it from time to time by its staff. While the monographs do not as yet have the approval of the Committee, they reveal a uniform approach which to me is just as far from leading to any remedy for the evils of the existing situation as is the bill. . . . Its monograph on the Federal Communications Commission, for example, is so inaccurate in describing and commenting on that agency's procedure that no person not already familiar with the subject may safely use it as a source of information. While I believe that the other monographs so far published do not exhibit inaccuracy or want of objectivity to the same extent, some of them reveal that the Commission's procedure is tacitly used as a measuring rod and all of them reveal the same a priori approach. The staff's philosophy may or may not ultimately prove to be correct. My point is that the issue, which is at least highly controversial, should not be determined in advance or on the strength of faulty evidence."

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## PAYNE BACKS REVOCATION OF FOUR TEXAS LICENSES

Recommendation that license revocation orders be affirmed in the cases of four Texas radio stations -- KTBC, Austin; KNET, Palestine; KRBA, Lufkin, and KGKB, Tyler -- was made to the Federal Communications Commission this week by Commissioner George Henry Payne as a result of hearings which he conducted in that State during March. In his opinion, the charges of hidden ownership made in connection with all four stations "have been fully sustained".

At the same time, Commissioner Payne has signed an order remanding the case of a fifth Texas station, KSAM, at Huntsville, for further hearing.

The March hearings developed that the technique used in securing the licenses of KTBC, KNET, and KRBA and of transferring the rights under them was practically the same. Commissioner Payne said in his preliminary report:

"First, James G. Ulmer prevailed upon three local men of excellent reputation and financial stability to organize a copartnership for the sole purpose of securing a station license. Next, he directed all the important details . . . and finally had his own lawyer, James H. Hanley, file the papers . . . Soon after the construction permit had been secured, the partners entered into a contract authorizing Ulmer (or one of his co-workers) to finance, construct and operate the station. Thus, in the early history of the station, did the partners assign their license rights without the knowledge or consent of the Commission.

"The partners made no capital investments and received no income from the station . . . All, or almost all, of the profits found their way into Ulmer's pockets or the pockets of one of his close associates. The partners had no control of the station's bank accounts, receipts or expenditures . . . They continued to sign papers because they were the licensees of record in order to deceive the Commission.

"It is clear that the partners were simply puppets manipulated by Ulmer who was the puppeteer. It was Ulmer, or one of his associates, who financed, constructed and operated the station. It was he who controlled the programs and the station policy. It was he who hired or fired employees and enjoyed the profits.

"The partners signified under oath by their application and associated papers that they would finance and control the station. This they never intended to do, thus perpetrating fraud upon the Commission. In several instances the partners submitted sworn statements showing that the partnerships involved possessed substantial assets, whereas, in fact, such partnerships possessed no assets whatever. Station assets belonged to Ulmer or one of his associates."

Ulmer is also identified with Station KGKB but this case, points out Commissioner Payne, involves a corporation and differs somewhat from the partnership cases. According to the report:

"Here Ulmer gained voting control of the East Texas Broadcasting Company by means of stock purchases, without the knowledge or consent of the Commission . . . Here, too, the license rights were illegally assigned and illegally exercised by the assignee, who again was Ulmer.

"Ulmer's conduct is reprehensible in more ways than one. He has induced honest and self-respecting men to violate the law and participate in an intricate scheme of deception. Most of these men made themselves parties to Ulmer's machinations through honorable intentions - a desire to serve their communities. Some of them even tried to break through the net in which Ulmer had caught them. But Ulmer's own conduct was prompted wholly by greed. Ulmer has cast a shadow upon the business of broadcasting."

Orders of revocation were issued by the Commission against Stations KTBC, State Capitol Broadcasting Association, Inc., KNET, Palestine Broadcasting Association, and KRBA, Red Lands Broadcasting Association on February 7; in the case of KGKB, East Texas Broadcasting Co., on February 13, and that of KSAM, Sam Houston Broadcasting Association, on February 8.

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G.O.P. PUBLICITY AIDE HITS FCC ON TELEVISION

Further indications that the current television controversy may have repercussions in the national political campaigns was seen this week.

Franklyn Waltman, Publicity Chief for the Republican National Committee, in his weekly column "Looking Forward", reviewed the argument in 1,000 words, quoting from Commissioner Craven's letter to Senator Lundeen and summarizing with characteristic hostility the Federal Communications Commission's reasoning. He ridiculed the logic behind the FCC's "edict", declaring that suspension of the rules is a typical instance of New Deal un-friendliness toward business.

"No person in this country with enough money to buy a television receiver expects that the set now purchased will be as good as those available two or three years hence", Mr. Waltman said. "Nevertheless, many thousands of persons now would like to have a television receiver. But the FCC says they cannot . . .

"The action of the FCC in this case illustrates the real purpose of the New Deal better than any 10,000 words. Not only does it completely reverse itself in less than a month, but it undertakes to suppress - or at least hold back - a new industry which some day will supply employment for many thousand persons."

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## FCC GRANTS PERMIT IN PRESS TIE-UP

Efforts to prevent close affiliation between newspapers and radio broadcast stations, particularly in small communities where there might be an interlocking management of both facilities, failed this week when the Federal Communications Commission granted a radio station construction permit at Martinsville, Va., to a co-partnership, known as Martinsville Broadcasting Co., one of the members of which owns the only daily newspaper in the town.

The policy was inaugurated during the regime of Frank R. McNinch, and was considered of such importance that Chairman James L. Fly filed a two-page dissenting opinion.

The Chairman held that the Commission's latest action was inconsistent with a ruling in 1938, when a station was granted to an applicant other than a newspaper, which also was an applicant, on the ground it would furnish a competitive medium.

The views expressed in that case, the dissenting opinion said, "were of course not intended to be applied generally to all newspaper applicants, but only when a grant would tend toward creating a local monopoly in the channels for the public expression of opinion and in the dissemination of news and information and when at the same time a competing application was granted. In my opinion, this policy is sound, and I find no sufficient justification for failure to apply it here."

Commissioner Paul Walker, supporting the majority ruling, said he agreed with the policy regarding monopoly of news through unity of ownership of all means of communications, but the "instant case is not the proper one for beginning the application of this policy".

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## WNYC MAY BE LEASED TO PRIVATE OPERATOR

WNYC, New York City's own station, may be leased for private operation. The Citizens Budget Commission this week recommended such action to the Board of Estimate.

Tracing the growth of WNYC, the city radio station, from a \$6,600 agency in 1923 to a \$118,405 agency this year, the Commission report recommended that the station be leased to private interests with appropriate reservations for public use, and that its appropriation be dropped from the budget. The report described the station as "an unnecessary luxury".

The change will save the city \$118,405 a year, the Commission predicted.

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FCC IGNORES LABOR, SENATE COMMITTEE TOLD

The Federal Communications Commission has hampered telegraph operators in their efforts to protect communication workers from "uncontrolled mechanization", the Monopoly Committee was informed yesterday (Thursday) in its inquiry into the machine age's impact on unemployment.

Daniel Driesen, legislative representative of the C.I.O. American Communications Association, charged that the FCC had not even "considered the viewpoint of labor" in its report on proposed merger of major telegraph companies.

The Commission, in a report last December 23, "indicated that the telegraph companies by consolidation at the expense of workers' jobs will be financially able to introduce technological changes which will enable them to lay off further workers and reap additional profits", Driesen asserted.

Telegraph companies merely report to the FCC the rate of compensation to their employees, requiring no statistics on "actual wages paid, despite the fact that so large a percentage of workers employed in the industry are now on part-time", the witness said.

Driesen said the number of workers in the telegraph industry has declined 31,600 since 1930, a drop of approximately 30 percent. Chiefly responsible for the decline, he stated, was replacement of the Morse key with the automatic multiplex telegraph and the keyboard printer.

The industry today is again in the process of "almost complete remechanization" through development of the superimposed circuits, automatic switching between circuits and automatic facsimile telegraphy, Driesen asserted.

He said that "wherever union organization is not present to prevent it, this mechanization results in unemployment, reduction in wages, increase in speed-up and worsening of working conditions".

James B. Carey, President of the United Electrical Radio and Machine Workers, testified that technological advances through elimination of jobs are destroying purchasing power faster than they cheapen prices.

Senator O'Mahoney (D.), of Wyoming, Committee Chairman, has suggested experiments with Federal tax reductions for industries and employers who create employment opportunities.

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## PRINCETON PROF. EXPLAINS THE ORSON (MARS) WELLES SCARE

The 1,200,000 Americans who were stricken with terror on Hallowe'en night of 1938 by a radio dramatization of a fantastic invasion of the earth by the inhabitants of Mars laid bare "a specific ailment in the social body", Dr. Hadley Cantril, Associate Professor of Psychology in Princeton University, declares in his report of a scientific study of the incident, published this week by the Princeton University Press.

Development of critical ability, extensive educational opportunities and political and economic stability are the panic-preventive medicines prescribed by Professor Cantril in the book which is entitled "The Invasion from Mars".

Conservative figures indicate that 6,000,000 persons listened to the presentation by Orson Welles and the Mercury Theatre on the Air of a radio adaptation of H. G. Wells' "The War of the Worlds". Because of the dramatic technique employed, 1,700,000 of the listeners believed that the broadcast was an actual news bulletin. Seventy percent of those who thought it was a news broadcast were frightened by what were apparently eyewitness descriptions of the landing of the Martians near Princeton and the irresistible march of their towering fighting machines toward New York, destroying soldiers, civilians and countryside with heat rays and poison gas. Telephone calls increased 39 percent above normal in metropolitan northern New Jersey. Panic, however, was not confined to that area but was general throughout the country.

