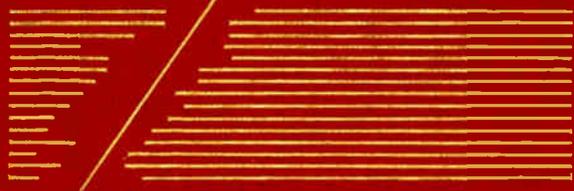




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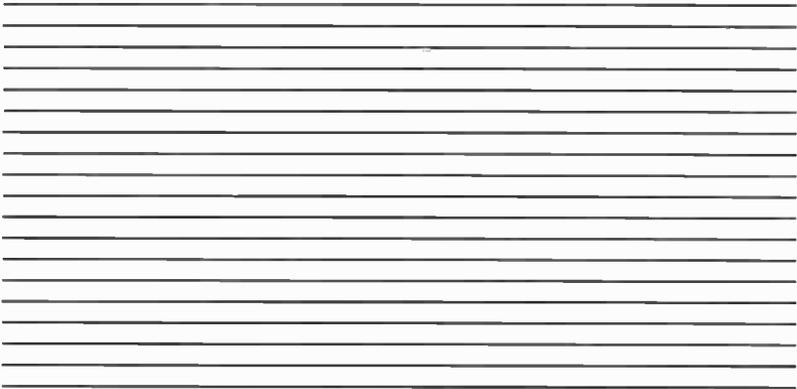
S. E. FROST, JR.

IS AMERICAN RADIO DEMOCRATIC?



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The University of Chicago Press · Chicago · Illinois

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IS AMERICAN RADIO DEMOCRATIC?

THE UNIVERSITY OF CHICAGO PRESS · · CHICAGO · · ILLINOIS

The Baker and Taylor Company, New York · The Cambridge University Press, London · The Maruzen-Kabushiki-Kaisha, Tokyo, Osaka, Kyoto, Fukuoka, Sendai · The Commercial Press, Limited, Shanghai

PREFACE

THE radio transmitter, as a piece of material mechanism, is neutral where human values are concerned. As an instrument, a mechanical device, a product of modern scientific knowledge and inventive ingenuity, the radio is comparable to such other manifestations of human genius as the automobile, the electric light, the airplane, or the rotary press. It may be employed to serve the "higher" purposes of mankind and to enhance individual and collective welfare, as an instrument serving the democratic way of life, or to spread misinformation that excites passion, hatred, and fear. It may be enlisted for the enrichment of life and the conservation of that which man has found of most worth, or it may be directed toward the destruction of his finest and noblest.

The President of the United States, in his capacity of public servant, employs the radio as a means for discussing with his vast constituency problems of vital significance to every American citizen. Also, through its facilities the finest in entertainment, music, drama, and literature may be brought into the homes of the humblest and the farthest-away, enriching and refining the lives of millions. An instructor may use it to stimulate thinking and the desire for further investigation on the part of listeners everywhere.

On the other hand, the rabble-rouser may make use of the radio to excite blind passion and unconsidered action on the part of vast populations. The dictator may pour through the microphone his *ipse dixit* pronouncements for the ears of millions while denying them the right to listen to arguments that challenge his authority. The partisan instructor may use it to indoctrinate a vast listening "class," while economic groups may so control its functioning that propaganda suited to maintain their position of privilege and power is spread throughout the country in the guise of education or enlightenment.

As technical improvements are made in the instrument it will be possible to do all these things more efficiently. Television, facsimile broadcasting, and the use of the ultra-high frequencies,

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developments which are "just around the corner," will manifoldly increase the power of the radio.

Recognizing these facts, a great many individuals and groups desire to employ this instrument in ways that will assist in bringing about the realization of their particular purposes. Among such are those interested in making the radio serve as one of the means for insuring the democratic way of life. Within this group are to be found many professional educators functioning through organized educational institutions.

That radio is peculiarly an instrument for the educator should be obvious. The educator's purpose has been, among other things, to influence thinking and acting. In the radio he finds available a most efficient and powerful means for doing just this. His "class" is no longer limited to those few who can get into a lecture-room or auditorium, but may include millions seated in their homes or in public places throughout the world.

His obligation to consider the functioning of this instrument within present-day society should be equally obvious. Maurice T. Price, writing for *Progressive Education*, has called attention to the fact that

as the social philosophy of the schoolman tries to square educational policy and programs to the cultural epoch, to the social trends, to the threats of conflict, and to lags of the time, so the philosophy behind the cultural and educational progress of any given population and behind the contribution of radio to that progress must try to square broadcasting policy and programs to the special situation of each generation. New needs and new demands in society, unrest because of maladjustment, the obsolescence of ideals outdistanced by our actual development—these in numerous combinations must be sensed, estimated, and dealt with by those who are responsible for giving people a perspective of their problems and of the contributions of our best thinking toward the solution of these problems.¹

The educator, as a teacher, should recognize the value of radio as an instrument for widening the scope of his teaching influence and should seek to develop techniques for doing such more effectively. As a philosopher of the process in which he is engaged, the educator should be concerned with the far more difficult problem of squaring radio policy and program practice

¹ "Weighing Radio by Educational and Social Standards," *Progressive Education*, January, 1936, pp. 44-45.

with the needs and demands of the society of his day and place in terms of what that society may become.

Necessity for the latter concern, not only on the part of the educator but on the part of everyone motivated by a desire for a more democratic social structure, becomes more obvious when it is recognized that

developments and inventions that are now going on and being made in the radio field will affect the mental life and education, and possibly the material interests, of every person in the country. Behind this development, fraught with so much importance to our people, a fierce struggle is going on for the control of the great resources of the air.

Private interests favoring private monopoly are naturally anxious that there be just as little government "interference" (regulation) as possible in what they call their business. Those who believe that we must not repeat the mistakes of the past and allow the wasteful exploitation of our resources are just as keenly aroused in behalf of the government taking a strong hand in protecting the public interest.

The indifference of the public to the importance of this struggle is lamentable. Fascinated by the wonders of radio and the astonishing developments in the entire field of communication, little attention has been given to the economic control of these new developments. Unless the public is aroused, its interests are apt to be neglected and lax administration is apt to creep in. In this way private monopoly, without warrant of law, establishes itself and, too late, the public bestirs itself to recover ground that never should have been lost.²

Cognizant, more or less, of this situation and of the potency of radio in relation to cultural levels, a growing number of individuals and groups are asking for some evaluation of this instrument in terms of the fundamental principles of democracy. They are desirous of knowing to what extent the present practices of radio regulation, control, and operation in the United States contribute to the democratic way of life. They are further interested in discovering what changes or revisions this system must undergo if the instrument is to serve more completely this ideal.

Basic to such an evaluation is a clear conception of the meaning of democracy.

² Quoted from an address by George Henry Payne delivered before the Rotary Club of Bayshore, Long Island, August, 1936; see *NAB Reports*, IV, No. 42 (August 27, 1936), 1490.

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Societies, as Professor John Dewey has shown,³ may be characterized by the number and variety of interests which are consciously shared by all members and the fulness and freedom of interplay which are possible between any one group and other groups. One society is more democratic than another to the degree that it evidences a greater number and variety of consciously shared interests and a more full and free interplay with other groups. As consciously shared interests are increased, greater reliance is placed upon mutual interests as factors in social control. Authority comes to rest not in the hands of particular individuals or groups so that it is imposed from without upon the members of a society, but becomes the authority of the interests of the whole group. Further, as interaction between social groups is freer, changes in social habits take place and the group is continually experiencing adjustments “through meeting the new situations produced by varied intercourse.”

And, Professor Dewey maintains, “these two traits”—“greater reliance upon the recognition of mutual interests as a factor in social control” and “change in social habit—its continuous readjustment through meeting the new situations produced by varied intercourse”—“are precisely what characterize the democratically constituted society.”⁴

A democratic society is one in which there is mutual intercourse of man with man and in which adequate provision is made for the reconstruction of social habits and institutions by means of wide stimulation arising from equitably distributed interests. Further, an institution may be said to contribute to such an ideal to the degree that it makes possible this “mode of associated living, of conjoint communicated experience.”

The radio, an institution of modern society, functions as a contributing factor for the democratic way of life to the degree that it is regulated, controlled, and operated so that all listeners are guaranteed broad, wide, varied, and rich shared contacts with others and with their physical environment, open-mindedness, and increased flexibility of thought and action.

³ *Democracy and Education* (New York: Macmillan Co., 1923), pp. 95 ff.

⁴ *Ibid.*, p. 100.

Barriers which isolate individuals and groups and thereby make impossible the mutual sharing of interests may be broken down through the instrumentality of numerous and varied contacts. As such contacts are complete and rich, understanding among members of a social group and between groups is increased so that interests become mutual.

From contacts may come the materials which are employed in anticipating or mentally "trying out" proposed lines of activity. One may have the best of intentions, but if he does not have sufficient contacts, either actual or vicarious, by means of which to judge consequences, his activity is in danger of producing undesired results.

Contacts are means, and the only means known, for peopling the area in which consequences function. The effective consideration of consequences depends upon acquaintance with the population of this area in which they breed.

However, contacts are not all of the same nature or quality. The kind of contact, its revealing power, its richness and depths, must be considered. Contacts may be placed along a scale which indicates their sharing quality. Toward the one extreme are those contacts which are little more than casual "bumpings into" things and people. Near the other extreme are those contacts by means of which one shares deeply and richly the experiences of others so that he is able to predict more fully and completely the consequences of his activity.

Further, the greater the sharing in a contact situation, the more that situation tends to be creative. Contacts that are mere additions are not creative. They do not function as interactions. Only contacts that do so function are creative. In so far as contacts are on the level of shared experiences, as they become interactions, are they creative, and the more creative a contact, the more it becomes determinative of intelligent action.

To the degree that the radio brings to listeners materials which destroy the isolation of individuals and groups, to the degree that it functions so that a more complete sharing of experiences is made possible, effective consideration of a greater number of possible consequences of proposed activity is pos-

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sible and the interests of others may become factors determining action.

But contacts of themselves are not sufficient guaranty of intelligent action. Coupled with them must be, on the part of the individual, an attitude of open-mindedness. Often the contacts which the radio furnishes are such as to determine action largely by prejudice, "principles" which are not open to question or evaluation, "absolutes" which determine action regardless of consequences.

Open-mindedness implies that individuals be willing and anxious to bring within the range of consideration all reasonably possible consequences of proposed activity and weigh them over against one another as carefully and completely as circumstances seem to warrant. Such an active willingness to consider all possible consequences is necessary for intelligent action.

This condemns all radio which seeks to indoctrinate the individual. Any broadcast so constituted that it molds listeners into a cast such as to make them less able to consider, in the widest area possible, consequences of proposed activity is "bad." In so far as it produces a closed mind does it shut the individual off from considering possible consequences of his proposed activity. In so far as it forces him to move in a restricted environment such that he is prohibited from viewing the consequences of his activity over a wider and more inclusive area—just in so far will it contribute to making him one whose activity will produce consequences detrimental to his best interests.

Intelligent activity necessitates the taking into account of the factor of change as well as that of the more or less determined nature of the individual, and demands a flexibility on the part of the latter sufficient to allow him to consider new factors when they are presented. Neither an unyielding individual nor one completely fluid is able to act effectively in a changing environment. What is desired, if possible consequences of activity are to be effectively considered, is an individual able to plan in terms of his purposes and of the anticipated future, but equally able to adjust his plans to such pertinent factors as emerge in a growing situation so that desired consequences may

result. Such a one will be able to act more nearly in the manner that breeds consequences which he is prepared to accept and thereby to eliminate, in so far as possible, the element of surprise.

Many broadcasts are designed to make this flexibility more or less impossible while others strive for such flexibility. In so far as the former is the case, listeners are placed at a disadvantage in modern changing environments. They face the future without adequate ability to meet its newness effectively and thus to act intelligently.

To live effectively one must be able at all times to reconstruct himself and his environment. Basic to this ability is, among other things, a more complete understanding of this environment. Such understanding necessitates an attitude of open-mindedness such that one can consider possible consequences of proposed activity—consequences suggested through broad, wide, varied, and rich shared contacts with factors in the environment and sufficient flexibility in thought and action to meet and deal with change. As one shares the experiences of another he is better able to act so that the consequences of his activity will serve the realization of his purposes, and is likewise better able to criticize these purposes in the light of pertinent factors.

In the light of these considerations, it becomes obvious that radio will serve democracy to the extent that it functions to destroy barriers between individuals and groups so that experiences are shared and activity is governed by the results of such sharing, to create individuals whose minds are open to the consideration of these results and who are flexible enough in thought and action to employ them effectively.

To what extent does the present system of American radio regulation, control, and operation meet these criteria and wherein does it fail? What changes are necessary if it is to serve more adequately this end? To discover materials for answering these questions is the purpose of the discussion which follows.

S. E. FROST, JR.

NEW YORK CITY
September 1, 1937

ACKNOWLEDGMENTS

GRATEFUL acknowledgment is made of the helpful advice and generous guidance given by Dr. William H. Kilpatrick, professor of the philosophy of education at Teachers College, Columbia University, the sponsor of this study, and by Dr. Levering Tyson, director of the National Advisory Council on Radio in Education.

Sincere thanks is due Dr. Irvin Stewart and Judge Eugene O. Sykes, members of the Federal Communications Commission, for their co-operation in making available files and records of the Commission, and members of the license, docket, and legal staffs of the Commission for their generous assistance in locating and interpreting data pertinent to this study. Appreciation is expressed to Dr. Alfred N. Goldsmith, consulting industrial engineer, who read the first chapter in manuscript and offered numerous valuable suggestions.

The writer is likewise deeply indebted to the staff of the National Advisory Council on Radio in Education for its help in preparing the manuscript, and to the many friends and correspondents who furnished helpful suggestions and the vast amount of material upon which the study is built.¹

S. E. F. JR.

¹This material is published in a companion volume, *Education's Own Stations* (University of Chicago Press, 1937).

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CHAPTER I

THE NATURE OF RADIO

CALDWELL has emphasized the fact that radio law must be "founded on the solid rock of natural law; i.e., the scientific facts and principles which, in the last analysis, are at the bottom of all our problems in regulating radio communication."¹

This applies with equal force to the regulation, control, and operation of radio. No understanding of the problems of American radio is possible without a knowledge of the fundamental principles of its operation. Further, since many of these problems are set or tremendously influenced by the nature of the instrument and its limitations, any solution of them must be based upon the scientific data of radio communication.

Consequently it is necessary for a study such as is here proposed that some space be given to a brief exposition of these data and principles.

THE RADIO SPECTRUM

There are many electrical and magnetic effects in the universe which may be detected and described functionally. Among these are "electromagnetic waves," a combination of electric and magnetic phenomena.

Drop a stone in a pool of water, and ripples, starting from the point at which it strikes the surface, move outward in concentric circles which become fainter and fainter until they can no longer be detected. Two facts are to be noted with reference to these ripples or waves: (1) Within a given period of time a definite number of crests will appear and (2) the distance between the peak points of the crests can be measured.

"Electromagnetic waves" are radiated from the point of origin "like ripples which circle outward from a stone dropped in a body of water." The number of "crests" which appear during

¹ Louis G. Caldwell, "Who Owns the Ether?" *Radio Law Bulletin of the School of Law, Catholic University of America, Announcements*, August, 1931, p. 3.

each second can be determined and the distance between the peak points of these "crests" measured. The number of "crests" appearing per second is known as the "frequency" of the "wave-motion," and the distance between the peak points of the "crests" is called the "wave-length." "Frequency" is stated in terms of "cycles"—a "cycle" being the movement from a point on a "crest" to a similar point on the following "crest."

An instrument operating so that an "electromagnetic wave" is caused of such a nature that 500,000 "crests" appear each second is said to be capable of producing a "wave-motion" with a frequency of 500,000 "cycles" or 500 "kilocycles." In this case the distance between the peak points of each "crest" is 600 meters.

The greater the number of "crests" appearing per second, the shorter the distance between the peak points of the "crests"—the shorter the "wave-length."

"Electromagnetic waves" of various lengths have been detected and studied by scientists. Instruments have been invented to produce some of these "waves" while others, though known, are as yet outside of man's power either to produce or to control. The longest of the controlled "electromagnetic waves" are those being used or experimented with in audial and visual broadcasting. These range in length from 30,000 meters to 10 centimeters. The shortest known but uncontrolled waves are those associated with cosmic rays and are believed to enter the earth's atmosphere from interstellar space. These latter are measured in Ångstrom units (one hundred-millionth of a centimeter) and range from .01 to .0001 units. Between these, in the order named, are the infra-red or heat waves, solar rays that the eye does not see but which nevertheless reach the earth, light waves beginning with red (the longest) and ending with violet (the shortest), ultra-violet waves, X-rays, and gamma rays spontaneously emitted from radium.²

² A beautifully colored diagram of this ether spectrum has been prepared by the McGraw-Hill Publishing Co. as a supplement to the May, 1936, issue of *Electronics*.

These waves travel at a rate of 186,300 miles per second in empty space.³

THE "ETHER"

At one time scientists believed that there existed a medium called "ether" in which "electromagnetic wave-motion" took place.⁴ This was posited on the hypothesis that, in so far as there is found to be an activity at one point followed by an activity at another point, there must be a chain of cause and effect predicated on the premise of some medium extending between the two points.