Economic and political upheavals of the last decade have created a sense of insecurity and a feeling of bewilderment in the average person, Professor Cantril states, and points out that instability is a fertile field for the panic-seed. Other contributing causes, found by Professor Cantril in individual cases of terror, were intense religious beliefs regarding the end of the world, a feeling that because of the disturbed international situation an attack by a foreign power was not unlikely, a notion that scientists have fantastic powers and imaginations inflamed by stories and comic strips of interplanetary exploits.

"Psychologically", Professor Cantril reports, "most persons who tuned in to the broadcast as a news report were unable to verify the interpretation they heard because 1) they possessed standards of judgment that adequately accounted for the events and made them consistent with latent expectancies, 2) because they did not have adequate standards of judgment to distinguish between a reliable and an unreliable source of confirmation; 3) they had no standard of judgment and felt the need of one by means of which they could interpret the reports, thus accepting the interpretations provided by the 'observers' of the events and by the prestige of radio, and 4) they had no standard of judgment and unhesitatingly accepted the one provided."

Explaining why those who were terror-stricken became so frantic, Dr. Cantril writes: "The coming of the Martians did not present a situation where the individual could preserve one value if he sacrificed another. It was not a matter of saving one's country by giving one's life, or helping to usher in a new religion by self-denial, of risking the thief's bullet to save the family silver. In this situation the individual stood to lose all his values at once. Nothing could be done to save any of them. Panic was inescapable."

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 ::: TRADE NOTES :::  
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World radio market series issued by the U. S. Bureau of Foreign and Domestic Commerce recently include Macao, Union of Soviet Socialist Republics (regulations), Liberia, Brazil, Luxemburg, Jamaica (regulations), Andorra, and Ireland.

Supreme Court Justice Graham Witschief in White Plains, N.Y., has approved the petition of the Huguenot Yacht Club to sell Little Pea Island -- about a mile off Glen Island in Long Island Sound -- to Columbia Broadcasting System. CBS will pay \$17,000 for the island and subject to approval of the Federal Communications Commission, will build a new transmitter, replacing the present WABC tower at Wayne, N. J.

Dave Driscoll has been appointed Director of Special Features for WOR, effective May 1, according to Alfred J. McCosker, president of the station. His appointment follows the resignation of G. W. (Johnny) Johnstone, since 1934 Director of Special Features and Press, who becomes Director of Radio for the Democratic National Committee on May 1. Under the new WOR set-up, publicity will be handled by a separate department. Mr. Driscoll, who has been associated with Mr. Johnstone for more than four years, joined WOR in 1936 as a part-time sports and special features announcer, shortly becoming a regular member of the staff.

The Columbia Broadcasting System, Inc., reported Wednesday for the thirteen weeks to March 30, subject to audit, a net profit of \$1,552,031, equal to 90 cents a share on combined 1,716,277 shares of \$2.50 par Class A and Class B stocks. This compares with \$1,163,947, or 68 cents a share on 1,708,723 shares for the thirteen weeks to April 1, 1939.

Paul W. Keston, Vice President, replying to a stockholder's question at the annual meeting in New York, declined to make specific comment on CBS television activities pending the outcome of the recently opened television hearings by the Federal Communications Commission in Washington.

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## WINNING ESSAYS ON COPYRIGHT LAW PUBLISHED

The American Society of Authors, Composers, and Publishers this week was distributing bound copies of the "Second Copyright Law Symposium" containing the five essays adjudged as best among the papers submitted from seventy-six law schools which participated in the Nathan Burkan Memorial Competition.

The winning papers were judged by Herman Finkelstein, of the New York bar. The winning essays and the writers were:

"The Extent of Copyright Protection for Law Books", by Paul P. Lipton (University of Wisconsin); "Analysis, Criticism, Comparison and Suggested Corrections of the Copyright Law of the U. S. Relative to Mechanical Reproduction of Music", by Charles W. Joiner (State University of Iowa); "Some Copyright Problems of Radio Broadcasters and Receivers of Musical Compositions", by George W. Botsford (University of Arizona); "The Motion Picture Distributor and the Copyright Law", by Irvin E. Bernstein (Yale Law School); and "Copyright Laws in Georgia History", by W. Marion Page (University of Georgia).

Mr. Botsford in his review of the copyright problems of radio broadcasters came to the following conclusions:

"To the writer, it appears that the exclusive right of public performance for profit given a composer should not be curtailed to any extent, especially since radio broadcasting has resulted in a very marked diminution of royalties received from the sale of copies of a given musical composition. It is said that the life span of a modern song, even when it is of more than average popularity, is only three months. The reason assigned for this change is that radio broadcasting, by its very number of performances of the composition within a short time, dulls the taste of the public for hearing a rendition of the particular music.

"To the writer, it likewise appears that the construction of the courts that radio broadcasting and reception are performances within the statute is logical and that the operation of the statute under such a construction is fair. The test of the fairness of a statute is how it works in practice. All radio broadcasters, because of the statute, are, in practice, made to obtain licenses for their performances. There would seem to be no quarrel with this result. In respect to radio receivers, as a practical matter, only those who receive broadcasts for the benefit and enjoyment of a large number of persons are forced to obtain licenses. The composer, as represented by ASCAP, does not, for example, go to the corner drugstore and force the proprietor there to obtain a license for the performance of his musical compositions over the radio. The composer does, however, go to a large hotel, which is engaged in providing music to several hundred guests, for the guests' enjoyment and require a license in that case. Can there be any quarrel with this result? To attempt, by a specific statement of exceptions in a statute, to obtain this same result would, on the other hand, very possibly open the door

to undesirable abuses of the author's rights, and would, further, accomplish nothing. Therefore, I would suggest that, for the present, at least, the statute be left untouched.

"Having finished a discussion, in some detail, of the composer's rights in radio broadcasting and of the problems confronting a radio broadcaster or receiver, the answers to the questions originally put in connection with the Copyright Act of 1909 readily appear. The question - When does one have a valid copyright? - may be answered by saying that a person, who is one entitled to enjoy the statute, who has performed the necessary formalities required by the statute to obtain protection, and who has a manuscript which is subject to protection under the statute, it being not immoral and an original, having literary merit, and not having been published before obtaining the copyright, has a valid copyright.

"The last question - When is there a performance infringing that copyright? - may be answered by saying that there is an infringement when there is a performance, to the public, for profit, without the consent of the copyright owner."

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#### RADIO PROSPEROUS; OTHER MEDIA OFF

"Radio is enjoying a lush springtime this year, at a time when United States business generally is decidedly off and while other advertising media have ample occasion for complaint", Variety comments this week. "In partial explanation of this brilliant exception to the prevailing rule, the master minds are crediting the healthy condition to the radio industry's insistence upon 13-week cycles and to the whole discount structure of radio which practically forces advertisers to follow sound principles of advertising, namely, regular, consistent, fixed campaigns over long periods. Radio does not permit sponsors to jump on and off the bandwagon as they blow hot or cold.

"In the two months during which Variety has compiled its box-office reports on radio time sales in key cities, the following change has been noted between the first and most recent reports (totals are weighted for omissions):

	<u>Percent</u>
Network business	+2.7
National spot business	+4.5
Local business	+12.4

"Although the upturn in radio time sales this Spring was not altogether unexpected, it is the result (according to the trade's best master minds) of cumulative trends, rather than any particular new event or strategem. More specifically, radio today has maneuvered itself into the position where it is capitalizing on the advertiser's goodwill at the expense of other media."

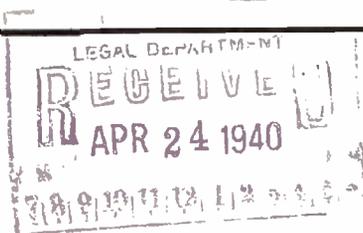
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# HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

WASHINGTON, D. C.

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April 23, 1940

## LABOR DRIVE ON RADIO ADS BRINGS PRESS PROTEST

A mail campaign by the International Allied Printing Trades Association to unite publishers and other interested parties in a fight to curb radio advertising brought a reproof this week from Editor & Publisher, the newspaper publishers' organ.

The campaign is being directed from the Washington headquarters of the Printing Trades Association, which represents 150,000 tradesmen in 900 cities of the United States and Canada. Its chief interest, it was explained, is protection of jobs of its members.

Over the signature of John B. Hagerty, President, the Association last week sent letters to all newspaper and magazine publishers in the United States.

"For the year 1939, the gross sales of radio time amounted to \$171,113,813, while the gross volume of national magazine advertising was \$151,484,530", the letter stated. "The radio advertisers not only paid this sum of \$171,113,813 to the radio stations but, in addition thereto, they paid many additional millions of dollars for music, entertainers, royalties, etc. While newspaper advertising in 1939 increased 1.5% over 1938, magazine advertising increased 9.1% over 1938, national farm publications advertising increased 2.6% over 1938, radio station and radio chain advertising increased 15.9% over 1938.

"Magazines and newspaper plants represent large and substantial investments and provide employment for many thousands of organized workers while radio stations, in most cases, represent but a small investment for physical equipment and provide employment for a relatively small number of persons.

"While radio broadcasting licenses are issued by our government, without cost to the holders thereof, through the reports of the Federal Communications Commission we note that the present value of these licenses represent vast money."

The letters to publishers asked "what plans, if any, have been considered or what plans may be considered to correct this situation which has already proven most harmful to the best interests of printing trades workers and their employers".

Although no mention is made of the Association's own plans, it is reliably reported that new restrictions on radio broadcasting are considered by the labor group to offer the solution. Breakdown of the chains, restoring stations to local

ownership, has been suggested. With newspapers owning or controlling about one-third of the licensed facilities, the printing trades believe the advertising reduction program might "begin at home", in the interest of protecting the more costly investment - the publishing plant.