The difficulty of freeing thought from this conception, now recognized as rather naïve, is illustrated by a statement of Loomis made as late as 1930:

We have been told that electric waves could pass through stone walls, etc., because they did not depend upon the air, but upon the *ether* for their propagation. This theory appears to be, figuratively speaking, "on its last legs." Just how we shall replace it remains to be seen. We cannot conceive a state of nothingness, and with the time-honored theory of the ether discarded, what shall we call that which we must still believe to exist between the planets and within a vacuum?⁵

With the advance of scientific understanding in more recent times, the hypothesis that there exists such a medium as the "ether" has been largely abandoned and

the tendency is now to regard the so-called ether as simply the sum total of all the electrical forces in the universe at any one instant, with their tensions this way and that, and to picture radio waves as trains of disturbances in the electric *status quo*, so to speak, like ripples which circle outward from a stone dropped in a body of water.⁶

³ *The Principles Underlying Radio Communication* (2d ed.; *Radio Communication Pamphlet No. 40*, prepared by the United States Bureau of Standards for the Signal Corps, U.S. Army, 1922), pp. 281 ff.; Arthur R. Nilson and J. L. Hornung, *Practical Radio Communication* (New York: McGraw-Hill, 1935), pp. 155 ff.

⁴ *The Principles Underlying Radio Communication*, p. 286.

⁵ Mary Texanna Loomis, *Radio Theory and Operation* (Washington: Loomis Publishing Co., 1930), p. 197.

⁶ Caldwell, *op. cit.*, p. 4. That this theory is not new, though evidence in support of it is a recent discovery, is seen in the data presented by Loomis, *op. cit.*, pp. 198-200.

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The causes of these “disturbances in the electric *status quo*” are many, some of which are partially understood while others lie in the yet uncharted areas of the science of electricity.

THE COMING OF RADIO

In 1780 Adams published his now famous *Essay on Electricity* in which he recounted an experiment where the discharge of a Leyden jar produced minute sparks between pieces of metal completely disconnected from the jar and lying at some distance from it. This phenomenon was noted also by Joseph Henry in 1842.

James Clerk Maxwell was experimenting with “ether waves” as early as 1867. In his *Electricity and Magnetism*, published in 1873, he showed, by mathematical analysis and computation, that an electrical oscillation produced in a closed circuit would give rise to an electromagnetic disturbance which would travel through space “as a free wave.”

Thomas A. Edison, working during 1875, observed, on November 22 of that year, a peculiar scintillating spark in one of his experiments with an electromagnet. After some study of this, he proposed the name “etheric force” for the phenomenon.

In England, in 1879, David Hughes was experimenting with microphone and telephone circuits when he discovered that signals could be heard in the telephone whenever an intermittent current was passed through a coil several feet away. He built a small clockwork transmitter and found that signals could be received 500 yards from his home. He was certain that this phenomenon was due to “aerial electric waves,” but was unable to prove the existence of these “waves” or to convince members of the Royal Society, whom he had invited to witness a demonstration of his discovery, that what he was doing could not be explained by Faraday’s principle of electromagnetic induction.

Then, 1886–89, Heinrich Hertz, a physicist of Karlsruhe, Germany, demonstrated by actual experiment the existence of these “aerial electric waves” and their analogy with light. He found that an electric spark leaped across the space between the terminals of a proper spark gap and caused electric oscillation

to be set up in the terminals, creating waves of an electromagnetic character in the surrounding "ether," and that these vibrations would in turn affect an adjacent conductor in the field. If the conductor was formed in shape of a circle of wires in which a small opening had been left, a tiny stream of sparks would jump this gap while the induction coil, or transmitter, was in operation. A wire ring served as a "detector." Consequently these "waves" became known as "Hertzian waves."

Between 1889 and 1892 experimentations with these "waves" were made by investigators in the laboratories of both Europe and America. Gradually it began to appear that the time was not far distant when successful communication through space without the use of wires would be possible. The prospect so fascinated Sir William Crookes that he wrote as follows in the *London Fortnightly Review* (1892):

Here is unfolded to us a new and astonishing world, one which it is hard to conceive should contain no possibilities of transmitting and receiving intelligence.

Rays of light will not pierce through a wall, nor, as we know only too well, through a London fog. But the electrical vibrations of a yard or more in wave length . . . will easily pierce such mediums, which to them will be transparent. Here, then, is revealed the bewildering possibility of telegraph without wires, posts, cables or any of our present costly appliances. Granted a few reasonable postulates, the whole thing comes well within the realms of possible fulfillment. At the present time, experimentalists are able to generate electrical waves of any desired wave length from a few feet upward, and to keep up a succession of such waves radiating into space in all directions.

This is no mere dream of a visionary philosopher. All the requisites needed to bring it within the grasp of daily life are well within the possibilities of discovery, and are so reasonable and so clearly in the path of researches which are now being actively prosecuted in every capital in Europe that we may any day expect to hear that they have emerged from the realms of speculation into those of sober fact.

Among those associated with these early experimentations should be mentioned, in addition, Sir William Preece and Sir Oliver Lodge in England, S. F. B. Morse in the United States, Edouard Branley in France, and Augusto Righi in Italy.

A pupil of Righi, Guglielmo Marconi, at the age of eighteen became interested in the researches of Hertz and sought a

method by which intelligible signals might be transmitted over "great" distances. While working in a laboratory on his father's estate at Bologna, Italy, he was able to send and receive messages over areas of from 1,200 to 1,300 feet. In 1896 he went to London where he continued experimenting, reaching out farther and farther with his messages. In the same year he applied for the first British patents for wireless telegraph circuits and apparatus. By 1901 he was able to transmit signals across the Atlantic Ocean and thereby assure the future of long-distance wireless communication.

All this early work in the transmission of signals without the use of wires was done in code. Messages flashed from ship to ship, from ship to shore, and from shore to ship, between various points on land and across the ocean were in code, consisting of long and short electric impulses.

In 1900 Duddell, the English physicist, discovered that an ordinary electric arc could be made to generate high-frequency energy in a steady stream. The arc actually sang in response to this phenomenon. Thus the device became known as the "Duddell musical arc."

Vladimir Poulsen, a Dutch engineer, in 1904 harnessed Duddell's "musical arc" to a radio transmitter circuit and a microphone, thus producing continuous waves "modulated" or controlled by speech sounds, and evolved the first wireless telephone. Very soon he was able to transmit the human voice over appreciable distances.

Stimulated by Poulsen's work, physicists began experimenting with the broadcasting of vocal and musical sound. In 1906 Dr. Lee DeForest invented the vacuum tube, and between 1908 and 1909 engineers of the Telefunken Company, of Germany, conducted experiments to convince the United States Signal Corps of the practicability of radio telephony in military communication. By 1916 Dr. DeForest was broadcasting the election returns of the Wilson-Hughes battle from his High Bridge, New York, station, and modern radio had arrived.⁷

⁷ A more detailed account of this early history of radio will be found in the following: E. E. Bucher, "A Résumé of Early Radio Development," *The Radio Industry* (New

As a result of these experimentations, and numerous others too detailed to mention here, an individual with the proper equipment can create certain "disturbances in the electric *status quo*" or "start in motion Hertzian waves" upon which can be impressed the human voice, music, or other intelligible sounds. Another individual, with complementary equipment, can "translate" these disturbances so that the matter impressed is heard and understood. A transmitting station can broadcast and a receiving set "pick up" the broadcast so that its owner enjoys music, drama, addresses, and the like, or perhaps is irritated by them.

THE LIMITATIONS OF RADIO

However, by the same method, another individual can create a similar disturbance which interferes with the first so that the material impressed is distorted and becomes unintelligible. In 1926, when Soviet Russia, by means of stations at Moscow and Odessa, was broadcasting criticisms of the Rumanian government and appealing to Rumanian listeners to foment a revolt, the Rumanian minister of war ordered the Rumanian military radio stations to adjust to the wave-lengths used by the Russian stations and send out a "terrific buzzing" whenever the Soviet stations began to broadcast.⁸ Likewise, when, in 1933, the German station at Munich attacked the Dolfuss government by means of addresses via radio to the Tyrolese peasants, Vienna replied by making reception from Munich impossible over most of Austria by "jamming."⁹

Interference with broadcasting from radio stations is not confined to the activities of other stations. It is now recognized by scientists that power-house machines, street cars, X-ray machines, electric iceboxes, electric fans, electric curling irons, and a host of other electric appliances set up "disturbances in the

York), pp. 9-66; Alfred N. Goldsmith and Austin C. Lescarboua, *This Thing Called Broadcasting* (New York: Henry Holt, 1930), pp. 3-19; Orrin E. Dunlap, Jr., *The Story of Radio* (New York: Dial Press, 1935), pp. 1-63; Ernest H. Robinson, *Broadcasting* (London: John Lane, 1935), pp. 1-19.

⁸ *Time*, October, 1926, p. 182.

⁹ Frank C. Hanighen, "Propaganda on the Air," *Current History*, June, 1936, p. 49.

electric *status quo*” of the same nature as “Hertzian waves.” Nature also contributes such disturbances, particularly during summer lightning storms. These are “picked up” by radio receivers and constitute part of the static which distorts clear reception—a phenomenon with which every owner of a receiving set is familiar.

Thus innumerable disturbances are constantly being created in the “electric *status quo*.” With the development of the science of electricity, man has learned to control certain of these disturbances so that they maintain identifiable characteristics and will carry intelligible sound (or for that matter, sight). Others may be controlled to some extent, while still others lie outside the power of man to exercise any control whatsoever. Those most completely controlled are employed for broadcasting.

When a radio transmitter is “set” so that the frequency of the “wave” produced is held constant, as in the case of broadcast transmission, there is a necessary and predictable “spreading” to each side of this set frequency so that it is impossible for another transmitter within the range of the first to operate on a frequency just above or below without interference. Thus transmitters must be “spaced” so that a sufficient distance is maintained between them to make clear reception of their signals possible. These spaces occupied by individual transmitters are known as “channels” and, to insure efficient and clear reception, each transmitter must operate approximately midway between transmitters on either side of it, or midway in the “channel” which itself is widened by the inclusion of tolerances resulting from apparatus limitations. American broadcasters space their transmitters 10 kilocycles apart while broadcasters in Great Britain use “channels” of only 9 kilocycles. For visual broadcasting a distance of thousands of kilocycles must be maintained.

Therefore, beginning with “0” cycles, it is theoretically possible for transmitters broadcasting sound to operate at every 10-kilocycle point along an imaginary scale or “spectrum” until a point is reached which designates a number of cycles per second beyond which it is at present impossible to build electrical equipment to radiate. If transmitters are so spaced, the

result is a number of clear "channels" in which satisfactory broadcasting is possible. The number will be greatly reduced if a section of the "spectrum" is reserved for visual broadcasting, another for point-to-point communication, and other sections for other types of work. Actually the range of useful and economic radio frequencies is much more limited.

Since "waves" originating at certain points decrease in strength as they move outward, and since the distance from the point of origin at which "Hertzian waves" can be detected is determined in part by the power of the source of their generation, it is possible to predict, within certain limits, that point beyond which the signals of a radio transmitter cannot be received clearly above inevitable disturbances as well as the point at which such signals cease to interfere perceptibly with those of other transmitters. On the basis of this fact, it becomes possible broadly to regulate the operation of transmitters so that two or more, located at different scientifically determined points and using specified power, may operate without objectionably interfering with each other. By so doing the possible number of transmitters is increased greatly.

Nevertheless, after every known means has been employed to increase to the maximum the number of transmitters that may be efficiently operated, within the spectrum now available for broadcasting there is a definite limit beyond which it is impossible for engineers to extend the number and avoid interference. It has been hoped by some that new discoveries and inventions, particularly in the area of ultra-high frequencies, might so extend this limit as to make it of no practical significance. So far this hope has not been realized and engineers working in this area are for the most part skeptical as to its possible realization. Alfred N. Goldsmith, the engineer responsible in a large measure for the technical structure of radio in the United States and now a consulting industrial engineer accepted throughout the world as an authority in the field of radio engineering, after discussing present and possible developments in the ultra-high-frequency area, concludes:

It has been the unhappy experience in radio broadcasting that the opening of a new domain always appeared to offer an almost limitless opportunity

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for simultaneous and non-interfering transmission, but after practical examination and test, turned out to offer extremely few opportunities in comparison with the number anticipated. In fact, no radio domain so far rendered available has, after a reasonable time of development, been free from marked congestion at some time. Unfortunately there is no present reason for believing that the ultra-high-frequency domain will be an exception to this experience of the past, and whatever congestion now exists in broadcasting may be expected to continue when the ultra-high-frequency waves are used.¹⁰

Therefore, unless some wholly unlooked-for discovery is made, and engineers are not disposed to the belief that such is likely because of the nature of the area being explored, there will, at least for a considerable time to come, be a definite limit to the number of wireless transmitters that can be operated efficiently. It is not intended, however, to argue that such a discovery is impossible. The history of science has been such as to make such a prediction wholly without foundation. Rather it is meant to point out that, so far as present knowledge goes and so far as engineers can predict on the basis of their past experience and present understanding of the field, this limitation will be a factor that must be recognized in all use and regulation of the radio.

Because of this limitation, and because of the fact that the number of individuals and groups throughout the world desiring to operate broadcast transmitters far exceeds the number of such transmitters that can at present be operated successfully, numerous international conferences have been held in a more or less successful effort to partition the "ether spectrum" among the nations so that there will be as little interference as possible.¹¹ As a result of agreements reached at these conferences, the United States is permitted to use a limited number of the "channels" in the "radio spectrum," and under certain definite conditions.

After a careful study of the scientific and technical factors and conditions of the area of the spectrum in which it is per-

¹⁰ Dr. Alfred N. Goldsmith, "The Ultra-High-Frequency Domain," preprinted from *Radio and Education, 1936* (Chicago: University of Chicago Press, 1937), pp. 11-12.

¹¹ Laurence F. Schmekebier, *The Federal Radio Commission* (Washington: Brookings Institution, 1932), pp. 60 ff.

mitted to broadcast, the United States government has designated "channels" to be used for specific types of radio communication: point-to-point, ship and marine, government, broadcasting, experimental, amateur, aviation, police, television, etc. The "channels" available for broadcasting at present in the United States lie between 500 and 1,500 kilocycles (recently this was extended experimentally to 1,600 kilocycles).

Within this area are ninety-six "clear channels." By agreement with Canada six of these are reserved for her exclusive use and eleven are shared by the two nations. Thus broadcasters in the United States have available seventy-nine "clear channels" and eleven "shared channels."

Because of this limitation of "channels," and because of present understanding of their use, it is impossible for all those wishing to operate transmitters to be accommodated. Selection must be made among those applying for this privilege, and machinery and standards for such selection must be established. Thus a few are granted the coveted privilege while many applicants are refused. Further, operators who fail to meet such standards must be denied the privilege of broadcasting or their licenses revoked.¹²

¹² A more detailed discussion of this phase of broadcasting and of the technical limitations of radio will be found in Levering Tyson (ed.), *Present and Impending Applications to Education of Radio and Allied Arts: Report of the Committee on Engineering Developments* (4th rev. ed., July, 1936), published by the National Advisory Council on Radio in Education, Inc.

CHAPTER II

FEDERAL REGULATION OF AURAL BROADCASTING IN THE UNITED STATES

TO THE extent that the radio becomes a democratic institution it must increasingly function as a means for guaranteeing to each and every individual broad, wide, varied, and rich shared contacts, open-mindedness for the consideration of possible consequences of proposed activity, and flexibility in thought and action such that these consequences may become determinants of activity in a changing environment. However, because of its very nature, radio is limited—a fact of fundamental importance in any evaluation of its regulation, control, and operation.

During the history of radio in the United States a definite philosophy has emerged and become determinative of the principles basic to the present system of its regulation, control, and operation. This philosophy and these principles are, in part, commensurate with the principles underlying democratic institutions suggested above and, in part, diametrically opposite to them.

In the discussion which follows it is proposed to trace the development of this philosophy and to show to what extent its incorporation in the Communications Act of 1934—the Act under which radio in the United States is regulated, controlled, and operated today—and in the policies of the Federal Communications Commission has contributed to making radio in this country a democratic institution and to what extent it makes the democratic functioning of radio less possible.

This investigation will be approached through an outline of the history of federal regulation and control of American radio.

FIRST PERIOD—TO 1912

The earliest use, other than experimental, of “wireless communication” was that between ships at sea and between ships and shore.

As early as 1897 Guglielmo Marconi successfully flashed a message from land to a ship ten miles at sea. The following year the “East Goodwin Lightship” was put in communication with the shore via wireless, and by 1902 ship-to-shore communication up to a distance of two thousand miles was possible. This same year the Cunard liners “Lucania” and “Compania” were equipped with “receiving-gear” and began publishing news bulletins aboard ship.

Recognizing that the “disturbances in the electric *status quo*” set up by transmitters cannot be confined within state lines but have effects which can be detected at points far distant from that of origin, the attorney-general of the United States, ruled, in 1902, that radio communication was interstate commerce and thereby subject to federal control. In *Whitehurst v. Grimes*¹ one of the judges held that “radio communications are all interstate.” The import of this decision is that all operation of transmitters, even though the power be such as not to cast signals across state lines, is subject to federal regulation and control because of the possible interference which the operation of such transmitters might cause with more powerful signals that do cross state lines. The Court of Appeals of the District of Columbia, in a long line of decisions beginning with that handed down in the case of *The General Electric Company v. Federal Radio Commission*,² has held to this position without exception.

Consequently, when the United States Congress first took cognizance of “wireless” and its importance for safety at sea by passing the Wireless Ship Act of June 24, 1910,³ it was exercising its legal right to deal with “wireless communication.” This Act required that every ship carrying fifty or more persons, including passengers and crew, be equipped with wireless apparatus capable of transmitting and receiving messages over a

¹ 21 F. (2d) 787.

² 31 F. (2d) 630.

³ 36 Stat. L. 629.

distance of at least one hundred miles. In this Congress was dealing with the only problem of "wireless communication" then existing—that of communication between ships at sea and between ships and shore. Further, the Act was mandatory rather than regulatory, there being at that time no problem of regulation since little or no interference was experienced among the few transmitters then operating.

Power to make provisions for the execution of this Act was placed in the hands of the secretary of commerce and labor (after March 4, 1913, the secretary of commerce), who, in turn, assigned the enforcement of the Act to the Bureau of Navigation which, at that time, had charge of enrolment and licensing of vessels. To care more efficiently for this, there was created on July 1, 1911, the Radio Service of the Bureau of Navigation.

Additional provisions were incorporated into the Act by an amendment, July 23, 1912, such as to make it applicable to advances in wireless communication and to the growing needs for safety at sea.

SECOND PERIOD—FROM 1912 TO 1927

As interest in wireless communication increased and numerous individuals began operating transmitters so that interference with signals from government stations was being experienced, it became evident that the scope of federal regulation of radio should be widened and more stringent restrictions made. To meet this situation Congress passed the Radio Act of August 13, 1912,⁴—the first act dealing specifically with interstate communication via radio. Requirements of this Act were: Every transmitter must be licensed; every operator must be licensed; and a station's frequency must be more than 500 kilocycles or less than 187.5 kilocycles. Thus that section of the broadcast band from 187.5 to 500 kilocycles was reserved for government use and freed from interference of other stations while private interests were permitted to operate anywhere else in the radio spectrum, the only restriction being that both transmitters and operators be licensed by the government. The administration

⁴ 37 Stat. L. 302.

of this Act was placed in the Department of Commerce and Labor.

The Act of 1912, because of the small number of private transmitters, was more or less adequate to care for the problems relative to regulation of wireless communication that developed from the time of its passage to the outbreak of the World War and the entrance of the United States into the struggle.

During the World War radio was held under direct and complete control of the federal government and private broadcasting was prohibited.

With the close of the war radio was returned to private operation under the provisions of the Radio Act of 1912. Almost immediately, owing in large measure to experimental work done under the direction of the United States Army Intelligence units and the greater knowledge obtained therefrom, the development of radio moved ahead at high speed. Transmitters were built in great numbers and a host of individuals began indiscriminately to "fill the air" with "disturbances of the electric *status quo*." By 1921 it was evident to all concerned that the Act of 1912 as administered was not adequate to deal with the public broadcasting situation in that it seemed to contain no provision for regulating use of the area of the radio spectrum designated for individual enterprise. Strict regulation beyond the specific provisions of the Act was recognized as necessary if chaos was to be avoided in this area.

To consider this emergency Herbert Hoover, then secretary of commerce, called four conferences in the four consecutive years 1922-25. To these conferences were invited all those vitally concerned with the future of wireless communication for the purpose of studying problems that were emerging and making recommendations for dealing with them.

Secretary Hoover opened the third of these conferences with an address in which he stated:

Through the policies we have established the Government, and therefore the people, have today the control of the channels through the ether just as we have control of our channels of navigation; but outside of this fundamental

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reservation radio activities are largely free. We will maintain them free—free of monopoly, free in program, and free in speech—but we must also maintain them free of malice and unwholesomeness.

Radio has passed from the field of an adventure to that of a public utility. Nor among the utilities is there one whose activities may yet come more closely to the life of each and every one of our citizens, nor which holds out greater possibilities of future influence, nor which is of more potential public concern. Here is an agency that has reached deep into the family life. We can protect the home by preventing the entry of printed matter destructive to its ideals, but we must double-guard the radio.⁵

Here Secretary Hoover conceived “the channels through the ether” as of such a nature as to make possible their control by a government for its own exclusive use to the extent of prohibiting their use by individuals or other governments. Several bills proposed in Congress during this period, and passed by one or other of the two houses, sought to maintain the position that “the ether is hereby declared to be the sole and inalienable property and possession of the people of the United States.” Much has been written in an effort to maintain that “the ether” does or does not belong to the people of the United States and must therefore be protected by them from trespass.

If, however, “the ether” is to be understood as modern scientific research conceives it—“the sum total of all the electric forces in the universe at any one instant”—and if radio, as we know it, is “trains of disturbances in the electric *status quo*” caused by broadcast transmitters, it becomes evident that “ownership of this greatest of intangibles, the ether, is therefore, not a practical legal problem. . . . The law of property cannot rest upon so fragile a basis.”⁶

Therefore, no individual, group, or government can, with any degree of scientific justification, claim ownership of “the ether.” The words of the North American Agreement of March 1, 1929, are more in accord with modern scientific understanding: “The sovereign right of all nations to the use of every radio channel is recognized.”

On the basis of the principle that all radio law and regulatory

⁵ *Proceedings of the Third National Radio Conference*, pp. 2-3.

⁶ Louis G. Caldwell, *ibid.*, pp. 4-5.

procedure must be “founded on the solid rock of natural law,” it becomes evident from the foregoing that federal regulation and control is not of “the ether” as such, but is rather of the operation of those instruments (broadcast transmitters) which are employed to create certain definite “disturbances in the electric *status quo*.” However much the laws, rules, and orders of the federal government dealing with radio regulation and control are couched in the terms of a now outmoded conception, however often the terms “channel,” “ether,” or “wave” occur, the intent and function of such is the regulation and control of the operation of broadcast transmitters.

In the address of Secretary Hoover referred to above, three principles fundamental to federal regulation of the operation of broadcast transmitters in the United States and to the philosophy of American radio are stated clearly.

The first of these principles is: “The Government, and therefore the people, have today the control of the channels through the ether.”⁷

Control of the operation of broadcast transmitters rests in the people of the United States and is administered for them and in their interest by the federal government through an agency established for that purpose. At no time and in no way is this control to be alienated from the people and no use of radio shall be permitted that is detrimental to their interest and welfare.

The second principle is: “. . . Radio activities are largely free. We will maintain them free—free of monopoly, free in program, and free in speech—but we must also maintain them free of malice and unwholesomeness.”⁸

Basic to the law of the land is the First Amendment to the federal Constitution:

Congress shall make no laws respecting an establishment of religion, prohibiting the free exercise thereof; or abridging the freedom of speech, or the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

⁷ *Ibid.*, p. 2.

⁸ *Ibid.*

Here “freedom of speech” is guaranteed to the American people, though the term itself is not defined. The history of the efforts made by the courts of the land to arrive at a workable definition of the term is evidence of the great difficulty in so doing.⁹

Following the lead of Secretary Hoover’s address, the Third National Radio Conference sought to establish a policy that would guarantee the right of free speech in the area of radio communication. Its final recommendations contained the following:

The conference thoroughly discussed all angles of program directing and heard a great many arguments on this important subject. As a result it recommends that the policy of the department of noninterference in programs sent out by broadcasting stations should be upheld. Any other attitude would necessarily involve censorship in some degree.¹⁰

Likewise, Subcommittee No. 8 of the Conference reported:

After an extended discussion on the details of making recommendations to the conference it has been deemed advisable that the Department of Commerce, as in the past, take no steps to regulate the material broadcast from any station in the country, as it is believed that each station desires to cover a certain field and to entertain or educate a certain class of people. To regulate the programs under these conditions would mean censorship, therefore official censorship is not recommended.¹¹

It is evident, from the foregoing, that those most active in forming the earlier policies of American radio regulation and control recognized the value of freedom of speech and did everything in their power to guard against any form of censorship that might endanger this cherished right. They were convinced, further, that any interference whatsoever on the part of the federal government with program content would constitute censorship. Thus they were emphatic in urging that operators of transmitters be left free to select material for broadcasting—free from any and all interference on the part of the federal government.

⁹ Edward C. Caldwell, “Censorship of Radio Programs,” *Journal of Radio Law*, October, 1931, pp. 441 ff.

¹⁰ *Proceedings of the Third National Radio Conference*, p. 13.

¹¹ *Ibid.*, p. 19.

The third principle is: "We can protect the home by preventing the entry of printed matter destructive to its ideals, but we must double-guard the radio."¹²

The intimate nature of radio and its power for determining certain attitudes were recognized by Secretary Hoover and seemed to him to necessitate on the part of the federal government establishment of a policy such as to protect the home from broadcasting inimical to its ideals. Herein is to be found, however, the root of one of the most difficult and controversial problems in the whole field of federal regulation and control of radio in the United States. Freedom from censorship seemed to demand that the government adopt a policy of "hands off" as regards program content. However, if the radio was to be operated in the interest and for the welfare of the people, it could not be opened to those who wished to broadcast programs destructive of the ideals maintained in the homes of these people. To protect American homes a degree of interference with program content is obligatory. No protection of specific ideals is possible unless they are determined and used as a basis for restricting program content.

For example, in a great many American homes birth control is held to be detrimental to the ideals there cherished. To permit discussion of this subject via radio to enter these homes is deemed by many to be vicious. Thus it has been maintained that protection of this ideal demands that such discussion in radio programs be prohibited. But prohibition of anything that may be broadcast amounts to interference with program content and is censorship as the term was interpreted by Secretary Hoover and members of the conferences.

Thus two of these fundamental principles necessarily come into conflict, and this conflict has remained to harass the thinking of those responsible for federal regulation and control of American radio.

A fourth principle, equally fundamental to American radio policy, was determined definitely during these conferences. Following the World War most European countries, recognizing

¹² *Ibid.*, p. 3.

the strategic value of radio as an instrument of national defense, placed its operation, either in part or wholly, under government control and sought to finance it by direct appropriations from the public treasury or by taxes collected from owners of receiving sets. In the United States a wholly different procedure was followed. Broadcasting was turned back to private interests and the problem of financing placed in their hands for solution. This practice was discussed at some length during the conferences of 1922–25 and found to be “good.” Opening the Fourth National Radio Conference in 1925, Secretary Hoover said:

The decision that we should not imitate some of our foreign colleagues with governmentally controlled broadcasting supported by a tax upon the listener has secured for us a far greater variety of programs and excellence in service free of cost to the listener. This decision has avoided the pitfalls of political, religious, and social conflicts in the use of free speech to this medium.¹³

In a discussion of this matter, Dr. Levering Tyson, who was in attendance at the Conference, says: “The decision was that radio broadcasting in America should not be supported by government taxation or put under government control, but that it should be supported by private enterprise. . . . We in America decided then that we were going to have a commercialized radio.¹⁴

Commercial radio seemed to Secretary Hoover and to members of the conferences a prerequisite to freedom of speech via radio. They were convinced that the best way to keep radio free was to permit as little government control as possible. Any government support would, they feared, open the way to government censorship with all its attendant evils.

These four principles—(1) control and regulation of the operation of broadcast transmitters rests in the hands of the people of the United States; (2) freedom of speech via radio must be protected; (3) radio must be so regulated and controlled as to protect the interests and ideals of the people; and (4)

¹³ *Proceedings of the Fourth National Radio Conference*, p. 1.

¹⁴ Levering Tyson, “Looking Ahead,” *Education on the Air: Seventh Yearbook of the Institute for Education by Radio* (Columbus: Ohio State University, 1936), p. 61.

broadcasting shall be financed by private enterprise—conflicting as they are, were, by the work of these conferences, made fundamental to the administration of American radio and are the presuppositions of the present dominant philosophy of radio regulation, control, and operation in this country.

Early broadcasting was done on only two frequencies: 485 meters for weather and market reports and 360 meters for other material. The first broadcast licenses stated the specific service the transmitter was to render and the frequency to be used. They likewise specified the power employed. As transmitters became more numerous congestion developed in these areas and the need of additional frequencies became imperative. Increased understanding of broadcasting and development of new and more efficient equipment made possible the use of additional frequencies to which transmitters were assigned.

However, it was evident that, if broadcasting was to be at all efficient and valuable, specific assignments of frequency and power had to be made and enforced. Only on such a basis could radio make even a beginning toward adequate public service. However, the attempt made on the part of the federal government to regulate and control the operation of broadcast transmitters in the interest of the people of the United States and along lines suggested by the principles specifically stated by the Hoover conferences, and to designate specific frequencies and power limitations in licensing transmitters, produced many difficulties. As a result several suits were brought under the Radio Act of 1912, as interpreted in regulatory orders of the Department of Commerce, challenging the power of the secretary to make specific regulations as regards frequency and power.

The decision of the Court of Appeals of the District of Columbia in one such case, *Hoover v. Intercity Radio Company* (1923), was to the effect that the secretary of commerce had the authority to assign wave-lengths and force the operation of broadcast transmitters upon such. Three years later (1926) the United States Court of the Northern District of Illinois handed down a decision in the case of *United States v. Zenith Radio Corpora-*

tion to the effect that the secretary of commerce had no regulatory power as regards operation of broadcast transmitters under the Radio Act of 1912. In this it was held that a transmitter could be operated on any wave-length chosen by the owner within the span provided by the Act.

Because of the conflict between these two decisions, Secretary Hoover asked the office of the attorney-general of the United States for a ruling on the question. This was delivered on July 8, 1926, to the effect that the secretary was obligated to issue licenses and no station could be operated without a license; the secretary had no power to specify wave-lengths; the secretary had no power to assign hours of broadcasting except as required in the Radio Act of 1912, as regards interference with government stations; the secretary had no authority to issue licenses of limited duration; and a station owner might employ any wave-length he chose so long as he did not trespass on the span between 187.5 and 500 kilocycles.¹⁵

This strict interpretation of the Radio Act of 1912 stripped the secretary of commerce of all regulatory authority as regards broadcast transmitters. Any individual, holding a license from the Department of Commerce, might operate his transmitter on any wave-length within the span permitted by the Act, might shift about in that area as often as seemed best to him, and might employ whatever power he desired and at whatever time. The government was literally without power to prevent anyone from "going on the air" with such facilities as he cared to use. Licensing became merely a recording of those transmitters that were in operation. Hundreds of stations were broadcasting. Consequently, "the radio broadcast spectrum became a Hertzian bedlam." George Henry Payne, in an address before the Harvard University Graduate School of Business Administration, May 14, 1935, described the condition that followed thus:

Waves and power were used at will no matter how prejudicial to the operation of other stations. Interference was so common that little practical use could be made of this great invention. The public interest required that immediate action be taken to regulate operations over the air.

¹⁵ 35 Op. Att. Gen. 132.

This condition was convincing proof that, if radio was to serve the interest of the people of the United States, strict federal regulation as regards frequency assignments and power permits was necessary. It became painfully evident that the number of individuals wishing to operate broadcast transmitters was far in excess of the number of transmitters that could be operated without interference, and that stringent legal provisions were necessary to make the radio of any value and to save it from abuse such as would destroy it completely.

Therefore Congress, after considerable delay during which details of regulation and control were debated, passed the Radio Act of 1927 and made provision for the establishment of the Federal Radio Commission as administrative agent under the Act.

THIRD PERIOD—FROM 1927 TO 1934

Under the provisions of this Act the newly created Commission set about to discover means for bringing order out of the chaos into which broadcasting had plunged following the July 8, 1926, ruling of the attorney-general. The task was not easy. As Henry Adams Bellows, a member of this Commission, relates:

The Radio Commission was confronted with a fact, not a theory, the fact being the existence in full operation of over seven hundred stations—some two or three hundred more than the maximum number stipulated by the technical experts. Each of these stations had acquired a certain presumptive right to continue; it represented capital invested in good faith, had a license from the Department of Commerce, and claimed an already established good-will value. Some of the best stations—the ones that had built the finest transmitters, installed the best radio equipment, and generally pioneered in the evolution of broadcasting—were in states or cities badly overcrowded with radio facilities. It was—or then seemed—impossible to wipe them all out and start fresh.¹⁶

One vague and very general tool, and only one, was provided the Commission by the Act for handling this most difficult problem: In exercising virtually every power and duty delegated to it, the Commission was charged to proceed in accord

¹⁶ "Is Radio Censored?" *Harper's Magazine*, November, 1935, pp. 700-701.

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with “public interest, convenience, or necessity.” This phrase is to be found, with minor variations, in the four principal sections of the Act.

Section 4 provides:

Except as otherwise provided in this Act, the commission, from time to time, as public interest, convenience, or necessity requires, shall—

- a) Classify radio stations;
- b) Prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class;
- c) Assign bands of frequencies or wave-lengths to the various classes of stations, and assign frequencies or wave-lengths for each individual station and determine the power which each station shall use and the time during which it may operate;
- d) Determine the location of classes of stations or individual stations;
- e) Regulate the kind of apparatus to be used with respect to its general effects and the purity and sharpness of the emissions from each station and from the apparatus therein;
- f) Make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations and to carry out the provisions of this Act: *Provided, however,* That changes in the wave-lengths, authorized power, in the character of emitted signals, or in the time of operation of any station, shall not be made without the consent of the station licensee unless, in the judgment of the commission, such change will promote public convenience or interest or will serve public necessity or the provisions of this Act will be more fully complied with;
- g) Have authority to establish areas or zones to be served by any station;
- h) Have authority to make special regulations applicable to radio stations engaged in chain broadcasting;
- i) Have authority to make general rules and regulations requiring stations to keep such records of programs, transmissions of energy, communications, or signals as it may deem desirable;
- j) Have authority to exclude from the requirements of any regulation in whole or in part any radio station upon railroad rolling stock, or to modify such regulations in its discretion;
- k) Have authority to hold hearings, summon witnesses; administer oaths, compel the production of books, documents, and papers and to make such investigations as may be necessary in the performance of its duties. The commission may make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for law books, periodicals, and books of reference, and for printing and binding) as may be necessary for the execution of the functions vested in the commission and as from time to time may be appropriated by Congress. All

expenditures of the commission shall be allowed and paid upon the presentation of itemized vouchers therefor provided by the chairman.¹⁷

Section 9 is equally definite:

The licensing authority, if public convenience, interest, or necessity will be served thereby, subject to the limitations of this Act, shall grant to any applicant therefor a station license provided for by this Act.