Under the heading "Off on the Wrong Foot", Editor & Publisher said:

"Editor & Publisher is wholeheartedly in favor of any plan which will bring advertising back to newspapers, but it does not believe that that result can be accomplished by turning back the clock. Breaking up the radio chains by Commission or Congressional action will not reduce the number of radio stations now competing for the advertiser's dollar. Neither will an attempt to restrict stations to local ownership be made. The logical result of either step will be substitution of cooperative selling for joint ownership. The basic problem will still be unsolved.

"Printed media can only prosper by aggressive promotion of their own merits, by demonstrating that they can do a better job for the advertiser at a cost no higher than that of their competitors. We firmly believe that such a case can be made, especially for and by the newspapers which represent the bulk of investment and employment in the printing trades. The daily newspapers have already undertaken a positive, forward-looking, campaign, under the auspices of the Bureau of Advertising, and it is already producing results. They have avoided the negative, and futile, attempt to legislate radio competition out of their way.

"If the Printing Trade Association is off on the wrong foot, and we believe it is, if our information on its plans is correct, the same observation can be fairly made about many newspapers. Approximately one-third of the nation's radio facilities are now owned by or closely related to daily newspapers. The bulk of the promotion of radio as an advertising medium is now appearing over the signatures of these newspaper-radio combinations. And we can say with authority that the promotion directed to advertisers by these combination interests has recently been, in total bulk, more heavily concentrated on the radio than on the newspaper story.

"We suggest that the proprietors and workers in the printed media do indeed have a common interest, and that a common strategy against broadcast competition is quite in order. They might begin on the basic principle all they can't hope for legislation which will cripple broadcasting as a communications medium, and that if they could, it would do them little good. That program is totally lacking in realism. We want none of that, and we need none of it; the printed word is every bit as effective as it ever was, and it will prosper best by impressing that fact upon the consciousness of all America.

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## RADIO EXCISE TAX COLLECTIONS UP 26.4%

An increase of 26.4 percent in March, 1940, of radio excise tax collections brought the total payments of the 5 percent Federal excise tax for the first quarter this year to a point 31.8 percent higher than the similar quarter ended March, 1939. The latter were 52 percent above the collections during the first three months of 1938.

The current Bureau of Internal Revenue report on tax collections reported collections in March, 1940, of the 5 percent Federal excise tax on radio were \$445,871.21, an increase of 26.4 percent over the March, 1939, radio taxes of \$352,648.84, although the collections last month were below the February, 1940, radio collections of \$632,977.54. March collections of excise taxes on refrigerators decreased, being \$933,517.15 last month compared with \$954,436.34 in March, 1939.

The radio tax collections for the first three months ended March 31, 1940, totaled \$1,756,911.52, compared with radio taxes in the first quarter of 1939 totaling \$1,332,993.99, an increase of \$423,917.53, or 31.8 percent over the first quarter of 1939.

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## SEES 25,000 TELEVISION SALES IN N.Y.C.

Within a year after the Federal Communications Commission permits commercial television programs, more than 25,000 television receivers will be sold in the New York area alone, according to Thomas F. Joyce, Vice President and Advertising Director of the RCA Manufacturing Company, Camden.

Mr. Joyce made his predication at the Spring convention of the Society of Motion Picture Engineers at Atlantic City, according to the New York Times. He said television was a potentially gigantic industry that eventually would employ hundreds of thousands of workers. Thirty stations in eighteen cities had applied to the FCC for television licenses, he declared.

"Six of these have already been granted", Mr. Joyce declared, "and if the others are granted, up to 10,000,000 families will be within range of home television service. If these stations begin sending out television programs, at least 1,000,000 television receivers will be purchased by the American public in five years."

He said he did not believe television would hurt good movies and urged the motion-picture industry to assist in the development. Condensed previews of the picture could be presented by television to the home audiences, he said, and potential stars would be able to get their test in television.

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## AN EX-COMMISSIONER COMMENTS ON FCC CHAIRMAN

One of the most severe criticisms to be published of James L. Fly, Chairman of the Federal Communications Commission, since the reopening of the television inquiry, is carried this month in the current issue of Radio and Television Today, by Orestes H. Caldwell, editor and former member of the Federal Radio Commission.

"Every man in the radio business will be stunned at the full implications of the new government policy by which the FCC Chairman presumes to dictate how and when radio merchandise shall be sold - and even addresses the public with advice not to buy radio products which lack his approval!" said Mr. Caldwell in an editorial.

"Of course, as everyone knows, there is today a patent struggle involved at Washington. At this time, the radio industry's engineers cannot agree on uniform recommendations for future operations. With the radio industry thus divided, government officials have seized the opportunity for an outrageous assumption of authority to meddle into merchandising - an attack that concerns the future of every manufacturer, every distributor, every dealer and every serviceman.

"If such a policy is persisted in, we may see the FCC demanding further air-time from its helpless broadcast licensees, to publicly interfere with the merchandising of radio receiving sets, combination-phonographs, and other associated products.

"Servicemen may hear a Washington voice coming over sets they have just fixed, advising Mrs. Jones against purchasing the very tubes they have just installed.

"Dealers making receiver demonstrations may suddenly hear bureaucrats counselling their customers to buy no push-button sets or no FM sets, because 'still newer things are ahead' in the bright future of radio. Or, the capricious and political-minded Commission, today officially approving FM, may 30 days later be cautioning the public against the new system because it will obsolete 45 million existing receivers! . . . .

"The FCC was created to serve as traffic cop of the wavelengths only. There it is needed and is unquestionably boss! But when its autocratic arm reaches over into the homes and stores and service-benches of America and attempts to order or advise what shall be purchased and what shall not, it is time the whole radio industry and trade united to shut bureaucracy out of our end of radio!

"Every dealer and every distributor should clearly understand that the issue now involved is no longer television alone, but the sale of radio sets and supplies - your business! The trade must realize that government through this approach, is

creeping in on the \$400,000,000 radio business itself, from which 200,000 families derive their support.

"So the whole radio industry, whatever its temporary internal differences of opinion, must keep alert to the greater danger that besets each individual business through government meddling. It is time for all radio interests to unite in demanding that in the merchandising of radio the government keep "Hands Off!"

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"WHAT IS ASCAP?"; ASCAP HAS THE ANSWER

The American Society of Composers, Authors, and Publishers has sent out from its New York headquarters folders titled "What is ASCAP" and answering the query in the following five pages.

Pointing out that ASCAP is a "non-profit" association, the folder adds:

"It is dedicated to the principal that 'no man or woman in the United States who writes successful music, or anyone dependent upon them, shall ever want.'

"Membership in the Society is available to every citizen of the U.S.A. who is a qualified composer, author or publisher of musical works. Membership is not available to mere aspirants in these fields, but only to persons who have proven their right to recognition by having created actually published successful works of a type such as are performed in establishments licensed by the Society.

"The American Society of Composers, Authors and Publishers bespeaks the good will of the millions of people in our country who are daily entertained, amused and moved by the musical compositions created by our members."

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Radio appears destined to play an important role in Argentina's educational curriculum, according to U. S. Vice Consul Joe D. Walstrom, Buenos Aires. For the past few months the Government "School of the Air" has been making experimental transmissions from the official station in Buenos Aires and recently broadcast its first primary educational course. In addition to daily transmissions for the primary grades, it is planned to have three different types of evening programs arranged for parents, teachers, and adults desiring elementary education. The "School of the Air" is under the joint supervision of Argentine educational authorities and the Department of Posts and Telegraphs. The project still is in a preliminary stage, since only a few of the local schools are equipped as yet with satisfactory radio receiving sets. However, plans now are under consideration whereby each school will acquire complete reception facilities.

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## FCC SEES NO X-RAY DANGERS FROM TELEVISION

A timid radio listener has written to the Federal Communications Commission to suggest "the danger from X-Rays to which the public will be subject in the use of television receiving sets.

"According to the best available information", the FCC states in reply, "the efficiency of X-Ray generation at the voltages employed in cathode-ray television systems is extremely low, and any X-Rays so produced are of such low penetrating power as to be completely absorbed by the glass walls of the tube. Not only is this true of cathode-ray tubes in television receiving sets, but also of the tubes used in transmitters. In neither case do engineers consider there is any danger from X-radiation."

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## "LISTEN BEFORE YOU VOTE", PROMOTION SLOGAN

A national campaign for general radio promotion of the National Association of Broadcasters and the Radio Manufacturers' Association was approved and provision made for its continuance by the RMA Board of Directors at its meeting last Thursday, April 18, at the Hotel Roosevelt, New York City. Toward the NAB-RMA campaign, designed to promote sales of the manufacturing industry, as well as the interests of broadcasting, the RMA Board matched a substantial appropriation recently made by NAB. "Listen Before You Vote" will be a prominent feature during the presidential election campaign of the joint promotion project, and it will include factors for sales promotion of tubes, parts and accessories, as well as receiving sets.

No action relating to television or frequency modulation problems was taken by the RMA Board of Directors, and there was no discussion of either except for factual reports of recent official action in Washington.

Further steps toward clarification of tube advertising rules in the Fair Trade Practice Rules promulgated by the Federal Trade Commission were taken by the RMA Board.

Tentative plans for the Sixteenth Annual RMA Convention and Radio Parts National Trade Show at the Stevens Hotel in Chicago, June 11-14, were approved by the RMA Board.

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## A.P. VOTES TO BROADEN RADIO NEWS POLICY

Members of The Associated Press moved at their fortieth annual meeting in New York City this week to broaden the organization's policy covering use of its news services for sponsored radio programs.

Kent Cooper, General Manager, in his annual report of the Directors, said:

"Early this year, the Board directed that the members be polled to obtain an expression of views as the result of the increased use of news in broadcasting. The following are the results: 939 members replied; 302 members failed to reply. Of those replying, 674 unconditionally favored liberalization, 231 unconditionally opposed liberalization; thirty-four conditioned their replies or left it to the judgment of the Board.