In considering applications for licenses and renewals of licenses, when and in so far as there is a demand for the same, the licensing authority shall make such a distribution of licenses, bands of frequency of wave-lengths, periods of time for operation, and of power among the different States and communities as to give fair, efficient, and equitable radio service to each of the same.

No license granted for the operation of a broadcasting station shall be for a longer term than three years and no license so granted for any other class of station shall be for a longer term than five years, and any license granted may be revoked as hereinafter provided. Upon the expiration of any license, upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed three years in the case of broadcasting licenses and not to exceed five years in the case of other licenses.

No renewal of an existing station license shall be granted more than thirty days prior to the expiration of the original license.¹⁸

Section 11 is written around the same principle:

If upon examination of any application for a station license or for the renewal or modification of a station license the licensing authority shall determine that public interest, convenience, or necessity would be served by the granting thereof, it shall authorize the issuance, renewal, or modification thereof in accordance with said finding. In the event the licensing authority upon examination of any such application does not reach such decision with respect thereto, it shall notify the applicant thereof, shall fix and give notice of a time and place for hearing thereon, and shall afford such applicant an opportunity to be heard under such rules and regulations as it may prescribe.

Such station licenses as the licensing authority may grant shall be in general form as it may prescribe, but each license shall contain, in addition to other provisions, a statement of the following conditions to which such license shall be subject:

1. The station license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies or wave-lengths designated in the license beyond the term thereof nor in any other manner than authorized therein.

2. Neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of this Act.

¹⁷ 44 Stat. L. 1162, sec. 4.

¹⁸ 44 Stat. L. 1162, sec. 9.

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3. Every license issued under this Act shall be subject in terms to the right of use or control conferred by section 6 hereof.

In case of emergency arising during the period of one year from and after the first meeting of the commission created hereby, or an application filed during said time for temporary changes in terms of licenses when the commission is not in session and prompt action is deemed necessary, the Secretary of Commerce shall have authority to exercise the powers and duties of the commission, except as to revocation of licenses, but all such exercise of power shall be promptly reported to the members of the commission, and any action by the Secretary authorized under this paragraph shall continue in force and have effect only until such time as the commission shall act thereon.¹⁹

Section 21 of the Act states:

No license shall be issued under the authority of this Act for the operation of any station the construction of which is begun or is continued after this Act takes effect, unless a permit for its construction has been granted by the licensing authority upon written application therefor. The licensing authority may grant such permit if public interest, convenience, or necessity will be served by the construction of the station. This application shall set forth such facts as the licensing authority by regulation may prescribe as to the citizenship, character, and the financial, technical, and other ability of the applicant to construct and operate the station, the ownership and location of the proposed station and of the station or stations with which it is proposed to communicate, the frequencies and wave-length or wave-lengths desired to be used, the hours of the day or other periods of time during which it is proposed to operate the station, the purpose for which the station is to be used, the type of transmitting apparatus to be used, the power to be used, the date upon which the station is expected to be completed and in operation, and such other information as the licensing authority may require. Such application shall be signed by the applicant under oath or affirmation.

Such permit for construction shall show specifically the earliest and latest dates between which the actual operation of such station is expected to begin, and shall provide that said permit shall be automatically forfeited if the station is not ready for operation within the time specified or within such further time as the licensing authority may allow, unless prevented by causes not under the control of the grantee. The right under any such permit shall not be assigned or otherwise transferred to any person, firm, company, or corporation without the approval of the licensing authority. A permit for construction shall not be required for Government stations, amateur stations, or stations upon mobile vessels, railroad rolling stock, or aircraft. Upon the completion of any station for the construction or continued construction for which a permit has been granted, and upon its being made to appear to the licensing authority that all the terms, conditions, and obligations set forth

¹⁹ 44 Stat. L. 1162, sec. 11.

in the application and permit have been fully met, and that no cause or circumstance arising or first coming to the knowledge of the licensing authority since the granting of the permit would, in the judgment of the licensing authority, make the operation of such station against the public interest, the licensing authority shall issue a license to the lawful holder of said permit for the operation of said station. Such license shall conform generally to the terms of said permit.²⁰

These four sections, in which the major powers and duties of the Federal Radio Commission were specified, set down the fundamental legal principle by which the Commission was to be guided in its regulation and control of American radio: "public interest, convenience, or necessity." No exceptions were allowed. The intent of the entire Act was to make the interest of the public the standard for determining the functions and duties of the Commission. These sections are the heart of the Act; the rest makes provisions for setting up the machinery of administration, states a few specific directions regarding particular matters, and provides means of punishing those who violate the Act.

It is important to note that no attempt was made in the Act to define this fundamental principle. In fact, as suggested by Caldwell, Congress felt that

only an indefinite and very elastic standard should be prescribed for the regulation of an art and a field of human endeavor which is progressing and changing at so rapid a pace as is radio communication. "Public interest, convenience, or necessity" means about as little as any phrase that the drafters of the Act could have used and still comply with the constitutional requirement that there be some standard to guide the administrative wisdom of the licensing authority. After all, what Congress really meant to say to the Federal Radio Commission when it delegated to the Commission these perplexing problems of radio regulation was something like this: "Do the best you can but keep the interest of the public paramount."²¹

Thus the Radio Act of 1927 made fundamental to the regulation of broadcasting a principle which had been the basis for control of radio almost from the first: Radio is a public domain and all use of broadcast transmitters must be in accord with the best interests of this public. This principle, stated in substance

²⁰ 44 Stat. L. 1162, sec. 21.

²¹ Louis G. Caldwell, *op. cit.*, p. 51.

by Secretary Hoover and made the criterion for radio regulation by him, was incorporated by Congress in the Act of 1927.

No specific interpretation of the principle being made in the Act, it remained for the Commission to use its best judgment and discretion in applying it to the vexing problems with which it was confronted.

Two facts were evident to the Commission. The first was that "public interest, convenience, or necessity" would not be served if everyone who wished to operate a broadcast transmitter was allowed to do so. To some the Commission could grant this privilege, but it was forced to deny it to others. The second was that "public interest, convenience, or necessity" would not be served if all transmitters then operating were allowed to continue. Some had to be silenced.

However, as Mr. Bellows pointed out above, the traditional principle of property right thrust itself into the situation, making the Commission's task most difficult. Charged to regulate and control radio in the interest of the public as a whole and to bring order out of the chaos existing at the time, the Commission found itself confronted with the fact that many individuals had, by virtue of their property right, a squatter's sovereignty "in the air." They had made large investments, built up a good-will of commercial value, and held a license from the Department of Commerce which, having no time limit or restrictive provisions, permitted whatever they had done. The interests of these individuals seemed to the Commission to merit consideration and protection. Nevertheless, such protection as they seemed entitled to necessarily, under the existing conditions, conflicted with public interest.

Thus a definite legal charge and a traditional American principle came to grips, and the Commission found itself in duty bound to decide the issue in the field of radio. Only one course was open to the Commission, if it obeyed the law under which it was created, and that it took: Regardless of property right, a number of the stations then operating had to be silenced. The interest of the public triumphed over the principle of property right.

In face of the existing situation, and under specific charge from Congress to bring order out of chaos, the Commission went through "many searchings of heart" in an effort to determine upon a specific measuring-rod by the application of which enough transmitters could be silenced to make possible the operation of others in accord with "public interest, convenience, or necessity." The problem which the Commission faced was that of translating this vague and general principle into specific operational meaning so that it could be used effectively and for the best interest of the people of the United States.

Finally, the Commission

decided that in passing on all applications for renewal of license from existing stations we would take into account the type and quality of program service rendered. Thus, if two stations in one locality requested the same frequency, and it was shown in the hearing that one of them had rendered what seemed to us a consistently meritorious program service to the public as a whole, while the other had done little more than play phonograph records all day long, we would grant the first application and refuse the second.²²

This decision of the Commission to consider the quality of program content in granting renewal of licenses was, in effect, a scrapping of one of the principles stated by Secretary Hoover as basic to regulation and control of American radio. It affirmed that interference by the licensing authority, and thus by the federal government, with programs broadcast and therefore censorship, in so far as such was conceived as censorship, was necessary in public interest.

This was the camel's nose which, once let into the tent of American radio, very soon was followed by the whole camel of problems relative to the meaning of censorship as applied to the radio and the right of the Commission to exert an authority which, in effect, amounted to this dread threat to American democracy.

By determining so to act, the Commission laid the foundation for a licensing policy which has persisted and caused no end of controversy. In that program content was made one of the criteria for renewal of licenses, and since all licenses had to be

²² Bellows, *op. cit.*, p. 701.

renewed periodically, the standards which the Commission set for judging programs worthy of encouragement—such encouragement consisting of renewal of the station's license—became gauges by which station owners were forced to measure all programs presented for broadcasting if they desired to hold their licenses.

Though first set upon as an expedient to solve a most difficult immediate problem, this soon became a set policy of the Commission and has without question functioned as a most effective means of indirect control of program content and a censorship, as will be shown in more detail presently.

However, both direct and indirect censorship of programs by the Commission was prohibited in the Radio Act of 1927. This Act provides that

nothing in this Act shall be understood or construed to give the licensing authority the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the licensing authority which shall interfere with the right of free speech by means of radio communication. No person within the jurisdiction of the United States shall utter any obscene, indecent, or profane language by means of radio communication.²³

Herein the Commission is instructed by Congress to do nothing that will result in censorship of radio communications or that will jeopardize the constitutional guaranty of freedom of speech. There shall be no direct censorship on the part of the Commission, nor shall any of its regulations or conditions be such as to interfere indirectly with freedom of speech via radio.

However, Congress takes upon itself the power to exert such censorship and to interfere with freedom of speech by providing in the Act that no one shall be permitted to "utter any obscene, indecent, or profane language by means of radio communication."

In this section Congress said to the Commission, in effect: "Regulate and control radio communication in the United States in accord with 'public interest, convenience, or necessity.' In all your decisions make this paramount. Among other things, this means that freedom of speech shall be protected

²³ 44 Stat. L. 1162, sec. 29.

and that there shall be no censorship, except that the public shall be protected from hearing that which is obscene, indecent, or profane.”

Thus Congress sought to avoid the conflict evident among Secretary Hoover's principles analyzed above by making a legal definition of censorship and of freedom of speech particularly applicable to radio. The secretary's first principle—that radio is a public domain and must be operated in the interest of the public—was made basic to the Act and the Commission was instructed therein to gauge all its activities by “public interest, convenience, or necessity.”

To obey this instruction, the Commission held, necessitated interference with program content, such interference operating directly after the act of broadcasting but functioning indirectly before the act of broadcasting as censorship. One might broadcast whatever material he pleased “in the first instance” and the Commission was powerless to prohibit him from so doing, but he would be held accountable for the quality of the material so broadcast even to the losing of his license if such was not, in the judgment of the Commission, of a quality to serve “public interest, convenience, or necessity.”

Further, the Commission was prohibited from censoring radio or interfering with free speech in the first instance and prior to broadcasting, though Congress, by the provision of the Act denying to any broadcaster or individual the privilege of uttering via radio any “obscene, indecent, or profane language,” established a direct censorship in the first instance which the Commission was instructed to enforce.

Thus the public was to be protected and, in so far as this protection included censorship, neither the Commission nor Congress hesitated to exercise it—the Commission indirectly but actually and Congress directly.

Thus Mr. Hoover's principle of freedom of speech and program via radio was limited and restricted to the extent that the Commission or Congress, *in their judgment and in accord with their standards*, found such to be necessary in “public interest, convenience, or necessity.”

Consequently, though the fundamental principle of regulation and control laid down in the Act was "public interest, convenience, or necessity," this was determined by Congress and the Commission *for* the people and according to the best judgment of these agencies of the people.

In the summer of 1928, after the Commission had made a careful study of all existing radio stations and of their program offerings, 162 licensees were summoned to appear before the Commission and show cause why their applications for renewal of licenses should not be denied. The Commission had reached the conclusion that these licensees were not operating their transmitters in "public interest, convenience, or necessity." It held that programs from these stations were not such as to serve the best interest of the public to the degree when compared with those from other stations and that, in the necessary process of eliminating some transmitters from the air, these should be silenced. A number of the stations so challenged were operated by educational institutions which, because of meager finances, difficulty in securing program talent, or antiquity of equipment, were broadcasting inferior programs. Records of program material were produced and, in a number of instances, counsel for the station owner argued earnestly for the continuation of the operation of these particular transmitters. In a few cases station owners, recognizing the inadequacy of their program offerings, were not represented at the hearings. As a result of these hearings a few stations were silenced, some had their broadcasting privileges materially limited, while still others were instructed by the Commission to "enrich" their program offerings or to modernize the equipment of their stations.

This action of the Commission precipitated an attack on the constitutionality of the Radio Act of 1927 and numerous suits were filed challenging the right of the Commission to so rule. Two cases of particular importance were *White v. Johnson*²⁴ and *United States v. American Bond and Mortgage Company*.²⁵ Decisions in both cases upheld the validity of the Act and stated that the Commission was acting within its constitutional right.

²⁴ 29 F. (2d) 113.

²⁵ 31 F. (2d) 448.

In administering the Act so written as to incorporate the three fundamental principles of American radio control outlined above, the Commission was confronted with the vexing problem already suggested: that of maintaining a balance between "freedom" in matters of radio communication and the regulation of the operation of radio transmitters in accord with "public interest, convenience, or necessity." The problem resolved itself into that of controlling radio so that it would best serve the welfare of the citizens of the United States at all times and under all conditions.

To appreciate the full significance of this problem and the position adopted by the Commission, it is necessary that "freedom of speech" and "censorship" be defined clearly and completely and their limits drawn with care and comprehension. It is further necessary that the meanings of these terms within the specialized area of radio communication be understood and appreciated.

In accord with the first amendment to the federal Constitution,

the decisions of the various courts in this country have been, in general, harmonious and uniform in defining the scope of the right and the restrictions imposed upon its exercise. It has always been held that freedom of speech and press cannot be infringed by any agency whatsoever, whether it be the legislative, executive, or judicial department, or merely a private corporation or association functioning within the state.²⁶

Judge Yeates, ruling in the case of *Respublica v. Dennie*, held:

Every citizen may freely speak, write or print on any subject, but is accountable for the abuse of that privilege. There shall be no licenses of the press. Publish as you please in the first instance without control; but you are answerable both to the community and the individual, if you proceed to unwarrantable lengths.²⁷

After analyzing the law of the United States regarding freedom of speech and the press, Caldwell states by way of summary:

All authorities are agreed that the right includes freedom from any form of prior restraint (except in very exceptional cases) whether such restraint is accomplished by means of censorship, licensing, or injunction, that neither

²⁶ Edward C. Caldwell, *op. cit.*, pp. 449-50. ²⁷ 4 Yeates, Pa. 267, 2 Am. Dec. 402.

speech nor press may be suppressed by any department of the government, whether it be legislative, executive, or judicial, and that not even particular defamatory words may be enjoined as such. Not only are prior restraints forbidden but there are limitations on what subsequent restraints may be imposed; outside of obscenity, blasphemy, conspiracy, contempt, unfair competition, criminal libel, and utterances inciting to violence, breach of law or immorality, the State cannot even punish utterances afterwards as crimes. The right protects against prosecutions for libels on the government which are now absolutely privileged; inherent in the right to free speech and press is the right to trial by jury for an alleged abuse of that freedom. The right is not only expressly guaranteed by special constitutional provisions, but is also protected by the general provision that no person shall be deprived of liberty without due process of law; the exercise of the right is also, perhaps, a privilege and immunity of a citizen of the United States within the meaning of the Fourteenth Amendment. Above all, a consideration of the historical development of the right and its present status in modern law, shows that it is one of the most jealously protected rights the people possesses, that it must be given the most liberal and comprehensive construction, and that the application of its principles and safeguards should be expanded, not contracted.²⁸

“Except in very exceptional cases” an individual may say or print what he pleases at any time that he pleases “in the first instance.” Laws denying this right have been, without exception, declared unconstitutional by the courts. No “prior restraint” can be exercised by any individual or body whatsoever. Further, “subsequent restraint” in the form of punishment for utterances made is strictly limited.

Therefore, legally “censorship” consists in any act which denies to the individual the right to speak or write as he pleases “in the first instance.” This right to speak and write freely is basic to the democratic way of life in the United States and is carefully protected by the laws of the land. The fact that an individual is liable for the consequences of what he says or writes, that he must answer to the community and to those individuals affected by his utterances, is not, in the legal sense of the term, “censorship,” even though it does function to restrain the activity of an individual who intelligently considers the consequences of proposed activity in determining upon a course of action.

²⁸ Edward C. Caldwell, *op. cit.*, pp. 465-66.

Thus the fact that there exists this "subsequent restraint" is significant. Knowledge that one's utterances will, in all probability, be followed by some form of punishment acts in a degree to check what he desires to say or write and is, functionally, "censorship," though not legally so defined. One is actually freer to say or write that which he is certain will not eventuate in his being punished than he is to say or write that which will most certainly bring such punishment.

This distinction between the legal and the functional meanings of "censorship" is most important for any understanding of the theory of freedom of speech in this country, and especially of its operation in the field of radio communication.

Actually there is no such thing in the United States as absolute and complete freedom of speech and of the press. Caldwell points out that the guaranty of freedom of speech or of the press implies four propositions:

1. The guaranty aims not so much to protect the individual in holding opinions as to insure that society receive them. . . .
2. The guaranty is against government censorship and not against so-called private censorship. . . .
3. The guaranty is, or was intended to be, a real limitation upon the powers delegated to Congress. . . .
4. A valid test of the effectiveness of the guaranty is the scope of the right to censure public men.²⁹

Complete freedom of speech and of the press is denied because of limitations made in "very exceptional cases" and the knowledge that one's utterances may result in punishment. Though legally such freedom exists, functionally it does not. This fact cannot be ignored.

So long as there is even one law on the statute-books of this country to the effect that an individual's words, either spoken or written, will result in punishment to him, absolute and complete freedom of speech and the press does not exist. At best we in the United States have only a limited freedom of speech and of the press—limited by the knowledge of possible impend-

²⁹ Louis G. Caldwell, "Freedom of Speech and Radio Broadcasting," *Annals of the American Academy of Political Science*, January, 1935, pp. 181-83.

ing punishment. In the case of any intelligent action, knowledge of consequences is always a factor determining activity.

The limitations imposed by law upon freedom of speech and of the press are, in theory, in the interest of public welfare. In the case of *Near v. Minnesota* the United States Supreme Court, in a 5:4 decision, held that

. . . a government might prevent actual obstruction to its recruiting service or the publication of the sailing dates of transports or the number and location of troops . . . the primary requirement of decency may be enforced against obscene publications. . . . The security of the community life may be protected against incitement to acts of violence and the overthrow by force of orderly government.³⁰

Likewise, a study of the laws dealing with obscenity, blasphemy, conspiracy, contempt, unfair competition, criminal libel, utterances inciting to violence, and breach of law or immorality will reveal the fact that Congress and the courts are motivated by a belief that their duty is, in part, to protect the people of the United States from those activities of individuals or groups which would, in their estimation, be destructive of certain of their values. This protection, in fact, results in a very real form of "subsequent restraint" and functions as a kind of censorship.

When the means of communication is the radio, the problem, it is held, becomes still more complicated. Here, at least for the present and for some time to come, the avenues of communication are limited by definite technical considerations not operative within either the areas of vocal utterances or the press. Further, the possible consequences of radio communication are held to be different from those of other forms of exchange of intelligence. These facts, it is maintained, make necessary some means by which the operation of transmitters may be regulated, and father numerous problems not to be found in the field either of speech or of the press. The position of the federal government, as expressed by Secretary Hoover, is that "we must double-guard the radio."

³⁰ 283 U.S. 697 (1931).

Owen D. Young stated this belief most clearly when he held:

Freedom of speech for the man whose voice can be heard a few hundred feet is one thing. Freedom of speech for the man whose voice may be heard around the world is another. We defend them both and will to the uttermost, but we cannot be blind to the increasing dangers of carelessness or intemperance in their use.³¹

Thus, while an individual may enjoy certain privileges and immunities when speaking to a neighbor or to a group of friends or listeners in a hall, privileges determined in the light of the consequences of his activity upon the welfare of other individuals or groups, and while he may be granted certain privileges when printing matters which he desires to express, subject likewise to the particular consequences resulting from his activity flowing through this medium, it is held that the consequences resulting from radio communication are such as to increase his obligation to others and to make imperative the imposition of limitations as to its use not necessary in the other cases.

Thus censorship in the field of radio communication is defined differently from what it is elsewhere. To maintain that there is some absolute definition of the term which can be made to apply everywhere is to fail in understanding that meaning is operational and must be stated in terms of the factors of a particular situation. For censorship to have any meaning that will function adequately in the field of radio communication, the peculiar nature and limitations of this field must be taken into consideration as well as the consequences resulting from the use of the instrument. Here "public interest, convenience, or necessity" makes certain definite limitations of freedom of speech necessary which, were they applied in the case of the press, for instance, would amount to unwarranted censorship.

A great deal has been written and said about federal censorship of the radio and the regulations imposed by the licensing authority. Much of this has been based on an interpretation of freedom advanced as far back as the eighteenth century when

³¹ Quoted from an address delivered at Rollins College, Winter Park, Fla., and reported in the *New York Times*, March 1, 1936.

man sought absolute and unchanging definitions free from particular situations and consequences. Many individuals, writing critically, think of freedom in terms of a society only loosely organized and in which the consequences of one's activity are, in most cases, not such as to affect others to any great extent. In such a situation little regulation of one's speech is necessary. As society has become more closely organized, the welfare of the group demands consideration to a greater degree. Freedom, then, must be limited because of the fact that one's actions affect others more intimately and vitally. Thus legal restrictions must be imposed to protect the interests of others, restrictions which limit the individual's freedom. Public welfare demands such restrictions.

This development can be seen clearly in the case of freedom of speech. In a loosely organized agrarian society such as characterized the United States of an earlier generation it was possible for one to enjoy a great deal of freedom as regards his utterances. The consequences of such were limited so that both "prior" and "subsequent" restraints were nominal. An argument or violent discussion at the village store had few consequences and very little affected the welfare of others. With the growth of urban life a similar argument or discussion may have many and serious consequences as regards the other members of the group. Consequently restrictions become necessary which were not needed before.

For example, the discussion, in the latter instance, might draw a crowd large enough to block traffic and cause many individuals serious inconvenience, or it might become so noisy as to be a public nuisance.

The radio, the latest of man's instruments for bringing individuals close together, is, at least for the present, an end point of this process of social integration. The argument or discussion conducted a century ago at the village store, and couched in the language of that store, if presented today via radio and in the same or similar language, would have consequences as regards the welfare of others not possible before. Where, in the former situation, it might have incited a few to desire activity

impossible of realization because of their isolation, if transmitted via radio it might father a social situation such as to destroy much that mankind has found valuable. As a result it is held that restrictions must now be imposed upon one's freedom to conduct such arguments or discussions via radio not necessary either at the village store or in the lecture hall.

This is an instance of that principle, so often overlooked or not considered, that quantitative considerations tend to become qualitative as quantity increases. One may speak disparagingly of another to his face and in private and be subject only to the personal reactions of the one spoken to. To say the same thing to him, but in front of a microphone with the possibility that thousands are listening, may possibly produce consequences such as to justify a libel suit. Profanity uttered at the village store has consequences determined by the situation—the number present and its effect upon them. This same profanity uttered via radio and coming into homes where children are listening and in which certain definite ideals are supported will have consequences not simply quantitatively different from those in the former instance but qualitatively different.

Failure to recognize this fact has resulted in a great deal of useless and meaningless discussion of censorship in terms that cannot possibly apply to the field of radio communication, and the failure to appreciate certain factors which do apply and which are disregarded at one's peril.

In view of this situation the problem of the Federal Radio Commission was that of so administering the regulation of broadcast transmitters that "public interest, convenience, or necessity" would be served, a task which included the imposition of no unwarranted censorship. A limited facility had to be administered so that the best interest of the public would be protected. This problem the Commission attempted to solve. However, working in a new field and with materials little understood by those not immediately connected with the situation, and only vaguely understood by the individuals charged with this responsibility, decisions of the body were hotly contested. The judgments of the Commission as to what constituted "pub-

lic interest, convenience, or necessity” in particular cases were, in most instances, certain to conflict with the judgments of others. When the Commission, after considering the program content broadcast by a station, ruled that, in its judgment, such was not in “public interest, convenience, or necessity,” or was less in “public interest, convenience, or necessity” than that of another station, there were certain to be those who disagreed violently and accused the Commission of violating the sacred right of free speech via radio.

In the case of *Great Lakes Broadcasting Company v. Commission*, the Commission attempted to define its position regarding freedom of speech and censorship. Here the fundamental principles laid down by Secretary Hoover are evident. Among other things the Commission stated:

Throughout the course of the hearings a great deal has been said on the subject of freedom of speech, and it is consequently intimated that in making its decisions the commission has been usurping the power of censor. It will not be out of place at this time to give expression to a few general observations on the subject of freedom of speech as applied to broadcasting.

It is self-evident that the constitutional guaranty of freedom of speech applies to the expression of political and religious opinions, to discussions, fair comments, and criticisms on matters of general public interest, of candidates, of men holding public office, and of political, social, and economic issues. At no time has the commission considered that it had any right to chastise a station for its conduct in handling such matters if the station has observed the requirement of the law that it give rival candidates equal opportunities to use its microphone.

Does this same constitutional guaranty apply to the airing of personal disputes and private matters? It seems to the commission that it does not. The history of the guaranty shows that it was the outgrowth of a long struggle for the right of free expression on matters of public interest. Two neighbors may indulge in any verbal dispute they please in their own back yards where no one is within hearing distance. Let them try to conduct the same dispute in a public place, such as on a busy street or in a theater, and they soon find that they are not protected by the Constitution. Even if they conduct the controversy on premises owned by them, if it is so noisy as to disturb people in the vicinity it will soon be terminated as a nuisance. The rights of the public to be free from disturbances of this sort are superior to those of the individual. Even on a subject of public importance a man is not permitted to get up in a public place such as on a street or in a public park in many cities and speak to the public without a permit.

With these limitations already imposed by law on unrestricted utterances, is the commission powerless to protect the great public of radio listeners from disturbances and nuisances of this kind? Should a man who is forbidden to perpetrate such a nuisance in a public street or in such a manner as to disturb people living in the vicinity be allowed to invade the homes of radio listeners over a vast area in something so disagreeable and annoying? Listeners have no protection unless it is given to them by this commission, for they are powerless to prevent the ether waves carrying the unwholesome message from entering the walls of their houses. Their only alternative, which is not to tune in on the station, is not satisfactory, particularly when in a city such as Erie only the local station can be received during a large part of the year. When a station is misused for such a private purpose the entire listening public is deprived of the use of a station for a service in the public interest.

The commission is unable to see that the guaranty of freedom of speech has anything to do with entertainment programs as such. Since there is only a limited number of channels and since an excessive number of stations desire to broadcast over these channels, the commission believes it is entitled to consider the program service rendered by the various applicants, to compare them, and to favor those which render the best service. If one station is broadcasting commercial phonograph records in a large city where original programs are available and another station is broadcasting original programs, for which it is making a great financial outlay, the commission believes that the second station should be favored and that the question of freedom of speech is not involved. This is only one example of many that might be cited. Entertainment such as music is not "speech" in the sense in which it is used in the first amendment to the Federal Constitution.

Nevertheless, on all matters which seem near the border line the commission will proceed very cautiously, and where it feels that it may reasonably be contended that freedom of speech is involved, although the commission may not entirely agree with the contention, it will give the station the benefit of the doubt, as has been done in the cases which have come before it.³²

In this detailed statement the Federal Radio Commission stated quite fully its policy regarding freedom of speech and the regulation of broadcast transmitters in "public interest, convenience, or necessity." As interpreted by the Commission, the constitutional guaranty of freedom of speech applies only to "the expression of political and religious opinions, to discussions, fair comments, and criticisms on matters of general public interest, of candidates, of men holding public office, and of political, social, and economic issues." At no time did the

³² Federal Radio Commission, *Second Annual Report*, p. 160.

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Commission seek to function directly as a censor of such matters. However, the Commission was convinced that one of its duties, in "public interest, convenience, or necessity," was to protect the listening audience "from disturbances and nuisances" via radio. It is specifically stated by the Commission that "the rights of the public to be free from disturbances of this sort are superior to those of the individual." Just as in other areas the public is protected, so in radio.

Further, the Commission did not believe that demanding a certain quality of entertainment via radio was in any way censorship. From this point of view, entertainment was not a matter of freedom of speech.

It is evident from the foregoing that the Federal Radio Commission recognized its obligation to administer the control of the operation of broadcast transmitters in accord with "public interest, convenience, or necessity" and to refrain from making any decisions detrimental to this fundamental concern as interpreted by existing law, or, where no such law had been framed, by the commission in accord with its best judgment. Thus censorship is given a technical and specialized meaning. Restraint is not necessarily censorship. Indeed, it is held that certain restraint is necessary if "public interest, convenience, or necessity" is served.

With this position, in general, many will agree. However, violent disagreement arises as to the place at which specific restraint ceases to be in accord with "public interest, convenience, or necessity." This disagreement between the Commission's judgment, as expressed in its decisions, and that of those who opposed these decisions came to concreteness in those cases in which the courts were called upon to arbitrate.

The Radio Act of 1927, as amended July 1, 1930, provided:

Any applicant for a construction permit, for a station license, or for the renewal or modification of an existing station license whose application is refused by the licensing authority shall have the right to appeal from said decision to the Court of Appeals of the District of Columbia; and any licensee whose license is revoked by the commission shall have the right to appeal from such decision of revocation to said Court of Appeals of the District of Columbia or to the district court of the United States in which the apparatus licensed

is operated, by filing with said court, within twenty days after the decision complained of is effective, notice in writing of said appeal and the reasons therefore. . . .

At the earliest convenient time the court shall hear, review, and determine the appeal upon such record and evidence, and may alter or revise the decision appealed from and enter such judgment as to it may seem just.³³

Decisions in the cases appealed under this law became stakes marking out the area in which the Commission had the power of regulation and that of the meaning of censorship. Numerous such cases were tried and decisions rendered. Four of these are of vital importance in stating the limits to which the interpretation of "public interest, convenience, or necessity" can be extended and the powers of the Commission in imposing restraints upon the operation of broadcast transmitters.

Dr. John R. Brinkley, who, with his wife, operated radio station KFKB at Milford, Kansas, personally broadcast his "medical question box" as a means of prescribing via radio treatment of cases from symptoms given in letters directed to him. Usually he advised his radio patients to procure one or another of his special prescriptions, designated by number only, from a member of the Brinkley Pharmaceutical Association. When application was made to the Federal Radio Commission for renewal of the license of Station KFKB, such renewal was denied. Dr. Brinkley appealed the decision of the Commission to the Court of Appeals of the District of Columbia, which court sustained the Commission's ruling. Associate Justice Robb, affirming the decision, stated:

Appellant contends that the attitude of the commission amounts to censorship of the station contrary to the provisions of section 29 of the Radio Act of 1927 (47 U.S.C.A. Sec. 109). This contention is without merit. There has been no attempt on the part of the commission to subject any part of the appellant's broadcasting matter to scrutiny prior to its release. In considering the question whether the public interest, convenience, or necessity will be served by a renewal of the appellant's license, the commission has merely exercised its undoubted right to take note of appellant's past conduct, which is not censorship.³⁴

³³ 46 Stat. L. 844.

³⁴ *KFKB Broadcasting Association, Inc. v. Federal Radio Commission* (1931), Court of Appeals of the District of Columbia, 47 F. (2d) 670.

In this decision the court held, guided by previous court pronouncements regarding freedom of speech in the case of newspapers referred to above, that legally censorship via radio consists of "prior restraint." The Commission, therefore, was not permitted to "subject any part of the appellant's broadcasting matter to scrutiny prior to its release." Any station owner might "in the first instance" broadcast what he pleases. However, it held that consideration by the Commission of "past conduct" of a station, in terms of its program content, before granting a renewal of license was within the power of the Commission and, whatever influence such consideration might have upon the future action of other stations, did not constitute censorship in the legal sense of the term.

William B. Schaeffer, doing business as the Schaeffer Broadcasting Company and operating Station KVEP, a 15-watt transmitter at Portland, Oregon, was denied renewal of his license by the Commission on May 30, 1930. In stating the grounds for its decision, the Commission said:

The compelling factor in the Commission's decision, however, was the nature of the broadcasts which have been emanating from this station. . . . This disclosed that as a result of a very bitter political campaign the defeated candidate, one Robert G. Duncan, had entered upon a program of vilification denouncing in most violent terms those whom he believed responsible for his defeat. As a medium for his outbursts, the facilities of radio station KVEP were engaged for two hours daily, and under the guise of a political speech the character of reputable citizens was defamed and maligned, not only by innuendo but by direct use of indecent language.

Although the licensee . . . did not actually participate in these broadcasts they were rendered with his knowledge under a contract previously made with the aforementioned Robert G. Duncan. The claim that he disapproved much of the language used is not sustained by the evidence since, as proprietor of the station, he had full authority over all programs broadcast.³⁵

Here the station owner, though not actually the broadcaster as in the case of Dr. Brinkley, was held responsible by the Commission for material broadcast over his transmitter. When such material did not meet the standards set by the Commission for "public interest, convenience, or necessity," this body had the

³⁵ *Duncan v. United States*, 48 F. (2d) 129, 133, should likewise be consulted.

power to refuse applications for renewal of license. Thus the station owner was obligated to see that all programs were such as to meet these standards.

Norman Baker, operator of Station KTNT at Muscatine, Iowa, was denied renewal of his license on the basis of evidence placed before the Commission to the effect that he had been accustomed to broadcast bitter personal attacks upon individuals, companies, and associations, especially certain medical associations and doctors. In denying his application, the Commission pointed out:

This commission holds no brief for the Medical Associations and other parties whom Mr. Baker does not like. Their alleged sins may be at times of public importance, to be called to the attention of the public over the air in the right way. But this record discloses that Mr. Baker does not do so in any high-minded way. It shows that he continually and erratically over the air rides a personal hobby, his cancer cure ideas and his likes and dislikes of certain persons and things. Surely his infliction of all this on the listeners is not the proper use of a broadcasting license. Many of his utterances are vulgar, if not indeed indecent. Assuredly they are not uplifting or entertaining.

Though we may not censor, it is our duty to see that broadcasting licenses do not afford mere personal organs, and also to see that a standard of refinement fitting our day and generation is maintained.³⁶

In this decision the Commission held that a transmitter was to be operated in a "high-minded way" and that programs broadcast were to be "uplifting and entertaining." It contended that the standards "of refinement fitting our day and generation" be maintained. These phrases are, at best, difficult of definition. They mean one thing to one and another to another. There is little general agreement about them. The Commission, therefore, conceived itself as the interpreter of their meaning, holding that its interpretation become the standard for judging program content. There being no technique for defining these terms accurately, the Commission set itself as the authority—subject, of course, to review by the courts.