"The Board feels that this is a clear expression of the wishes of the membership to make every effort to develop the advances of this field. The Board calls attention to the fact, however, that the field has been intensively developed already by the news agencies and only experience can determine the addition to revenues which may result."

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## RADIO EXPORTS INCREASE THIS YEAR

Radio exports last February continued to show the increase begun in January, according to the current February report of the U.S. Bureau of Foreign and Domestic Commerce. Radio exports last February totaled \$1,772,464, a substantial increase over the February 1939 exports of \$1,372,572.

Receiving sets exported last February numbered 45,056 valued at \$732,041, compared with February 1939 exports of 32,419 valued at \$704,409.

Radio tubes exported last February totaled 654,968 valued at \$240,894, compared with February, 1939, exports of 402,859 tubes valued at \$173,947.

Parts and accessory exports total \$558,511 this February as compared with \$329,748 in February, 1939.

Loud speaker exports numbered 27,667 valued at \$36,067 this February as against 17,621 speakers valued at \$29,104 in February, 1939.

Transmitting apparatus exported last February was valued at \$206,575, against \$135,364 in February, 1939.

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 ::: TRADE NOTES :::  
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The entire thirty-ninth floor of 521 Fifth Avenue, New York, has been leased for a long term of years to Transradio Press Service, Inc., now located at 342 Madison Avenue, where it began its existence in one small office room in 1934. Occupancy will be taken May 1.

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James J. Walker, former Mayor of New York City, has leased space in the International Building, Rockefeller Center, New York City, for headquarters of the National Association of Performing Artists, of which he is President. The purpose of the body is to protect radio, television and recording artists from unauthorized use of their recordings. It numbers among its officers Fred Waring, Paul Whiteman, Meyer Davis, Al Jolson, Frank Crumit and Don Voorhees.

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A New York has asked the Federal Communications Commission about "regulations relative to rates which may be charged by standard broadcast stations for the use of their facilities". The Communications Act stipulates that stations engaged in program broadcasting are not common carriers. They are not subject to rate regulation as are common carriers such as the telephone and telegraph. Hence, the matter of charges is one resting between the stations and the sponsors.

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Bills in the Kentucky and Virginia legislatures to prohibit radios in automobiles capable of receiving police signals have failed of enactment, according to information to RMA headquarters. Both died with the adjournment of the two State Legislatures, although the Kentucky bill had been favorably reported and reached second reading. Another Kentucky bill, to establish a State Electrical Administrative Board, died in the House, but the Virginia Legislature passed a bill to establish an "Electrical Administrative Board" to regulate and control the installation and alteration of electrical wiring, fixtures, appliances and equipment, the latter excepting automotive equipment.

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The Federal Communications Commission still receives inquiries as to a "license for the operation of radio receivers". The answer, of course, is that no such Federal license is required.

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## RCA EXHIBITS ELECTRON MICROSCOPE TO SCIENTISTS

The Radio Corporation of America last Saturday demonstrated a new and powerful electron microscope before the American Philosophical Society in Philadelphia.

The microscope was said to have a "useful magnification" of 100,000 diameters or more and was hailed as a new "eye" in the fields of biology and medicine.

Biologists present suggested that the instrument, ten feet high and weighing about 700 pounds, might open up new worlds now invisible to light and possibly bring into view for observation hitherto unseen filtrable viruses responsible for many human illnesses.

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## PEARE SUCCEEDS LANG AT GENERAL ELECTRIC

Robert S. Peare, President and General Manager of the Maqua Company, a large printing and engraving concern affiliated with General Electric in Schenectady, has been named Manager of the Publicity Department of the General Electric Company. He will assume his new duties at once, succeeding Chester H. Lang, who becomes Manager of Apparatus Sales for the company.

In his new position Mr. Peare will also serve as Manager of Broadcasting for the company with responsibility for operation of its stations, WGY, Schenectady; KGO, Oakland and KOA, Denver, as well as international broadcasting stations WGEO, WGEA, and KGEI; frequency-modulation station W2XOY, and television station W2XB.

Mr. Peare, a native of Bellmore, Indiana, entered the employ of the General Electric Company as a student in the Accounting Department two months after graduating from the University of Michigan in 1922. The following May he was transferred to the Advertising Department where he remained until September 1, 1923, when he returned to the Statistical Section of the Accounting Department and a year later became Assistant to the Chief Statistician. In October, 1926, he was elected Secretary-Treasurer of the Maqua Company and three years later became General Manager. On January 1, 1934, he was elected President and has continued to fill these positions to the present time.

Mr. Lang joined General Electric in 1919 as a traveling auditor and has been Assistant Manager of the Publicity Department and Comptroller of the Budget. He organized the Company's Market Research Bureau in 1932.

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## ALMONTE NBC HOST "AFTER HOURS"

Sponsors and advertising executives have been invited to visit NBC after hours and meet NBC's "official host" - Juan de Jara (John) Almonte, who is the major domo of nighttime operations at Radio City.

The invitation was extended by Roy C. Witmer, NBC Vice President, in a letter which accompanies a folder called "After Hours". In his letter, Mr. Witmer explains that it would be a swell idea if all regular NBC contacts could be on the job at all times, but that being impossible, that is where John Almonte fits into the picture.

"After hours", Mr. Witmer writes, "he's practically the National Broadcasting Company, as far as your needs and desires are concerned. Considering his experience, his years in the business and his close, daily touch with sales and program activities, you'll find his help a definite convenience. You ought to take every advantage of it."

The folder, illustrated with a picture of Mr. Almonte, gives his background and says:

"Perhaps if it were possible for a large organization such as NBC to capture and crystallize its personality in a single human being, John Almonte might reasonably assume that role."

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## CHICAGO POLICE FIND F.M. SUPERIOR TO A.M.

Recent tests by the Chicago Police Department of the frequency modulation type of broadcasting developed by Maj. Edwin H. Armstrong of Columbia University have proved it superior to the amplitude modulation method and the department plans to install the new system for the 200 radios of its squad cars, according to a Chicago correspondent of the New York Times.

The tests were made under the supervision of Fred H. Schnell, radio engineer of the Chicago department, using a hand-constructed set built for the purpose by a radio concern of New York City.

The Federal Communications Commission has authorized experimental use of frequency modulation in police radio. The Chicago police force, so far as is known, is the first to avail itself of this method.

Mr. Schnell, with Police Commissioner James P. Allman's approval, decided upon the Chicago tests after F-M's adaptability to police squad car use was demonstrated by the General Electric Company in December in Schenectady, N.Y.

Two squad car tests of the F-M set were made on succeeding days last month. The first was on March 15, when a squad car carrying an Armstrong instrument broadcast from various parts of the city to the police receiving station on the roof of the forty-six-story Field Building.

The experiment showed static elimination surpassing all expectations, according to Mr. Schnell and Frank A. Gunther, chief engineer for the New York radio concern, who assisted in the test. This was true at "dead spots" from which reception is impossible with the amplitude modulation system now in use, they said.

F-M's superiority over A-M was again demonstrated in tests the next day when two squad cars, one carrying the new and the other the old type of instruments, were used, Mr. Schnell declared.

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#### CONSUMERS FOUND COOL TOWARD TELEVISION

An indication of consumer opinion with regard to television receiving equipment was provided by a study completed last week under the direction of Samuel E. Gill, market research analyst.

In interviews with several hundred families, all of whom have an income of \$5000 or more, Mr. Gill said he found that price of equipment was the largest single deterrent to immediate purchase for more than 55 percent indicated that they were not considering immediate purchase because of the expense involved or because they believed the price of receivers would drop in the near future. An interesting sidelight was developed when over 30 percent of this group indicated that they had no idea as to television prices, comparing the cost with the purchase of an automobile, a grand piano, etc.

One-third of those interviewed believed that television was not yet perfected enough to warrant an investment in a receiver. Sample comments of this group were:

Will buy when television is more widely used; Believe receivers will be changed; Not far enough advanced; Still in the experimental stage; Won't invest in an experiment; Will buy when large scale production only; When they are simplified enough for amateur use; Won't purchase until they are universally accepted.

A number of interesting comments were obtained from a group who gave miscellaneous reasons for postponement of purchase, such as:

Performance not up to expectation (had one); Not enough hours of broadcast; Can only get local programs; Don't want one now; Just bought a new radio.

The effect of the recent FCC ruling on consumer attitudes was slight, the survey showed inasmuch as less than 5 percent indicated that they would purchase sets if the Commission gave the receivers their O.K., Mr. Gill said.

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# HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

WASHINGTON, D. C.

RECEIVED  
WILLIAM K. COLEMAN  
BROADCASTING COMPANY  
LIBRARY  
100 BOND STREET  
NEW YORK

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No. 1229

## FCC LOSES GENERAL COUNSEL AND AIDE; FRICTION DENIED

The Federal Communications Commission announced Thursday that William J. Dempsey, General Counsel, and William C. Koplovitz, Assistant General Counsel, have submitted their resignations for the purpose of engaging in the private practice of law, specializing in radio, in Washington. The resignations are effective at the convenience of the Commission.

Known as the "Little Corcoran and Cohen" team of New Deal lawyers, Messrs. Dempsey and Koplovitz denied a published report that they were quitting because of friction with the Commission and Chairman James L. Fly.

"Our relations with the Commission have never been better", Mr. Dempsey said.

Acting Chairman Thad H. Brown commented:

"It is with genuine regret that the Commission has received the resignations of General Counsel Dempsey and Assistant General Counsel Koplovitz. They are able, industrious, and conscientious young men with an exceptionally high regard for public service. Their going is a distinct loss to the Commission."

Chairman James Lawrence Fly, who is absent from the city, wired:

"The Commission is sorry to lose such valuable services to private practice." He credited Messrs. Dempsey and Koplovitz with expediting and simplifying Commission procedure, and particularly complimented them for their unbroken record of favorable decisions for the Commission in seven cases before the United States Supreme Court and in 29 cases before the Court of Appeals.