The Trinity Methodist Church of Los Angeles, California, operating Station KGEF, was presenting its pastor, Rev.

³⁶ Decision of the Federal Radio Commission, June 5, 1931, Docket No. 967.

Robert P. Shuler, in broadcasts which contained, according to the Commission, repeated attacks “upon public officials and courts which have not only been bitter and personal in their nature, but oftentimes based upon ignorance of fact for which little effort has been made to ascertain the truth thereof.” The Commission further found that “programs broadcast were sensational rather than instructive and in two instances he [Rev. Shuler] had been convicted of attempting over the radio to obstruct orderly administration of public justice.”³⁷

Appeal from the Commission’s decision denying renewal of the station’s license was made to the Court of Appeals of the District of Columbia and the Commission sustained. In its ruling the court, after some general observations on the First Amendment to the federal Constitution, stated:

“Every free man has an undoubted right to lay what sentiments he pleases before the public; to forbid this is to destroy the freedom of the press; but if he publishes what is improper, mischievous, or illegal, he must take the consequences of his temerity.” But this does not mean that the Government, through agencies established by Congress, may not refuse a renewal of license to one who has abused it to broadcast defamatory and untrue matter. In that case there is not a denial of the freedom of speech but merely the application of the regulatory power of Congress in a field within the scope of its legislative authority. . . . This is neither censorship nor previous restraint, nor is it a whittling away of the rights guaranteed by the First Amendment, or an impairment of their free exercise. Appellant may continue to indulge his strictures upon the characters of men in public office. He may just as freely as ever criticize religious practices of which he does not approve. He may even indulge private malice or personal slander—subject of course, to be required to answer for the abuse thereof—but he may not, as we think, demand, of right, the continued use of an instrumentality of commerce for such purposes, or any other, except in subordination to all reasonable rules and regulations Congress, acting through the Commission, may prescribe.³⁸

In all these decisions of the Federal Radio Commission and rulings of the Court of Appeals of the District of Columbia is to be found clearly expressed the theory and practice of federal regulation of broadcast transmitters in the United States.

³⁷ *Seventh Annual Report of the Federal Radio Commission* (1935), p. 11; see also 62 F. (2d) 850.

³⁸ 62 F. (2d) 850.

Radio is here held to be "an instrumentality of commerce" which, by its very nature, crosses state lines. Therefore, Congress, by virtue of its power to regulate interstate commerce, can and must make provisions for the regulation of the operation and use of broadcast transmitters.

An individual, with certain very broad limitations, may speak or print as freely as he pleases, subject, of course, to laws dealing with criminal libel, etc. He may even do this via radio "in the first instance." However, when he undertakes to employ an "instrumentality of commerce," he must recognize the peculiar nature of this instrumentality. He must be governed by the regulatory provisions under which such instrumentality is administered.

Because of the nature of this instrumentality, Congress, acting through the Federal Radio Commission, had a dual obligation. It had to establish such regulatory measures as would in no wise infringe upon the people's constitutional right to freedom of speech, and at the same time protect the public from any use of broadcast transmitters that would be detrimental to their values. The Commission was charged to determine, to the best of its judgment, that use of broadcast transmitters which would be "uplifting," "entertaining," "high-minded," and in accord with "a standard of refinement fitting our day and generation." Refraining from censorship, in the legal sense of the term, it was charged to regulate the use of broadcast transmitters so that they would serve "public interest, convenience, or necessity."

Such cannot be crystallized into specific laws but must be left to the judgment and sensitivity of the members of the Commission, subject to final review in any particular instance by the courts of the land. This judgment and review will, inevitably, be criticized and violently condemned by many.

In determining whether or not a station was being operated in "public interest, convenience, or necessity" the Commission had the authority—a position which was sustained by the courts—to consider the quality of programs broadcast. Transmitters from which was being broadcast material not considered

in "public interest, convenience, or necessity" by the Commission and the courts were silenced in favor of others judged to be broadcasting in accord with this standard.

That this theory and procedure placed great power in the hands of the Commission and the courts is obvious. Stations representing large sums of money invested could be closed. Programs which station owners honestly believed were in accord with "public interest, convenience, or necessity" might become evidence testifying against the station before the Commission. This body, naturally, became a powerful agency controlling radio transmission. Station owners acted with exceptional care lest they provoke the disapproval of the Commission. Those programs about which there was some question were, in the interest of expediency, eliminated.

However much this situation may be condemned and its dangers recognized, the fact remains that here was an instance of an attempt to control an important and limited instrumentality of modern industrial society in the best interest of the people as a whole. The means for such control was the Federal Radio Commission, representing, in theory, the people and charged by law to administer radio, with all its limitations and in consideration of them, in their interest and welfare. The laws governing the actions of the Commission were purposely made flexible so as to permit this body to function in accord with changing conditions and standards.

In considering this plan it is to be observed that in so far as the Commission failed—and it is not intended to argue that its activities were not without fault in particular instances—so failed the practice of control and operation of instrumentalities of public concern in accord with public interest. Fundamental to all work of the Commission was the theory that the interest of the people as a whole was paramount to that of any particular group or class. The failure of the Commission was the failure of such a system, and its success the success of the system.

The power resting in the Federal Radio Commission functioned as definite control over stations so that, on the basis of

decisions already rendered by the Commission and on the basis of its generally known attitudes, station owners decided whether a proposed program was of "public interest, convenience, or necessity," and governed their actions accordingly. Decisions rendered by the Commission were available, and station owners studied them carefully to discover their implications and their application, in so far as such could be determined, to the programs under construction.

The fact of the Commission's recognition of its obligation to protect the public and its attitude regarding issues which arose from time to time are revealed in orders which the Commission issued. In many such this body stated specifically what it did not consider in "public interest, convenience, or necessity." An example of this was an order issued following the repeal of the Eighteenth Amendment to the federal Constitution. Here it was stated:

The Federal Radio Commission calls renewed attention . . . to that section of the Radio Act of 1927 which provides that stations are licensed only when their operation will serve the public interest, convenience, or necessity. . . . Although the 18th Amendment to the Constitution has been repealed by the 21st, and so far as the Federal Government is concerned, there is no liquor prohibition, it is well known that millions of listeners throughout the United States do not use intoxicating liquors and many children of both users and non-users are part of the listening public. The Commission will designate for hearing the renewal of applications of all stations unmindful of the foregoing.

Though newspapers might print liquor advertising, and an individual might use intoxicating beverages freely and advertise them by word of mouth, the Commission felt that the nature of radio was such that it was obligated to protect those who did not use liquor and the children who listened to the radio by barring such advertising from the air. A station owner refusing to abide by this suggestion was subject to being summoned before the Commission for hearing upon his application for renewal of license, and, if the Commission so ruled, his application might be denied.

Station owners, recognizing this power resting in the Commission, were, in most instances, carefully watchful of the Com-

mission's actions. Illustrative of this is the following: A certain quasi-religious organization had contracted for the broadcasting of its programs over a large number of stations. One such program proved to be highly offensive to the Roman Catholic church, which complained to the Commission. Pursuant of this complaint the Commission addressed a letter to all the stations mentioned as carrying the program, asking if it were true that the program under consideration had been broadcast. There was nothing in the letter implying criticism or condemnation; the Commission was merely asking for information. However, this letter was sufficient to cause a considerable number of stations involved to cancel their contracts with the organization.³⁹

The Federal Radio Commission also stated definitely its position on the broadcasting of false or deceptive claims, lotteries, and fortune telling, and on "programs which contain material which would be commonly regarded as offensive to persons of recognized types of political, social, and religious belief."⁴⁰ Any such broadcasting would subject the station owner to a hearing and possible revocation of his license.

FOURTH PERIOD—1934 TO THE PRESENT

Recognizing the close affinity between wire and wireless communication systems of a common carrier type, the Seventy-third Congress, upon recommendation by the President of the United States, passed the Federal Communications Act of 1934 which was signed by the President on June 19, 1934. This Act sought to bring all forms of wire and wireless communication under the administrative control and regulation of a single body, the Federal Communications Commission. It provided for such a body composed of seven individuals.

At the first meeting of this Commission three divisions were set up, one assigned the task of regulating and controlling broadcasting. This division took over the work of the Federal Radio Commission and proceeded to act very much in accord with the policies determined upon by the old Commission.

³⁹ Bellows, *op. cit.*, p. 703.

⁴⁰ *Sen. Doc. 137* (2d sess., 72d Cong., 1932).

The Act, stating the duties and powers of the new Commission was written around the fundamental principles laid down by Secretary Hoover as basic to the American system of radio control and incorporated in the Radio Act of 1927.

In that section of the Act dealing with "Special Provisions Relating to Radio," the principle of control of the operation of broadcast transmitters by the people of the United States through their representative, the Commission, was stated thus:

It is the purpose of this Act, among other things, to maintain the control of the United States over all the channels of interstate and foreign radio transmission; and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by Federal authority, and no such license shall be construed to create any right, beyond the terms, conditions, and periods of the license.⁴¹

To assure this control, it was provided in the Act:

No station license shall be granted by the Commission until the applicant shall have signed a waiver of any claim to the use of any particular frequency or of the ether as against the regulatory power of the United States because of previous use of the same, whether by license or otherwise.⁴²

Consequently the people of the United States, through their representative agency, the federal government and the Federal Communications Commission, control the operation of broadcast transmitters under the existing law. No individual or group of individuals, regardless of the time a particular station has been in operation or the magnitude of the investment concerned, can claim prior right to this domain. Here public welfare is given the victory over the rights of private property and private profit.

Thus the Federal Communications Commission is, as was the Federal Radio Commission, charged with the regulation and control of American radio in accord with "public interest, convenience, or necessity." The Act states:

If upon examination of any application for a station license or for the renewal or modification of a station license the Commission shall determine that public interest, convenience, or necessity would be served by the granting thereof, it shall authorize the issuance, renewal, or modification thereof in

⁴¹ Federal Communications Act, sec. 301.

⁴² *Ibid.*, sec. 304.

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accord with said finding. In the event the Commission upon examination of any such application does not reach such decision with respect thereto, it shall notify the applicant thereof, shall fix and give notice of a time and place for hearing thereon, and shall afford such applicant an opportunity to be heard under such rules and regulations as it may prescribe.⁴³

Further, the Commission is prohibited from acting as censor by the following:

Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication.⁴⁴

The third principle stated by Secretary Hoover to the effect that the people of the United States must be protected against any abuse of broadcast transmitters, and recognized by the Federal Radio Commission in its requirement that program material meet certain definite standards of taste and refinement, is incorporated into the Act as follows: "No person within the jurisdiction of the United States shall utter any obscene, indecent, or profane language by means of radio communication."⁴⁵

And:

No person shall broadcast by means of any radio station for which a license is required by any law of the United States, and no person operating any such station shall knowingly permit the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes. Any person violating any provision of this section shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned not more than one year, or both, for each and every day during which such offense occurs.⁴⁶

The Federal Communications Commission has sought to be, in all its actions, as sensitive as was the Federal Radio Commission to its obligation to regulate and control the operation of

⁴³ *Ibid.*, sec. 309a.

⁴⁴ *Ibid.*, sec. 326.

⁴⁶ *Ibid.* ⁴⁶ *Ibid.*, sec. 316.

broadcast transmitters in accord with "public interest, convenience, or necessity." Careful study of the decisions, reports, and orders of the Commission⁴⁷ will furnish proof that in every instance the purpose of the Commission has been to act with the welfare of the public paramount. This body has been extremely cautious lest it do anything that might be interpreted as a violation of the congressional prohibition against censorship. However, in making its decisions it has, as did the Federal Radio Commission, considered past performance of the station under consideration and weighed the program content presented previously to determine whether or not it had been such as to serve "public interest, convenience, or necessity."

The fourth principle definitely determined by the Hoover conferences as basic to the practice of radio operation in the United States—the financing of broadcasting shall be delegated to private interests holding licenses to operate transmitters—has been followed without change in the Federal Communications Act of 1934 and is the present practice. The government in no wise assists in this matter, its only concern here being that a licensee be able so to finance his station that it is operated in accord with standards set by the Commission.

SUMMARY AND CONCLUSIONS

This review of the history of "Federal Regulation of Aural Broadcasting in the United States" reveals the fact that four principles, determined upon soon after radio emerged from the experimental stage and formulated as guiding principles of federal policy by the Hoover conferences, are today basic to the philosophy and practice of radio regulation, control, and operation in the United States. These are:

1. Control and regulation of the operation of broadcast transmitters rests in the hands of the people of the United States and must be such as to serve their interests and welfare.
2. Radio must be at all times free—free of monopoly, free in speech, and free in program.

⁴⁷ *Federal Communications Commission Reports: Decisions, Reports, and Orders of the Federal Communications Commission of the United States, July, 1934—July, 1935, Vol. I (1936).*

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3. Radio must be so regulated and controlled by the federal government, through its administrative agency, as to protect the interests and ideals of the people of the United States.
4. Broadcasting shall be financed by private enterprise.

The Federal Communications Act of 1934, the law dealing with radio in the United States today, is written around these principles and all decisions, rules, and regulations of the Federal Communications Commission are guided by them.

However, the conflicts between these principles made necessary a long line of Commission decisions and court rulings in the efforts to define terms and draw fine lines of distinction.

The Federal Communications Commission is instructed by the Act to function at all times in "public interest, convenience, or necessity" and to see that transmitters are operated in accord with this standard. The radio, in theory, is a public domain and must be used and administered in the interest and for the welfare of the public.

Nevertheless, the vagueness of the terms "public interest, convenience, or necessity" and "public welfare" is such as to leave wide latitude for discretion on the part of the Commission. Consequently its standards and decisions have been challenged many times.

Further, in setting standards, the Commission functions as an agency for protecting the interests of the public, for seeing that the radio is used in line with these interests and not in opposition to them.

The technique adopted by the Commission for determining whether or not a transmitter is being operated in public interest includes, among other things, careful examination of program content, measuring material broadcast by certain more or less definite standards set by the regulatory body and the courts. If and when the Commission is not satisfied that program material broadcast has met these standards, it has the power to revoke a license or to deny application for renewal of such and to silence the offending transmitter.

However, the Commission is instructed by the Act to do nothing that shall directly or indirectly result in censorship of

the radio. It has been pointed out that consideration of program content in the granting of licenses does, in fact, function as a very definite kind of censorship. Though not legally held to be such, this procedure does actually serve as a means for banning certain materials from the air.

Thus, from the point of view of the federal government, two conflicting principles are evident in the present administration of radio. On the one hand, freedom of speech via radio must not be restricted; and, on the other hand, the public must be protected. This protection is in terms of certain standards and ideals set by the Commission and the courts.

The problem that emerges may be stated thus: To what extent shall the Commission protect the public as regards radio, and at what point does such protection become censorship? This poses a still more fundamental question: What shall the Commission protect and how shall it so protect?

Democracy, as a philosophy in contrast with certain other philosophies, is based upon the premise that progress comes through diversity. It stems from the belief that as conflicting opinions are permitted to meet and do battle freely in the arena of public discussion "truths" will emerge and work themselves into conjoint living. Thus it cherishes freedom of speech. The position has been well stated by former Justice Oliver Wendell Holmes:

When men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out.⁴⁸

If it be held that "truth" is a changing thing, that there is no "absolute and eternal truth" to be discovered once and for all and handed on to mankind by its discoverer, protection is not the marking-off of certain areas in which are fortified ideas which must not be questioned or challenged, but rather is keep-

⁴⁸ *Abrams et al. v. United States*, 250 U.S. 616; see also Alfred Lief, *The Dissenting Opinions of Mr. Justice Holmes* (New York: Vanguard Press, 1929), p. 50.

ing open and free those avenues by which ideas may be brought into the "market" of human thinking and discussion, there to meet other ideas in untrammelled competition.

Applied to the radio, this means that protection must consist, in so far as radio functions in the service of the democratic way of life, in seeing to it that at all times and under all conditions the "channels" through the air are kept open to free transmission of all ideas and that at no time is some one idea or particular system of ideas given the right of way to the exclusion of other and challenging ideas.

To the degree that the rules and regulatory measures of any government agency become such as to close the radio to ideas or opinions, just in so far are they undemocratic. Thus to bar from the air discussions which any group, small or large, does not want to hear or to be heard by others is to hamper the democratic functioning of the radio. Any idea or point of view that needs such protection is immediately suspected from the point of view of democracy. One is justified in asking of such ideas or opinions: Are they so weak, so lacking in vitality, that they cannot meet the challenge of other ideas or opinions? Such ideas and opinions are dangerous.

If the radio is to serve as a means for disseminating certain ideas—whether they be those of the majority or of any particular minority which has privileged access to a transmitter, while challenging ideas are kept "off the air" and thus denied the right of free circulation through this medium—it will function to narrow the field of contacts which individuals may experience and thus to produce, in so far, closed minds and thought and action that is not adequately flexible to meet constructively the changing human environment. In so far it will fail to serve the democratic way of life.

On the other hand, to the degree that the Federal Communications Commission functions as an agency to keep the radio open to all ideas and opinions—an instrument for disseminating conflicting patterns of thought, some of which are even offensive to certain individuals and groups—does it truly protect the interest and serve the welfare of the public. The

fundamental interest within a democracy is not a particular idea or opinion, not a specific statement of fact or belief, but rather that all ideas, opinions, facts, and beliefs shall meet in the arena of public thought and discussion and there have an equal opportunity to justify themselves. It is this interest that every agency of democratic government must protect. All specific rules, regulations, orders, etc., are to be evaluated in terms of this basic and fundamental interest.

The history of federal regulation and control of the radio in the United States discloses that at times the licensing authority has failed to function democratically, as the term has been defined herein, and that it has protected certain ideas and opinions which have met its standards of taste and refinement from challenge by other ideas and opinions which fail when so measured. At present the United States does not have a democratically administered radio, however far in that direction it may have gone. The road to the goal is yet long and beset with many difficulties which must be surmounted if American radio is ever to arrive.

CHAPTER III

THE STATION OWNER

PREVIOUS to the World War three factors characterized American radio. Operating in the wave band between 187.5 and 500 kc were numerous transmitters on land and on ships. Their use, primarily, was in the interest of safety at sea, though they were employed to some extent for broadcasting commercial messages and news. Also in this span were to be found several transmitters operated by the government for the more efficient handling of government business and for experimentation. All the "area" of the radio spectrum outside this span was opened to individuals who wished to operate private transmitters. Little regulation of this "area" was necessary as the number of transmitters in operation was small and the work done by them was largely experimental.

During the war the government took complete control of all private transmitters, closing many and employing a few as units of the Intelligence Department of the army.

Need for radio as an instrument of military communication led to intensive experimentation and considerable development in the field. New inventions were made and understanding of wireless was greatly increased.

At the close of the war many European nations, recognizing the military value of radio, made it a branch of the government under the control and in the service of national defense. Thus, with very few exceptions, European radio is today conceived as an arm of the government, is almost completely controlled by the government, and is held to be, above all else, a most important instrument of national defense.

In the United States a very different course was taken. Congress sought to establish "flexible and intelligent regulation" of the operation of broadcast transmitters to insure "public interest, convenience, or necessity" while leaving the management, control, and operation of these transmitters in private hands. Further, within the limits of certain regulatory pro-

visions, the problem of financial support of American radio was turned over to private initiative for solution, allowing whatever profits might result from this operation to accrue to the station owner as reward for his initiative.

The Radio Act of 1912 was written so as to guarantee the use and operation of "apparatus for radio communication" to individuals, companies, or corporations "within the jurisdiction of the United States" under supervision of the federal government. This supervision was intended to be of such nature as to encourage individual initiative and, at the same time, protect the interests of the people as a whole.

As has been pointed out, one of the fundamental principles of radio regulation, control, and operation in the United States definitely formulated by the Hoover conferences was that broadcasting shall be financed by private enterprise. Commercialized radio was believed by those most active in formulating the policies basic to the present system to be the way of escape from the evils of radio governmentally controlled and supported by taxation. However one may disagree with this belief, the fact must be recognized and its consequences considered in any attempt at reconstruction designed to make broadcasting more adequately a servant of the democratic way of life.

The Radio Act of 1927 and the Federal Communications Act of 1934 were written so as to incorporate this principle directly and definitely. The latter provides:

It is the purpose of this Act, among other things, to maintain the control of the United States over all the channels of interstate and foreign radio transmission; and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by Federal authority, and no such license shall be construed to create any right, beyond the terms, conditions, and periods of the license.¹

By this Act the federal government maintains such control of the operation of broadcast transmitters as is deemed necessary by Congress and the licensing authority to insure their use in "public interest, convenience, or necessity," but grants to a limited number of individuals, companies, or corporations,

¹ Federal Communications Act of 1934, sec. 301.

through the instrument of a license, the privilege of operating such transmitters, financing this operation, and receiving whatever profits result.

A licensee so privileged must, at all times, operate his transmitter so as to satisfy the licensing authority that "public interest, convenience, or necessity" is being served thereby. His station equipment, program content, and general business and operational policies must be such as to meet the standards set by the Commission under the provisions and authority of the Act. At any time that such standards are not met, the licensee may be summoned to show cause why his license shall not be revoked and his station silenced.

Congress and the federal licensing authority have recognized that "public interest, convenience, or necessity" will not be served by regulation alone, but also by drawing into American radio individual initiative, talent, and enterprise of the highest possible quality. Better radio is possible only when those individuals best equipped by training and experience can be induced to devote their abilities and energies to the solution of the problems in the field.

To accomplish this the way has been left open for private profit and care has been taken so to temper federal regulation as not to discourage but rather attract such individuals. Consequently that which has become known as the American system of radio has commercialism as its distinguishing characteristic. The radio in America is, among other things, a commercial enterprise, supervised to a degree by the federal government. Any attempt at revising this system so as to make it serve more completely the democratic way of life must take this fact into consideration. Whether one approve or not, he must recognize the station owner as an important factor in the system, made important by the fundamental design of our system.

Aside from the requirement that a station must at all times be operated in "public interest, convenience, or necessity" and a few other specific provisions of the Federal Communications Act, this station owner is granted practically complete freedom in the operation and control of his transmitter.

There are, however, two provisions in the Act directly limiting his freedom. The first of these requires:

If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, and the Commission shall make rules and regulations to carry this provision into effect: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate.²

No station owner is required, under this section of the Act, to grant candidates for political office the use of his radio facilities either without cost or after paying a fee. He may, legally, refuse all candidates for office access to his microphone. However, if he does grant such privilege to one candidate, he must, on equal terms, grant the same privilege to all other qualified candidates for the same office. Further, if and when the station owner grants such privilege to a candidate for political office, he is specifically prohibited from censoring all material so broadcast.

The intent of this section of the Act is clear. Congress sought hereby to prohibit a station owner from using his transmitter for the presentation of one side of a political discussion to the exclusion of whatever other sides there might be. It was felt that "public interest, convenience, or necessity" demanded an unbiased and complete discussion of the issues of a political campaign by all candidates, and that the broadcasting of one candidate's argument to the exclusion of those of all others would not constitute a proper use of radio. However, in specifying "candidates," the section makes no provision for an unbiased discussion of political issues. A station owner may, legally, exclude all candidates from his microphone, but may have presented by other speakers, not qualified candidates, one side of a political issue to the exclusion of all others. He may turn his station into an instrument of biased propaganda and refuse to give contending positions a hearing. Thus, though intended by the Act, complete discussion of political issues via

² *Ibid.*, sec. 315.

radio is not guaranteed in its provision. There is no barrier in the Act to a station owner's using his facilities in the interest of one political group, if candidates are not presented, and closing their use to all other groups.

Further, when candidates are permitted to speak the station owner is prohibited from censoring the material so broadcast. Such censorship, it is held, would be detrimental to "public interest, convenience, or necessity."

Two problems have arisen to complicate this situation. In the first place, the rates charged by station owners for the use of their facilities are often such as to prohibit certain candidates from availing themselves of the radio while making it possible for other candidates to use the microphone. The phrase "equal opportunities" in the Act makes this condition possible. The station owner fixes his rates in terms of cost plus return on his investment. Some candidates, or their political parties, are able to pay this fixed rate and thereby to use the facilities of a station while others, though offered the same rate, are not so able. "Equal opportunities" are offered to both, in strict compliance with the law, but only one is able to take advantage of them. Consequently the public is often deprived of hearing candidates representing both sides of a political issue.

Broadcasting chains, such as the National Broadcasting Company and the Columbia Broadcasting System, have been sensitive to this problem. Seeking to operate in "public interest, convenience, or necessity" and at the same time cognizant of the fact that only a limited amount of broadcast time can be donated to candidates for political office if the industry is to maintain an adequate financial status, these chains have experimented with a policy which, though recognized even by them to have serious defects, seems to them to be the most reasonable and adequate under existing circumstances. This policy has been stated by Mr. William S. Paley, president of the Columbia Broadcasting System as follows:

As you know, we are required under the Communications Act of 1934 to operate as public convenience, interest or necessity requires. Naturally we wish not only to comply with the spirit and the letter of that Act, but to do all

things possible within the scope of reasonable and sound business operations to perpetuate the American system of broadcasting.

In trying to conduct our operations on what we conceive to be a sound basis with the foregoing objectives in view, we sacrifice every year a good many hundreds of thousands of dollars of revenue, and do not sell time to any organization to do with exactly what it pleases. In other words, we have set certain standards which we have greatly refined in the light of experience, and we have sold time only to purchasers admissible under those standards and willing to comply in all particulars with sound program policies. We have allotted time without charge on precisely the same basis, and only on the same basis.

I think you will readily see that American broadcasting could not be soundly conducted on any other basis. Its custody is in our hands and in the hands of other broadcasters and I know you will realize that it is inevitable that from time to time various persons or organizations should seek to put it to uses which are unsuitable. This is sometimes the case among advertisers, because while generally speaking they have raised rather than lowered broadcast standards, there are always those who seek to make selfish or opportunist uses of the medium and who thereupon need to be brought within prescribed and reasonable regulation. The same thing is true of non-commercial organizations seeking to use broadcasting to serve their particular causes.

I think it must be obvious that if anything like program balance is to be maintained, and experience as to what constitutes good broadcasting is to be applied, the broadcasting system rather than the user or would-be user must dictate program policy. Otherwise it would be impossible to give to the public in either quality or quantity anything like a balanced ration of education, discussion, high class entertainment, popular entertainment, news, and all the other things which the public wants.

In pursuance of the general policy I have outlined in the foregoing paragraph, we quite frankly refuse to take talk programs simply because their addition to the schedule at the moment would, in our judgment, throw our program structure out of balance. I am sure that you will understand that this would be the case practically all the time if we left to people with all kinds of interests and causes to serve the determination of just how much time should be allotted to the advancement of their projects, and this is true whether the time is given away or sold. It is further true that broadcasting should be a flexible and swiftly responsive medium and this means that programs of talk and discussions should be put on as news develops and as public interest and attention shifts from one subject or situation to another. It, therefore, is important that we should not schedule in advance too many programs of this nature in fixed and regular series, because if we do our program structure is thrown all out of gear by the addition of these quick and timely programs. I have dwelt at some length on the general basis of our operations because I think with these principles in mind you will more readily understand the

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reasons for the particular decisions which you have asked to have confirmed to you.

With regard to these particular decisions, let me tell you first of all that it is our fixed policy not to sell time for propaganda of any sort. When we think that the public is sufficiently interested in a subject suitable for discussion over the air so that propagandists of opposing sides should be heard, we allot the time without charge. Our decision to forego the immense revenues which could be had from the sale of time for propaganda was based on two main grounds:

1. We felt that the exercise of the wisest editorial judgment we are able to bring to bear, rather than the ability of others to pay, should govern decisions as to what subjects should be discussed and what subjects lacked sufficient public interest in proportion to other things to merit discussion and, further, that such editorial judgment should govern the amount of time devoted to such discussion in a given case.

2. We have an absolute conviction that the air would be misused were such discussion confined to those causes or advocates of causes who were able to pay and we would very quickly build up an undemocratic and un-American situation in which the air belonged to those with money. This would result in some things not being heard at all and in one side of others being preponderantly presented.

I realize that it is difficult to define precisely what we mean by propaganda; in fact this company has tried as far as possible to keep away from rigid definitions and arbitrary decisions and to rely upon common sense and the editorial judgment of those who operate it. What I mean in a general way, however, is this: We would not, for example, sell time to the public utilities holding companies to agitate against proposed legislation restricting or regulating their operations. We would and did give them time in which to argue against such proposed legislation just as we gave the advocates time to argue in favor of such legislation. On the other hand if the public utilities wanted to buy time to advertise their goods and services—that is, to promote the use of gas and electricity—we would unhesitatingly sell them available time for such use. To illustrate a little further, we sell time to commercial sponsors for the promotion of the sale of their goods or services or the creation of industrial good will, but we do not allow them to use such bought time to agitate for high or low tariffs, changes in national or city or state tax structures, or other things of that nature.

It is in pursuance of this general policy with regard to propaganda that we have decided that we will not sell time to the Republican Party, or any other political organization until after the conventions next summer. It is our intention to continue to devote as much time as seems to us to constitute good broadcasting to the use of political speakers without charge.

I hope I have made clear to you why we will not sell you time at present, and now let me explain our reason for intending to sell it to you, if you wish

to buy it, after the conventions. When the candidates are actually nominated, and the parties are campaigning for votes we recognize that a good deal of broadcasting time should, in the public interest, be devoted to political discussion. While we are wholly in accord with the wish of the parties to use such an amount of time—and to use it on a more or less regular basis—we cannot economically afford to allow such use without pay. We shall, therefore, as in past years, treat such broadcasting as commercial and charge our regular rates, selling you available time in such amounts as you desire to buy, provided, of course, your requirements are not so great as in our judgment to upset our program structure.³

The policy of the National Broadcasting Company, stated as early as 1927 and adhered to at the present, is:

All subjects of sufficient interests to a considerable portion of the . . . radio listeners in the United States are suitable for broadcasting. In other words, we are glad to present a speaker whose reputation is sufficient to warrant a hearing, regardless of whether we do or do not agree with his views. The only limitation upon this speaker is as to broadcasting time and number of speeches, in order that a well-balanced program may be given to the public. . . . During political campaigns our rule requires political candidates to pay regular rates for broadcasting service; but our facilities are available at no cost to public officials in matters of national or governmental business.⁴

Though not bound in any way by the policies of the national chains, a great many individual stations have operated in accord with the policy stated in the foregoing rules of procedure while others have adopted somewhat different policies.

Fundamental to the policy of the chains is the fact that, to serve “public interest, convenience, or necessity,” a program balance must be maintained such that varied offerings are made available to the listening public. Public welfare, concern, and interest determine the nature of this balance. To present any one type of broadcasting over and beyond that which is war-

³ From a letter written by William S. Paley, president of the Columbia Broadcasting System, Inc., to the Hon. Henry P. Fletcher, chairman of the Republican National Committee, under date of January 8, 1936. This letter, along with other correspondence, was published in a pamphlet, *Political Broadcasting*, and distributed by the Columbia Broadcasting System, Inc.

⁴ M. H. Aylesworth, president of the National Broadcasting Co., reporting to the First Meeting of the Advisory Council of the National Broadcasting Co., February 18, 1927. Published and distributed by the National Broadcasting Co.

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ranted by the aforementioned is held not to be good broadcasting. All station owners recognize this principle and seek to build their program structure accordingly.

This "balance" is determined by the "editorial judgment" of the station owner. As explained by the Columbia Broadcasting System:

Columbia believes that it has a public duty to present on noncommercial time the free discussion of public issues and timely controversial subjects. In allotting time for discussion on the air we are guided by day-by-day developments, the shifting of public interest and the relative importance of topics available for broadcasting. It is our responsibility to make a selection from all the requests for time which we receive, and in so doing to maintain the fairest possible balance of viewpoint, as well as balance of program schedule.

We realize that if time were sold for the discussion of controversial public issues we would be allowing a powerful public forum to gravitate almost wholly into the hands of those with the money to buy it.

Columbia does not censor ideas or attempt to influence the viewpoint of those who speak over the network. We do not ask that the views of any speaker agree with those of any member of our editorial staff, nor has Columbia views of its own which must be maintained or protected.

Since we are charged with responsibility for what goes out over our network, we examine proposed addresses to determine first, that they are interesting; second, that they are not libelous or slanderous and conform to the laws of the country; and third, that in questions of taste they may properly be heard in the living rooms of the nation by people gathered together in groups of every conceivable assortment.⁵

Within the limits of this "program balance" the chains, and by far the large majority of independently owned and controlled stations, have placed their facilities, free of charge, at the service of those individuals able and willing to discuss matters deemed to be of general interest and importance. In such discussions various conflicting points of view have been presented to the extent to which such has been possible.

Accredited candidates for public office are, in most cases, offered the facilities of radio stations at regular commercial rates, care being taken at all times to preserve "program balance" as conceived by the individual station owner and to avoid

⁵ *Broadcasting and the American Public* (pamphlet published by the Columbia Broadcasting System, 1936).

discrimination among such candidates. It is obvious that this policy puts American radio in the hands of "those who can buy" during political campaigns, and that the candidate with a vast financial backing will be able to use more radio time than a rival whose financial resources are slight. This defect in the policy is recognized by broadcasting officials; however, it is argued by many that, under the American system of commercialized radio, no more equitable procedure is possible.

The state of Wisconsin has sought to meet this difficulty by financing a strictly non-commercial radio network of two stations so placed as to cover the entire state. The facilities of these stations are available at all times for use by government officials and those speakers who have messages of importance to the people of the state as well as by the state educational institutions. During political campaigns a total of one and one-half hours per day is given free to accredited candidates, this time being divided equitably among all qualified parties. Being state-supported and not, therefore, dependent upon advertising this network can experiment with such a procedure which, from the point of view of a purely commercial station, would be impossible.⁶

Another problem arising from Section 315 of the Federal Communications Act of 1934 concerns the matter of censorship. Under this section a station owner who makes the facilities of his station available for use by one candidate for political office must offer "equal opportunities" to all other accredited candidates for the same office, and he is prohibited from censoring material so broadcast. The station thereby becomes a free forum for political discussion. However, the situation in which this prohibition of censorship places the station owner and the possible effect of it upon his selection of program material is evident when one considers the existing law regarding defamation via radio.

On June 10, 1932, the Nebraska Supreme Court handed down a decision in the case of *Sorenson v. Wood and KFAB Broad-*

⁶ S. E. Frost, Jr., *Education's Own Stations* (Chicago: University of Chicago Press, 1937), section dealing with University of Wisconsin.