Mr. Dempsey and Mr. Koplovitz have "teamed" in Government service since 1933. Before joining the Federal Communications Commission legal staff, they were counsels to the Federal Power Commission and, before that, the Public Works Administration.

Mr. Dempsey was named General Counsel, after a brief tenure as Special Counsel for the monopoly investigation, at the height of the FCC "purge" conducted by Chairman Frank R. McNinch. Mr. Koplovitz became his aide about the same time in December, 1938. Mr. Dempsey succeeded Hampson Gary.

Despite their youth - Mr. Dempsey is 34 and Mr. Koplovitz is 30 - the attorneys have been singularly successful in defending appeals from FCC decisions both in the Court of Appeals of the District of Columbia and in the U. S. Supreme Court.

Under Mr. Dempsey's direction, the FCC Legal Division has won 7 cases and lost none in the Supreme Court and two are pending and has won 29 and lost none in the Court of Appeals with 9 pending.

Mr. Dempsey is the son of Representative Dempsey (D.), of New Mexico. At the time of his appointment to the FCC, he was reported to be one of the school of young New Deal attorneys sponsored by Thomas Corcoran, presidential advisor.

Mr. Dempsey was born in Brooklyn, N. Y., February 22, 1906. He received his elementary education in New York, his high school education in Oklahoma City and later attended Georgetown University from which he received his B.S. degree, cum laude in 1927, his M.S. degree in 1929 and his L.L.B. degree in 1931. While attending Georgetown Law School, Mr. Dempsey was Assistant Professor of Mathematics at Georgetown College teaching Mathematics and Physics. Following his graduation from law school, Mr. Dempsey entered the private practice of law in New York, specializing in trial work. He entered Government service in 1933 as attorney for the Public Works Administration.

Mr. Koplovitz was born in St. Louis, May 30, 1909. He received his elementary and high school education in St. Louis, ranking first in his class, which won him a four-year scholarship to Washington University. He received his A.B. degree in 1929 with honors, was awarded a fellowship in Sociology and received his M.S. degree in 1930. He is a member of Phi Beta Kappa. He entered Harvard Law School in 1930 where his grades won him a scholarship during his first year. He was elected to the Legal Aid Society and graduated in 1933, cum laude. Like Mr. Dempsey, Mr. Koplovitz entered Government service in 1933 as attorney for the Public Works Administration.

Both men worked together as a legal team from the beginning of their government careers. In the Legal Bureau of the Public Works Administration they specialized in municipal financing and construction contract law and in June, 1934, both were made counsel to Administrator Ickes.

At the Communications Commission, Messrs. Dempsey and Koplovitz devoted themselves primarily to litigation. Both men were responsible for putting into effect the Commission's revised hearing procedure and were largely responsible for the issuance of the Commission's present rules and regulations in complete form.

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The warden of a State prison wants local radio stations to cooperate in broadcasting emergency information regarding escaping prisoners. The Commission has advised that, though the law prevents standard broadcast stations from being used for routine police work, there is no bar to news flashes containing information about escaping prisoners which may be of interest or concern to the general public.

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## NO FCC ACTION ON TELEVISION OR FM BEFORE MAY

While the radio industry grows anxious over the delay in FCC decisions on television and frequency modulation, the Commission plans to take another vacation next week.

Chairman James L. Fly will not return to Washington from Texas before the middle or latter part of next week, and the Commission is expected to hold no full quorum meetings before the week of May 6.

Meanwhile, radio manufacturers are complaining that orders for new receivers are being held up because of the uncertainty of what the Commission will do about television and FM. Dealers are afraid to place orders for new radio receiving sets, it was said, until they know whether they are to include FM attachments and be able to be adapted to television reception.

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## SUPREME COURT ALTERS SANDERS CASE DECISION

A slight change was made this week in the language of the Sanders Brothers radio station case decision, announced March 25 by the U. S. Supreme Court and since widely quoted with regard to the powers of the Federal Communications Commission.

The court wrote in the word "financially" into a comment on Congressional intent as interpreted by the tribunal and struck out another comment on Section 402(b)(2) of the Communications Act.

As revised the Court's decision reads:

"Congress had some purpose in enacting SS 402(b)(2). It may have been of opinion that one likely to be financially injured by the issue of a license would be the only person having a sufficient interest to bring to the attention of the Appellate Court errors of law in the action of the Commission in granting the license."

The Court then struck out the following sentence: "In this view, while the injury to such person would not be the subject of redress, that person might be the instrument, upon an appeal, of redressing an injury to the public service which would otherwise remain without remedy".

Left in the decision was the concluding sentence of the paragraph: "It is within the power of Congress to confer such standing to prosecute an appeal."

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## NETWORKS PREPARE FOR FULL CONVENTION COVERAGE

Plans for the complete coverage of the Republican and Democratic Conventions this year, just announced this week, are a far cry from the feeble yet revolutionary broadcasts of the 1924 conventions when radio was still a baby.

NBC, CBS and MBS all released announcements simultaneously this week outlining their program for informing the radio public of developments at the convention almost as soon as they happen. Crack commentators and news analysts will be on hand. Microphones will be staged at every vantage point throughout the convention halls in Philadelphia and Chicago.

On the NBC-Red Network, H. V. Kaltenborn and Earl Godwin will follow the progress of the conventions. On the NBC-Blue Network will be heard Baukhage, Raymond Clapper, Washington columnist, and Lowell Thomas. Announcers assigned to convention coverage include George Hicks and Charles Lyons, spot news reporters, and Carleton Smith and Herluf Provenson, both of whom have acted as presidential announcers. Women's activities at both conventions will be covered by Ann Underwood.

At both Philadelphia and Chicago, the NBC convention staff will operate from a glass booth back of the speaker's platform, where a complete broadcasting studio setup will be installed. In addition, both convention halls will be connected by direct NBC wires with New York to carry last-minute developments in Europe to delegates and candidates.

Paul W. White, Columbia's Director of Public Affairs, has mustered the following analysts to give the radio audience informed reports on developments: Elmer Davis, Bob Trout, Albert Warner and John Charles Daly. Edwin C. Hill and Paul Sullivan also may participate in Columbia's coverage direct from the convention cities.

For the floor pickups, the most modern equipment devised by radio engineers has been planned. The CBS microphone for each State delegation will be connected by lines to a panel at the speaker's stand. From this "nerve center", engineers and technicians will survey the spectacle, punching buttons on an intricate board before them as various States answer the roll or participate in the proceedings. This will open the circuit to unit chairmen or their spokesmen.

For the Republican convention, arrangements provide for construction of an elevated Columbia broadcasting booth directly behind the speaker's platform. In Chicago, Columbia's main control booth is to be mounted over an arena-floor section of seats behind the speaker's stand.

Expected to head the combined staffs of the Mutual Broadcasting System's chain and four station affiliates - WGN, Chicago; WOR, Newark; WFIL, Philadelphia; and WOL, Washington - will be such names as Gabriel Heatter, one of the airwaves' best known voices; Arthur Sears Henning, chief of the Chicago Tribune's Washington bureau; Fulton Lewis, Jr., Mutual's nightly news-caster, Washington; Quin Ryan, veteran of radio convention broadcasts since the crystal set era; Wythe Williams, editor of the Greenwith "Time", and Dave Driscoll, special events director for WOR.

Elaborate technical set-ups are to be installed under the supervision of three Mutual network chief engineers - J. R. Poppele of WOR, Carl Meyers of WGN, and Arnold Nygren of WFIL - and Andrew L. Poole, Traffic Manager of the network.

More than 50 microphones bearing the banners of Mutual, CBS and NBC will be posted strategically inside both halls and upon the speakers' platforms so that each State Chairman will have his own microphone. Specially constructed radio booths will tower over the stages, with auxiliary studios and offices maintained directly beneath the main stages in both halls. Portable transmitters, capable of moving about through the crowds for interviews, will also be utilized. Parabolic microphones are to pick up background noises for atmosphere, while other specially installed mikes eavesdrop on band music.

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#### FCC EXPLAINS HOW TO GET A STATION LICENSE

In the face of complaints that the broadcast spectrum is already over-crowded, the Federal Communications Commission this week issued a press release on "Procedure Necessary to Establish a Radio Broadcast Station".

After explaining that the minimum power requirement is 100 watts, and that such a station can be built for between \$5,000 and \$8,500, the FCC statement adds:

"Any person, firm or corporation legally qualified may apply to the Commission for radio broadcast facilities in any locality . . . ."

"The time required for an application for a new broadcast station to go through the necessary routine varies with individual cases. In the case of a purely local station, where no interference is involved, the time can be as short as four to six weeks, providing that the application is accurately and completely filled out and all the required exhibits are appended. However, where interference and formal objection by other stations enter, a longer time is necessary."

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The release also explains the procedure for holding hearings, testing equipment, etc., and explains the Commission exercises no jurisdiction over advertising rates on programs and charges no fees.

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#### SENATE TELEVISION TESTIMONY IS PUBLISHED

The Senate Interstate Commerce Committee this week released printed copies of the testimony of David Sarnoff, President of the Radio Corporation of America, and James L. Fly, Chairman of the Federal Communications Commission, before the Committee April 10 with regard to the Lundeen resolution.

Copies may be obtained from the clerk of the Committee until the supply is exhausted.

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#### MILITARY ORDERS DISRUPT NAZI RADIO INDUSTRY

Huge army orders for wireless equipment which have been placed with the German radio industry during recent months have necessitated swift and far-reaching changes in the production program, according to the American Commercial Attache at Berlin.

"Naturally, army orders receive first attention and the change to mass production for such equipment has already been completed", he reported. "At the same time, laboratory research is also being carried out primarily for military purposes.

"In the second line, the production program aims at filling export orders, although the part taken by exports in the total German radio production has never been large.

"The domestic market is scheduled to be supplied especially with small, high-capacity receivers, notably for supplying the requirements of repatriated Germans from the east. Incidentally, during the past few months, it has been virtually impossible to find new and large radio sets in German retail shops as the supply of such sets to the trade had been suspended during the reorganization of the industry for army production."

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## 150 SHIP RADIO OPERATORS CALLED COMMUNISTS

Charging that there are 150 Communists in the radio rooms of American ships, a Dies Committee witness asserted this week that the C.I.O.'s American Communication Association was under "99 per cent" Communist control, and that Mervyn Rathborne, its president, is a Communist.

One of the ships with a Communist radio operator, he said, is former Ambassador Joseph E. Davies' yacht, "Sea Cloud".

The witness, Fred H. Howe, testified that he had been ousted by an A.C.A. "goon squad" last year from his post as secretary of a marine radio union local.

Howe's allegation that the A.C.A. is under Communist domination brought an immediate denial from Rathborne, whom President Roosevelt last year appointed as adviser to the National Youth Administration.

In a statement issued in New York, Rathborne asserted that Howe had been expelled from the A.C.A. "after having been tried and found guilty of being an agent of the employers". The Dies Committee, Rathborne, added, "clearly shows its union-busting hand once again" in providing a "public platform from which the vilest slander can be broadcast" against workers who believe in collective bargaining.

Chairman Dies himself stated that Howe's testimony as to Rathborne's alleged communism was based on "secondary evidence" which was admitted into the Committee's record only because of the Communist Party's refusal to make public its membership list.

The witness charged that the Communist Party had been able to place "probably 150 or more good members" as radio operators on American merchant vessels. In time of war, he said, they could "sew up" the ships and "help establish a Soviet system here."

Naming as communists several radio operators on Government and privately owned American ships and land stations, Howe included in his list George Stano, radio operator of Davies' yacht.

The former Ambassador to Russia, who is now Assistant to Secretary Hull, said that Stano had been employed as chief wireless operator on the "Sea Cloud" since 1934, is an "excellent operator" and "thoroughly trusted by his captain.

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## NEW AMATEUR OPERATOR LICENSE EXAMINATIONS ORDERED

Effective July 1, 1940, the Federal Communications Commission will replace the amateur operator license examinations, which have been in use for several years, with new examinations consisting primarily of the multiple choice type of question which has proven so successful during the past year in the commercial radio operators license examination.

The class "A" examination will contain a maximum of forty advanced technical questions dealing mostly with radiotelephony. The class "B" and "C" examinations will contain a maximum of fifty questions, of which approximately thirty will be technical and twenty regulatory and law questions. The code requirements remain unchanged.

The multiple choice type of question is usually answered by the insertion of a number in the space provided and the entire examination can be completed in a very short time. The FCC believes that this type of examination, in addition to greatly reducing the examination time, will also reduce the elapsed time for grading and issuance of the license and will provide better sampling of the applicant's knowledge by the increased number of questions without making the examination more difficult.

A study guide containing "paraphrased" questions which cover the field of all questions asked in the actual examinations will be released by the FCC at an early date.

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## BRITISH POSTPONE RADIO RELAY DEVELOPMENT

It has been officially announced that the scheme proposed by the British General Post Office for a radio relay service has been postponed until after the war. The American Commercial Attache at London reports that the reasons for the decision are cost and the fact that the scheme would absorb too many skilled technicians who are needed for the services.

In the House of Commons recently a member asked the Postmaster General "what progress has been made in respect of the Government's proposed broadcasting relay service by telephones; when such service will be available to the public; and whether he is now in a position to give particulars of the proposed changes to be made to telephone subscribers for the installation and maintenance of the necessary additional apparatus?"

In reply Major Tryon, the Postmaster General, stated: "On June 16, 1939, I gave the House some details of a scheme for the distribution of broadcast programs over telephone lines; and I expressed the hope that my Department would be able to take the first step by introducing such a service about the end of the year in Central London, and in Edinburgh, Birmingham and Manchester.

As the House is aware, the outbreak of war resulted in heavy demands being made on the telephone service for defense purposes, while at the same time many members of the engineering staff were withdrawn for services with the forces. The preparations for the new wire broadcasting service were necessarily delayed, and the question arose whether it would be desirable to proceed with the scheme or to postpone it. After full consideration of this question in all its aspects, the Government has reached the conclusion that the advantages likely to be derived from the introduction and development of the service under present conditions would not be sufficient to justify the diversion of capital and skilled labor from other war-time activities. It has been decided, therefore, to postpone the introduction of the service until the end of the war."

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 ::: TRADE NOTES :::  
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World radio market series reports issued this week by the U. S. Bureau of Foreign and Domestic Commerce included: Brazil (regulations), Malta, Brazil (regulations), and Uruguay.

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Opposing viewpoints on the continuance of WNYC, New York City radio station, was expressed Wednesday by Harold Riegelman, counsel for the Citizens Budget Commission, and H. V. Kaltenborn, radio news commentator, at a public hearing before the Council Committee investigating the station in City Hall.

Mr. Kaltenborn defended the station as an aid to public education in the city. He said the city might as logically close its school system. He told the Committee that he was "shocked" by Mr. Riegelman's argument for abolition of the station as a city-supported agency.

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Jerry Danzig has been appointed Director of WOR publicity, Alfred J. McCosker, President of WOR, announces. In taking over this post Danzig leaves his present position as Commercial Program Manager. He succeeds G. W. (Johnny) Johnstone, who recently announced his resignation to become Director of Radio for the Democratic National Committee.

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With foundations completed and brickwork rising rapidly, all indications are that the new transmitter building of NBC station WEAF, at Port Washington, L.I., will begin operation in September, according to a report issued this week by Raymond F. Guy, NBC Facilities engineer. The new WEAF transmitter, being erected at an approximate cost of \$280,000, embodies the latest technical developments. Its new location, selected after several years of exhaustive study of all possible sites in the Metropolitan area, is expected to produce the strongest signal of any radio station in the New York area.

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## DRUGS, TOILET GOODS BIGGEST NBC ADVERTISER

The drugs and toilet goods industry, with a total expenditure of \$4,186,616 for the first quarter of 1940, an increase of 13.4 percent over the 1939 figure of \$3,691,116, led all other advertisers on the National Broadcasting Company networks for the first three months of this year.

In second place was last year's leader in the first quarter, the food industry, which expended a total of \$3,543,777, a decrease of 17.4 percent over the 1939 outlay of \$4,291,744.

Most sensational rise in expenditures occurred in the tobacco industry, which displaced laundry soaps and cleaners as the third leading advertiser on NBC. The tobacco outlay for the first quarter of 1940 hit an all-time high of \$1,759,748, an increase of 92.9 percent over the 1939 total of \$912,256.

Manufacturers of laundry soaps and cleaners also increased their expenditures sharply, marking up a figure for the first three months of \$1,735,744, an increase of 30.6 percent over 1939's total for the period of \$1,329,319.

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## PUBLISHERS SEEN AS UNION OF RADIO AND PRINTING PRESS

The American Newspaper Publishers' Association this week in New York City considered the possibilities of union between the radio and the printing press, according to the New York Times. More than 500 editors, publishers and business managers attending the Association's fifty-fourth annual convention at the Hotel Waldorf-Astoria learned from their Radio Committee that newspapers now had a proprietary interest in one-third of all licensed radio stations.

The Committee's report, presented by its Chairman, J.S. Gray, of The Monroe (Mich.) Evening News, declared that while radio as a medium had become "a powerful commercial entity, an inevitable gravitation associates it increasingly, and in many of its best uses, with newspaper operation." The moderate cost of the new frequency modulation system, the report added, offered inducement for the establishment of stations in smaller communities.

Paul Bellamy, editor of The Cleveland Plain Dealer, said: "But I am ready to accept them, the gentlemen the radio, as partners", when he presented the report of his Committee on cooperation of press, bar and radio. He added:

"We can agree on pretty much everything except the use of cameras and microphones in court. It remains to be seen what can be done about that."

John S. McCarrens, Vice President and General Manager of The Cleveland Plain Dealer, in his address as President of the Publishers, referred to Gutenberg's movable type and said:

4/26/40

"And it remained the fastest method until the invention of the electrical devices of communications, such as the telegraph, telephone, radio, facsimile and television. It has been our good fortune thus far to marry these miracles to the printing press."

The radio report cited an increase of fifty in the number of the standard radio stations in the last year, the largest increase since 1937 when there were fifty-three new stations. It noted an increase in the volume of sponsored spot news broadcasts and "concurrent rises of newspaper circulations" described as "most gratifying and no doubt significant."

The possibility that 90 percent of standard stations now licensed might change to new frequencies when modulated frequency is put into effect by the Federal Communications Commission was mentioned in the report, which added:

"Included among the applicants for frequency modulation licenses in the lists published to date are, The Chicago Tribune, The Detroit News, The Worcester Telegram, The St. Louis-Star-Times, and The Winston-Salem Journal. The Milwaukee Journal is now operating under frequency modulation license.

"Facsimile experimenters hope that frequency modulation will open new prospects to that medium inasmuch as facsimile can be broadcast simultaneously with programs from the new type transmitter. Otherwise, exploitation of facsimile appears to have further receded during the last year."

Mr. Bellamy, for his committee, reported progress toward cooperation among the press, bar and radio and said: "We children of the printing press are also the children of God in the responsibility we bear and the opportunity we possess. And we know it well. Trust to say, the radio knows it, too, though the radio is a young child in the kingdom, by the rite we might describe as infant baptism. In other words, it yet has to prove itself on the stricken field as our great ancestors in the printing business have done, and as we believe we are doing.

"The only real problems in the hard assignment you have given this committee is the difference of opinion between the bar on the one side and the press and radio on the other.

"We hope to receive shortly some likely evidences of a new faith from the bar. There is to be a meeting in this city April 26 of the four committees engaged in this enterprise, namely, those of the American Newspaper Publishers' Association, the American Society of Newspaper Editors, the National Association of Broadcasters and the American Bar Association."

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# HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

WASHINGTON, D. C.

NATIONAL BROADCASTING COMPANY, INC.  
COMMUNICATIONS DIVISION  
300 WEST 42ND STREET  
NEW YORK 36, N. Y.

RECEIVED

MAY 1 - 1940

WILLIAM KOSTKA

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No. 1230

April 30, 1940

## ECONOMIC HURDLES STILL BLOCK TELEVISION, SAYS McDONALD

Television is still "just around the corner for stock salesmen only", Commander E. F. McDonald, Jr., President of the Zenith Radio Corporation, told the annual convention of Zenith wholesale distributors in Chicago this week.

No progress has been made within the last year and a half in clearing the economic hurdles, Commander McDonald said. Yet he added that there is nothing wrong with television that money can't cure and predicted that when a means is found for financing adequate television programs it will constitute a great industry.

Commander McDonald indicated that in his opinion the public will demand the equivalent of motion pictures which now cost the movie producers \$200,000 an hour and are sold to the public through the theatres at less than ten cents an hour per person. Advertisers haven't that much money to pay for public entertainment, he said.

Commander McDonald stated that Zenith Radio Corporation is making progress on its experiments in putting television over the telephone wires. This would offer an economic solution because the programs could be paid for, he said. He stated that the corporation has not only been operating a television transmitter since more than a year ago, but is also operating a frequency modulation transmitter located on the Chicago Towers Club Building, which is on the air 16½ hours every day. He did not elaborate on any of the other three new products but definitely stated that regardless of rumors to the contrary, the Zenith Radio Corporation is not manufacturing nor does it intend to manufacture or market refrigerators, washing machines or any other products not allied with radio.

Zenith plans to introduce four new radio products this year. As a consequence, for the first time since he entered the business in 1920, Commander McDonald predicted that the unit of sale will be going up rather than down. The only one of these products he discussed at length was Maj. Edwin Armstrong's new invention, frequency modulation radio reception, which he indicated Zenith would introduce as soon as the Federal Communications Commission sets the standards for the width of the band that should be used by this service and the wave lengths which will be made available to it.

He pointed out that Zenith will sell no frequency modulation receivers until these two standards are set because frequency modulation sets produced and sold at this time might become

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obsolete in six months if the standards adopted by the Federal Communications Commission are different from those now in use. Nevertheless, he emphasized his opinion that frequency modulation has none of the economic hurdles of television and stated that Zenith is licensed by Armstrong and is ready to go ahead with F-M for the public when the standards are fixed by the FCC.

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### PROGRAM COMPLAINTS SHOULD GO TO STATION, SAYS FCC

Because it has had to answer more than 600 radio program complaints from listeners within the last three months, the Federal Communications Commission this week issued a general information release suggesting that listeners should address their protests and comments on performers or programs to the station or network involved.

"Such 'fan' mail wields considerable influence in broadcasting policies", the FCC release explains.

These 600 complaints during the past three months ran the gamut from objecting to radio advertising to protesting certain performers or their utterances. Many complaints had to do with the dropping of certain radio programs. In the case of one speaker, 129 letters were received in his behalf.

"Most of this correspondence seems to be due to a mistaken idea that the Commission has authority to pass judgment on radio artists and programs", the FCC said. "It is expressly prohibited by law from censoring individual radio programs. It can take action only in cases involving use of obscenity and lotteries.

"The determination as to who shall appear on programs is a matter resting solely with the particular broadcast station. Broadcast stations have the duty of serving public interest, convenience, and necessity. In carrying out this obligation they have the duty of making provision for well-rounded rather than one-sided discussion of public questions. However, the duty of serving the public interest does not imply any requirement that the use of broadcast facilities shall be afforded any individual or group. The Communications Act declares that a broadcast station is not a common carrier, hence the station may refuse or permit the use of its facilities as it sees fit. By the same token, the station can give free time or charge for time. No standard tariffs apply to broadcast stations."

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## HOUSE MAY PROBE SUPER-POWER; CLEAR CHANNEL THREAT SEEN

Coincidental with a report that the Federal Communications Commission is considering a plan of frequency reallocations which would have the effect of breaking down the clear channels, Congress prepared to inquire into the FCC's ban on super-power broadcasting before adjourning.

Chairman Lea, of the House Interstate and Foreign Commerce Committee, scheduled tentatively a hearing on the Larrabee resolution for mid-May. The resolution recommends that the FCC look further into the possibilities of super-power operation with the aim of authorizing experimental of "one or more stations to operate on power of more than 50 KW."

Representative Sweeney (D.), of Ohio, who several times has attacked the FCC for stopping Station WLW, Cincinnati, from operating with 500 KW. experimentally, is expected to be one of the main witnesses before the Committee.

The breakdown of the clear channels would be brought about by issuing licenses to local stations in small towns on the same frequencies, according to one published report.

Elimination of the clear channels may have international complications, it was pointed out. Under international agreements, particularly the recent North American agreement, with its Nation-wide shift of frequencies the latter part of the Summer, the United States may have up to 32 clear channels.

On the other hand, if these clear channels are broken down by permitting other stations on them, the opinion within the Commission is that other countries signatory to the agreement may also move in on these channels and cause such interference and atmospheric havoc that none will get good service. Some even see possibilities of such havoc as to bring a demand for governmental operation of radio. Such a possibility is viewed with considerable alarm, because it would provide the opportunity for complete domination of this means of mass communication by any party in power.

The question has been raised as to whether distribution of clear channels to small local stations would result in better service. The people in these towns would have a radio station, it was explained, but by reason of its own limitations and interference, which would seriously restrict its coverage area, it might not attract sufficient advertising income to pay its expenses.

Through putting such a program into effect, it was said, approximately 40,000,000 rural listeners would be denied the high type of programs which they have been enabled to get for the last 12 years over the clear channel station service.

At present each clear channel station is given freedom from broadcast interference within the boundaries of the country. It was done to permit rural listeners to obtain good reception, and the demand for it is said to be growing as electrical power is being more readily available in these areas.

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#### PRICE DISCRIMINATION IN TONE CONTROLS CHARGED

Charging price discrimination in violation of the Robinson-Patman Act in the sale of radio volume and tone controls, the Federal Trade Commission has issued a complaint against Globe-Union, Inc., 900 East Keefe Ave., Milwaukee, manufacturer of storage batteries and radio accessories.

The complaint alleges that the respondent corporation sold its radio tone and volume controls at widely varying prices, discriminating in price between certain radio manufacturers and accessory jobbers.

It is alleged that the respondent sold controls to Belmont Radio Corporation and Wells-Gardner & Co., Chicago radio set manufacturers, at prices ranging from 10 to 20 cents each, and that it charged radio accessory jobbers for products of like grade and quality prices varying from 36 to 72 cents per control.

The jobbers, it is alleged, then sold the Globe-Union, Inc., tone and volume controls to dealers (radio repairmen) at prices ranging from 60 cents to \$1.20.

It is alleged that Belmont Radio Corporation and Wells-Gardner & Co., who sell radio sets to Montgomery Ward & Co., Inc., resold the controls they purchased from the respondent corporation to the Chicago mail order house at prices ranging from 12 to 24 cents a control, and that Montgomery Ward & Co., Inc., distributed these products in the same territories and places as, and in competition with, the dealers who purchased the respondent's controls from jobbers.

The effect of the discriminations, according to the complaint, has been and may be to destroy and prevent competition with Montgomery Ward & Co.

The complaint points out that during 1938 the respondent company sold more than 2,600,000 tone and volume controls to radio manufacturers for original equipment of radios, and in excess of 500,000 tone and volume controls for replacement or original equipment.

The complaint grants the respondent 20 days for answering the charges.

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## LET FM AND TELEVISION GROW TOGETHER, RCA SUGGESTS

The Radio Corporation of America last week suggested to the Federal Communications Commission that television and frequency modulation be allowed to develop simultaneously in a brief filed as a summary of its testimony in the FM hearings.

At the same time RCA asked that new space be provided in the spectrum for FM and that television be left undisturbed in its No. 1 channel, which FM broadcasters had requested.

Describing FM as "an evolution and not a revolution", whereas television is a "revolution and offers to the public sight in addition to sound", RCA attorneys Manton Davis and Frank W. Wozencraft asked the FCC not to disturb television channel No. 1 in the 44-50 mc. band. FM Broadcasters, Inc. has petitioned the FCC to set aside that band for 200 kc. wide-swing FM broadcasting (Armstrong system) whereas RCA has advocated narrow-band transmission.

RCA argued in favor of allocation of the 42-44 mc. band, providing 2,000 kc. for FM. It pointed out that 25 channels of 80 kc. width or 50 channels of 40 kc. width could be supplied, after holding that better service could be provided with the lower swings than with the 200 kc. band sought by FM proponents.

"Certainly, for the present, these two megacycles would provide all the channels which are needed for FM, for the reception of which the public must buy new equipment" the brief stated. "According to the president of FM Broadcasters, Inc., Mr. John Shepard, 3d, the transition from standard band broadcasting will take ten years. This is the statement of an enthusiastic proponent of FM. While all of us have high hopes for the future of FM, no one can now predict with assurance the extent or rapidity of its growth."

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## SWEDEN BUYS S-W TRANSMITTERS FROM U.S.

Sweden's official Telegraph Board has ordered two new short-wave transmitters for sending radio messages to the United States and other countries outside Europe, according to the United States Commercial Attache in Stockholm. These transmitters will have a transmitting power of 40 kilowatts and will cost \$60,000.

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## BBC NOTES CESSATION OF TELEVISION WITH REGRET

With obvious regret that the war has halted television broadcasting in London, the British Broadcasting Corporation in its 1940 handbook, recently released, bids "Au Revoir" to television and expresses the hope that it will be resumed promptly when hostilities are ended.

"Television would, of course, have been the ideal 'black-out' entertainment. It is sad to think of the thousands of receivers now standing idle, of their disappointed viewers, and of the many skilled research and other workers in the television field diverted from their tasks. Many of the purely physical obstacles which had seriously impaired the service during the first two years had been eliminated in October 1938. In 1939 the range of program material was continually being broadened, and experiments made. More obvious to viewers, perhaps, was the consistent improvement in pictorial quality due to the use of improved equipment and to advances in operating technique. Technical advances of special importance had been made in the field of outside broadcasts; BBC engineers had, with the ready cooperation of the Post Office, found means of extending the use of cable links, and the radio link had been improved by the delivery of a second mobile transmitting unit and by the completion of a relaying station at Swains Lane in Highgate. More was to come. Plans had been made in anticipation of Christmas to increase and alter certain transmissions and to devise specialized programs, as a result of a questionnaire. There had even been the hint of agreement to a first regional relay station, an advance of major importance now likely to be pioneered not by Great Britain but by our American friends, who on 8 November announced preparations for the simultaneous radiation from Schenectady to NBC television programs transmitted from the Empire State Building, 130 miles away. The brightness of the outlook for British television in the summer heightened the general sense of disappointment at its unavoidable discontinuance when war came.

"Television had survived a number of setbacks in its short history, but by general consent it was due for a 'boom' in the months following the 1939 Radiolympia. The prospects seemed encouraging after a long and uphill struggle. The radio manufacturers had brought down the price of receivers and were giving remarkable value for money. Their enthusiastic campaign was receiving support from the public. Then on 1 September the Television Service closed down. The end came so abruptly that there was not even time for an 'au revoir' to viewers. Nor was it expedient at that time to give reasons in the Press or elsewhere. How harsh this decision must have seemed to those who had just bought receivers can easily be imagined. Yet they wrote - many of them - most sympathetically, while letters from old-time viewers were touching in their friendliness. Let it now be said that television closed down not because of the cost and shortage of staff, nor to difficulties with artists and transport, formidable as such obstacles would certainly have become, but for defense reasons.

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TRADE NOTES

With the establishment last week of the NBC International Division in one central office, all sections of the short wave division are consolidated for the first time since the National Broadcasting Company began its international broadcasting service. In addition to locating all 38 employees of the International Division in the same office, a special studio on the same floor has been set aside for the Division's use. Heretofore, it was necessary to write the copy in the sixth floor offices and then go to the fifth floor for broadcasts.

The following table gives the changes in advertising activity for March as compared with February and a year ago, published in Printers' Ink last week:

	Percentage Change From Feb. '40	March '39
Weekly magazines	+ 1.4	+12.9
General monthlies	- 3.7	- 6.0
Women's service magazines	+17.9	+ 4.8
Direct mail volume	...	- 5.7
Radio advertising	- 5.5	+10.2

Daily broadcasts of food prices in New York City over WNYC were sufficiently valuable to justify continuance of the city radio station, William Fellowes Morgan, Markets Commissioner, said in a letter to Councilman Charles E. Keegan, Chairman of the Council Committee investigating the station.

Rockefeller Foundation, in line with its interest in radio, has given Harvard \$24,000 "to help establish a lectureship in broadcasting". To this lectureship Harvard has appointed Charles A. Siepman, formerly of the British Broadcasting Corp. Also in the field of radio is the Foundation's grant of \$84,500 in 1937 and 1939 to the School of Public and International Affairs of Princeton for a study of the role radio plays in listeners' lives.

Printed copies of an address made by Maj. Gen. James G. Harbord, Chairman of the Radio Corporation of America's Board, on "The Decentralization of Relief" at the University of the South, Sewanee, Tenn., April 17th, were being distributed by RCA this week.

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John F. Royal, NBC Vice-President in Charge of Programs, will take off for South America, Sunday, May 12, to complete final details of the concert tour by Arturo Toscanini and the NBC Symphony Orchestra during June and July.

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The Danish Naval Authorities have issued warnings to Danish fishermen that they should not use their radio senders when in the neighborhood of mine fields because it has been found that such senders have induced electrical currents of sufficient strength to cause mines to explode. The warnings have been published in the press and put up in writing on all the leading fish auction halls.

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PROMPT FCC ACTION ASKED ON FM PLEA

The Federal Communications Commission was urged to act "as soon as possible" on allocations of frequency assignments for frequency modulation so that sales to the normal replacement market can proceed with assurance, by FM Broadcasters, Inc., in a brief filed last week.

Summing up the case for FM, Philip G. Loucks, chief counsel, asked full commercial privileges for the medium. Permitted to develop on a regular commercial basis, he predicted, FM would have an evolutionary rather than a revolutionary effect upon broadcasting in the present band. FM will supplement service now being rendered and will not exclude service now given in the present broadcast band so there will be no immediate obsolescence of receiving sets. The transition period may require ten years, he predicted.

Total number of applicants for FM facilities reached 121 as of April 25, with the FCC still receiving them at the rate of two or three a day.

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The Federal Communications Commission is in receipt of a letter from a resident of an Iowa town stating that there is no public telephone service locally available. As a matter of public interest, the Commission requested the local telephone company to look into the situation.

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NETWORK TELEVISION SEEN WITHIN YEAR BY NBC

More programs for the televiewer and the beginning of regular transmissions of National Broadcasting Company radio-  
vision programs over an established network are seen as develop-  
ments of the next twelve months by Alfred H. Morton, NBC Vice-  
President in Charge of Television, this week in an anniversary  
review of television's first year of regular service.

"In television's second year, with the cooperation of  
telev viewers both present and prospective, we expect to have our  
NBC programs radiated regularly by a new NBC station in Philadel-  
phia and by the General Electric Company transmitter near  
Schenectady", said Mr. Morton. "And, provided television is grant-  
ed a status of at least limited commercialization, thus opening  
the way to more help from advertisers, it is entirely probable  
that NBC may expand our present five-day television week into one  
of seven days.

"The first year of television broadcasting has seen our  
schedule rise from about five hours a week to sixteen hours. Under  
limited commercialization we might anticipate another rise to  
twenty or more hours a week.

"During the first year of television we have telecast  
more than 200 individual programs in cooperation with advertisers  
and advertising agencies.

"These programs, presented in cooperation with eighty  
different advertisers, represented every major American industry.  
They totaled more than 10% of our program hours for the first year.  
If limited commercialization is permitted in television, I have no  
doubt that this percentage will show a rapid and considerable rise."

The immediate future in NBC's television programming, it  
was indicated by Morton, will see additional outside telecasts and  
probably the presentation of a considerable number of NBC radio  
network programs, particularly those which have proved to be most  
popular with studio audiences at Radio City. Both of these pro-  
spective additions will be made possible through the use of NBC's  
second unit of mobile television equipment.

Television's development in the United States, Mr. Morton  
continued must include the active participation of the televiewer.  
NBC's audience poll is based on a program mailing list of more  
than 2,000 names of receiver owners.

Comparison of the NBC list with lists of known set owners,  
added Mr. Morton, indicates that the total number of receivers in  
the metropolitan area is more than 3,000.

The first birthday of television broadcasting in America  
will be celebrated Wednesday, May 1, with a gala two-hour program,  
to include appearances by stars of stage, motion pictures and radio.  
The telecast, scheduled to begin at 8:30 P.M., will be seen and  
heard over Station W2XBS.

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## McDONALD 45 MINUTES AHEAD OF WRECKED TRAIN

Commander Eugene F. McDonald, President of the Zenith Radio Corporation, Chicago, and a former Syracusan, arrived in Syracuse, N. Y. April 19 aboard the Wolverine from Albany, the New York Central train that runs 45 minutes ahead of the ill-fated Lake Shore Limited Express. He just chanced to reach Albany from Vermont in time to board the earlier train, he said.

Commander McDonald had been in New York City to attend a television meeting of the Radio Manufacturers' Association. He had promised his nephew, Eugene McDonald Kinney, of Buffalo, that he would visit him at Vermont Academy if the youth qualified to enter Dartmouth next fall. The student telegraphed his uncle that he had been accepted being one of the two lucky ones out of a class of fifteen, and the Chicagoan stopped off overnight at Albany and motored to the academy at Saxton's River, Vt., passing part of the day there with his nephew.

"Intending to stop off in Syracuse to say hello to everybody, I just got the first available accommodations", he said. "The Wolverine is scheduled out of Albany at 8:53 P.M., and the Lake Shore at 9:36. I was shocked on learning of the wreck to the train I might have taken, you can well imagine."

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## WESTINGHOUSE AND NBC TERMINATE CONTRACT

Westinghouse Electric and Manufacturing Company and the National Broadcasting Company this week announced that the existing arrangement for the supplying of radio broadcast programs for Stations KDKA, KYW, WBZ, and WBZA, will be terminated as of July 1, 1940.

Hereafter, the Westinghouse radio stations will take network service from NBC under the standard form of affiliated network agreement. Westinghouse will itself handle all functions incident to the operation and programming of the stations including commercial activity and local programming. NBC will act as sales representative for the sale of national spot time.

Westinghouse was a pioneer in the development of radio broadcasting and the present step is in conformity with the desire and intention of Westinghouse to remain identified with the broadcasting industry. The new arrangement will leave in the hands of Westinghouse as heretofore all matters connected with the operation of the stations and in addition Westinghouse will conduct all programming and commercial activity.

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