*casting Company.*⁷ The facts of the case were: Senator George W. Norris and W. M. Stebbins were candidates for the Republican nomination to the office of United States senator. The management, in public interest, permitted Senator Norris to use the facilities of Station KFAB to promote his candidacy and was required, under the provisions of the Federal Radio Act of 1927, to grant the same privilege to Mr. Stebbins. Further, any censorship of the material broadcast was prohibited by the Act. Richard F. Wood was presented by Mr. Stebbins to speak on his behalf. If the course of Mr. Wood's address remarks were made which were alleged by Mr. Sorenson, candidate for the office of attorney-general, to be libelous. Suit was filed against Mr. Wood and Station KFAB on the ground that both were legally responsible. The case was carried to the Nebraska Supreme Court which held that the owner of the radio station was equally liable with the speaker.

This is the only case so far to reach an appellate court on the question of the liability of broadcasting stations for publication of defamatory utterances and must, therefore, be taken as defining the existing law on the subject.

In a brief presented in the case by Lawrence Vold, of the law department of the University of Nebraska, it was held:

The broadcasting station actively participates with the speaker at the microphone in carrying out the processes of publication by radio. It is therefore a joint publisher of the utterances broadcast. It is not in the position of merely having furnished the mechanical facilities to the speaker by means of which he alone did the publishing.

It follows that the broadcasting station in the absence of applicable privilege is subject to liability as publisher where it has published defamatory utterances. Publishers of defamatory utterances act at their own peril. They are not permitted to reap the profits of publication while throwing its burdens upon others. Even though a publisher may have used due care in making publication, that is not a defense if the published utterance was defamatory. In this respect radio broadcasting publishers are not entitled to greater favors at the expense of their passive helpless victims than are other publishers.

Publication by means of radio broadcasting, because of the deliberation, diffusion and damage involved, must be governed by the rules applicable to libel rather than to slander.

⁷ 243 N.W. 82.

Whether any privilege can properly be claimed for the radio broadcasting station in connection with political speeches by virtue of the Federal Radio Act is at best very doubtful. Either the Federal Radio Act confers no privilege at all—the most reasonable interpretation in the public interest—or whatever privilege it confers is so narrowly bounded by the statutory language itself as not to include most of the utterances broadcast in political campaigns.

Any common law qualified privilege otherwise applicable to publication by the broadcasting station may readily be forfeited in the instance by abuse of the occasion either by the station itself or by the speaker over the microphone. In either event the broadcasting station is then subject to liability as participator in the publication of unprivileged defamatory utterances.⁸

The views herein expressed were, to a considerable extent, adopted by the court, it being held by this body that “the participation of both the speaker and the owner of the broadcasting station” is required for the publication of libel, “and that the publication to listeners is not completed until the material is broadcast. . . . The cooperation of the parties was necessary to effect the publication and . . . they could, therefore, be sued for damages resulting from their act.”⁹

Regarding Section 18 of the Radio Act of 1927, which was repeated verbatim as Section 315 of the Federal Communications Act of 1934, in which a station owner is prohibited from censoring material broadcast by candidates for political office, the court ruled:

We do not think Congress intended by this language in the Radio Act to authorize or sanction the publication of libel and thus to raise an issue with the federal constitutional provisions prohibiting the taking of property without due process or without payment of just compensation. Const. 5th Amend. This was particularly true where any argument for exercise of the police power and for any public benefit to be derived would seem to be against such an interpretation rather than to be served by it. So far as we can discover, no court has adjudicated this phase of the statute and order. We reject the theory.

For the purposes of this case we adopt an interpretation that seems in accord with the intent of Congress and of the Radio Commission. We are of

⁸ Lawrence Vold, “Defamation by Radio,” *Journal of Radio Law*, October, 1932, pp. 706-7.

⁹ John W. Guider, “Liability for Defamation in Political Broadcasts,” *Journal of Radio Law*, October, 1932, p. 709.

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the opinion that the prohibition of censorship of material broadcast over the radio station of a licensee merely prevents the licensee from censoring the words as to their political and partisan trend but does not give a licensee any privilege to join and assist in the publication of a libel nor grant any immunity from the consequences of such action. The Federal Radio Act confers no privilege to broadcasting stations to publish defamatory utterances.¹⁰

The Federal Communications Commission and station owners in general employ the interpretation of Section 315 suggested in the foregoing; however, there is considerable disagreement among legal authorities as to the meaning of the phrase "political and partisan trend."

If a station owner is to be held equally liable with a speaker of defamatory matter over the station's microphone, and the law is so interpreted by broadcasters,¹¹ he is of necessity forced to watch with great care all material broadcast from his station. Indeed, to avoid becoming party to a suit for libel, he will "lean over backward" in keeping away from his microphone anything that might be in the least libelous, or might be so interpreted.

Further, if the station owner is empowered to delete or censor all material which may appear to him to be defamatory, his position becomes most difficult. Political addresses are, of necessity, highly critical in character, often calling attention to malfeasance in public office or the manifest unfitness of a candidate for election to a position of public trust. They deal with matters of the individual's public and private record, matters which may very easily be termed defamatory. As has been pointed out:

Such matter, if true, may be eminently proper, and in the interest of the electorate. If untrue, it may be libelous. How is a station to distinguish truth from falsehood in such cases, even where it possess the infinite wisdom of being able to decide, on very short notice, whether the matter, if untrue, is, in law, libelous?¹²

¹⁰ 243 N.W. 82.

¹¹ J. A. McDonald and J. L. Grunshaw, *Radio Defamation: A Memorandum Prepared by the Legal Department of the National Broadcasting Company, March 27, 1935*, introductory summation of conclusions.

¹² Guider, *op. cit.*, p. 711.

In his discussion of the case of *Robert Coffey v. Midland Broadcasting Company*¹³ B. C. Shapiro has the following to say:

Let us assume that it be decided that the chances of doing irreparable damage to the reputation of individuals are so great that the radio station should carefully check over all material which is allowed to be broadcast and be responsible for any harm done. Under such a policy, the following consequences are apt to occur:

1. All "nemo" broadcasting, except entirely musical, would be abandoned. Stations would not risk broadcasting anything arising outside the studio, as there would be no editorial or censorship power. The loss to the radio audience, the public at large, would be enormous.

2. All speeches, especially political and religious, would be devastatingly censored, as the radio stations would lean backward to ward off any possible liability.

3. Chain broadcasting would be discouraged. Stations other than key stations, where the program originated, would not have the power to edit the manuscripts before transmission, and would not desire to risk the possible liability resulting from an unknown program.¹⁴

Under the provisions of existing law the station owner finds himself in an impossible position. He must operate his station in "public interest, convenience, or necessity." The public is interested in hearing via radio discussions of political issues by candidates for office, and station owners are desirous of presenting such program material. However, if one candidate is allowed to speak over the facilities of a station, other candidates for the same office must be granted "equal opportunities." To make certain that candidates so speaking shall be permitted freedom in the presentation of their materials, the station owner is prohibited from censoring such broadcasts. Being so prohibited, the station owner is constantly in danger of becoming a party to a libel suit because of utterances of speakers.

In discussing this matter, the National Broadcasting Company states: "Our conclusion is that the present state of the law is unsatisfactory from the viewpoint of the broadcaster,

¹³ 8 Fed. Supp. 889 W.D. Mo. 1934.

¹⁴ B. C. Shapiro "Radio Broadcasting—Liability of Broadcasting System and Associated Individual Station for Defamation during a Sponsored Program," *Air Law Review*, January, 1935, pp. 86-87.

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and that we lack practical means adequately to protect ourselves.”¹⁵

It is further held that Section 315 of the Federal Communications Act of 1934

results in gross injustice to the broadcaster. It permits the speaker to say what he pleases, but does not extend any protection whatsoever to the broadcaster. Because no such protection is now afforded, some stations have closed their facilities to the use of candidates for public office, rather than subject themselves to the possibility of damage suits for defamation which they could not prevent. We apprehend NBC is not yet ready to deprive candidates for public office of the use of its facilities.¹⁶

Station WNOX, at Knoxville, Tennessee, has sought to solve this problem, under the existing law, by installing a lawyer in its control room during all broadcasts by office seekers, with authority to shut off the power when libelous or defamatory utterances are made or when material being broadcast appears dangerously near becoming libelous.¹⁷

Other stations have experienced numerous conflicts with candidates wishing to broadcast, and contracts have been cancelled when program or script changes were insisted upon such as appeared to place the station in danger of a libel suit.

A great many stations require indemnity bonds from speakers in order to protect themselves somewhat from this danger.

However, when every possible precaution has been taken, because of the nature of radio and the laws under which it is regulated, there yet remains the possibility of libelous material being broadcast. Consequently, station owners, in many instances, have taken advantage of the last sentence of Section 315 of the Federal Communications Act and refused to permit candidates for political office use of their facilities. This, obviously, is no solution of the problem from the standpoint of public interest.

The so-called “Scott bills,” introduced in the Seventy-fourth Congress by Representative Byron Scott, were designed to give some relief to station owners in this matter. House Resolution

¹⁵ McDonald and Grunshaw, *op. cit.*, p. 1.

¹⁶ *Ibid.*, p. 4.

¹⁷ News item in *Variety*, August 19, 1936, p. 34.

9230, entitled "Unrestricted Discussion of Public Issues," was written in an effort to solve this particular problem. It reads:

A BILL TO AMEND SECTION 315 OF THE
COMMUNICATIONS ACT OF 1934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 315 of the Communications Act of 1934 be, and hereby is, amended by striking out the whole of said section and by inserting in lieu thereof the following:

SECTION 315. Each licensee of a radio broadcasting station shall be required to set aside regular and definite periods at desirable times of the day and evening for uncensored discussion on a nonprofit basis of public, social, political, and economic problems, and for educational purposes. When any such licensee permits any speaker on any controversial social, political, or economic issue to use its facilities during any such period, it shall afford to at least one exponent or advocate of each opposing viewpoint equivalent facilities. The licensing authority shall without any delay make rules and regulations to carry this provision into effect, and proceeding hereunder it shall appoint and, in its discretion, act upon the recommendations of an advisory committee consisting of disinterested, representative citizens: Provided, that the licensing authority, the advisory committee, and licensee shall have no power of censorship of any kind, nor shall any licensee be subject to liability, civil or criminal, in any State or Federal court for material so broadcast under the provisions of this section, nor shall any license be revoked or renewal refused because of material so broadcast.¹⁸

Though this bill was not enacted into law, broadcasters and educators expect one of similar nature to be presented to a later session of Congress where, it is believed, favorable action will be taken.

A second provision of the Federal Communications Act of 1934 definitely limiting the activities of station owners is to the following effect:

No person shall broadcast by means of any radio station for which a license is required by any law of the United States, and no person operating any such station shall knowingly permit the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes.¹⁹

¹⁸ H. R. 9230 (1st sess., 74th Cong.).

¹⁹ Federal Communications Act of 1934, sec. 322.

The station owner must act so as to convince the federal licensing authority that he is operating his facilities in "public interest, convenience, or necessity," he must observe the two limiting provisions of the Federal Communications Act of 1934 discussed above, he must obey such general or specific orders as the licensing authority shall, under law, see fit to issue from time to time, and he must subject himself to the provisions of the Federal Trade Commission as regards advertising material broadcast. Beyond this, and there is a great deal beyond this, the station owner is at liberty, under the existing law, to conduct his station as he pleases.

Judge Eugene O. Sykes, chairman of the broadcast division of the Federal Communications Commission, states this fact clearly, referring specifically to political broadcasts:

We have nothing to do with the stations. The only reference in the law is a requirement that a station which permits a candidate for office to speak must, under like conditions, permit an opposing candidate to speak.

It is also provided that in carrying out this provision there shall be no censorship. . . .

The stations have the perfect right to choose such programs as they wish with regard to politics, so long as they do not violate the one provision of law to which I have referred.²⁰

A like right and freedom is granted the station owner with regard to all other programs broadcast.

With only a limited number of hours each day available for broadcasting, and with demands for time far exceeding this, the station owner is forced to make a selection of that material which will "go on the air." Standards for such selection are set up by individual station owners. Thus a great deal of material which persons wish to broadcast is refused.

Some station owners refer to this as "editorial selection" while others admit quite frankly that such standards constitute a direct and intentional censorship of program material. Station KSD, operated by the *St. Louis Post-Dispatch*, is among the latter. Advertising in the 1936 yearbook of *Broadcasting*, it states: "KSD, the distinguished broadcasting station in St. Louis, exercises an inflexible censorship over all programs

²⁰ *Microphone*, September 4, 1936, p. 1.

offered for broadcasting. This protects KSD listeners and advertisers against association with the unworthy."

The argument advanced by station owners for this procedure is stated in the last sentence of the foregoing. As the recipient from the federal government of a license to operate a broadcasting station, the station owner holds a "public trust" which must be administered in the interest of the public. Consequently he must protect the public from "association with the unworthy" via radio.

However, the result is a dictatorship of the station owner. He has the power to determine what the listener to his station signal shall hear and what he shall be barred from hearing. That which he, the station owner, thinks "unworthy" is thereby made unworthy for broadcasting.

The dangers here are obvious. When on an evening—March 5, 1936—the Columbia Broadcasting System presented Mr. Earl Browder, secretary of the Communist party in America, in a fifteen-minute address, nine stations of the Columbia chain refused to accept the program for rebroadcast.²¹ Officials of the System stated, following the address:

Those who have condemned Columbia's action have for the most part, in statements issued before the broadcast, proceeded on the assumption that Columbia was allowing a speaker to advocate the overthrow of the American form of government by force and violence.

On the contrary, Columbia forbade the Communist speaker to do any such thing, and instructed its engineers to cut him off the air if he departed from his prepared speech and tried it.²²

Station owners who refused to permit the rebroadcast of Mr. Browder's speech over their facilities did so in the belief that the words of a Communist should not be heard by their listeners. Repeated attempts of Mr. Browder and other speakers of the Communist party for time on the air had been refused by

²¹ According to the *New York World-Telegram* (March 6, 1936), the nine stations were: WNAC and WAAB, Boston, Mass.; WEAN, Providence, R.I.; WICC, Bridgeport, Conn.; WMAS, Springfield, Mass.; WORC, Worcester, Mass.; WFEA, Manchester, N.H.; KMBC, Kansas City; and KSL, Salt Lake City. No Pacific coast station picked up the broadcast.

²² News story appearing in the *New York World-Telegram*, March 6, 1936.

radio stations throughout the country. This refusal was on the grounds that, before the political conventions, these men did not appear as official candidates of the party and therefore could not claim any legal right to the use of station facilities. The station owner had the legal right to bar from his assigned frequency any program which did not meet his own standards of "good broadcasting."

However, after the political conventions, because of the legal requirements that a station permitting one candidate for office to use its facilities must also offer its facilities to all other accredited candidates for the same office on like terms, stations which permitted candidates for the presidency of the United States representing either the Republican or Democratic parties to use their facilities were forced to grant "equal opportunities" to all other candidates for this office, even including the Communists. Consequently the National Broadcasting Company sold \$35,000 of its late-evening time to the National Campaign Committee of the Communist party of the United States of America during the 1936 campaign. Simultaneously the Communist party of New York State purchased five fifteen-minute programs on a split Red network of the National Broadcasting Company involving stations WEAJ, WGY, WBEN, WSYR, and WHAM.

Following the party's purchase of time, the Hearst interests decided not to accept the programs over their stations. However, since Station WBAL in Baltimore was synchronized with Station WJZ after 9:00 P.M. weekdays, it was necessary that this station, a Hearst-controlled transmitter, take the Communist broadcasts on four evenings.

Further, refusal of Hearst stations to take broadcasts by Mr. Browder brought a protest to the Federal Communications Commission. This body informed the stations of the legal requirements of Section 315 of the Federal Communications Act of 1934 and pointed out that, since the stations had accepted addresses by other candidates for the office of President of the United States, they were legally bound to grant the Communist candidate "equal opportunities." Following this, the stations

accepted broadcasts by Mr. Browder at the regular commercial fee.

The dangers of this dictatorship of the station owner are further illustrated by the experience of Mr. William Papier. During the school years 1933-34 and 1934-35 he served as modern problems instructor for the Ohio School of the Air, a project of the department of education of the state of Ohio. His programs were broadcast by Station WLW, owned and operated by the Crosley Radio Corporation of Cincinnati.

During the first year of his broadcasting, the educational director of Station WLW carefully censored his script and often demanded changes or modifications of statements contained therein. Of his script dealing with "Socialism," Mr. Papier says:

My point of view was neither reactionary nor extremely radical. Every effort was made to present realistic materials. All my talks reflected, I believe, a somewhat liberal attitude.

At the close of the talk on "Socialism," I attempted to point out that government control had increased markedly during the past half-century; that the New Deal had given the entire movement a tremendous boost; that whereas income taxes were once considered socialistic, they were now part of our Constitution. The following quotation from Professor Jerome Davis, of Yale, was written in my original script as a final statement: "No one can tell how far this process will eventually go, but it is only the ignorant who can say that government ownership is impossible."

My introductory remarks made clear that it was my purpose to explain, not to defend or to denounce socialism. WLW recommended that I drop my final quotation and repeat my introductory statement. The result was that I concluded with this wishy-washy comment: "Since it is not my purpose to speak for or against socialism, I cannot say that the increase of government control is a good or bad thing. After all, that is something which you must decide."²³

Mr. Papier's experience during the second year is illustrative of the power of censorship resting in the station owner's hands and the way this power is often used. Says he:

Presenting a series of problems of workers, employers, and society, I ran into difficulties with a talk on "Anti-Union Employers." My remarks in this talk, to minimize possible objections, were prefaced by the statement:

"[Some] employers are against independent labor unions and frequently

²³ William Papier, "Ex-Radio Teacher," *Social Frontier*, May, 1936, p. 252.

refuse to hire men who belong to unions. . . . All employers are not of this sort. Most of our wage-earners work for employers who are far more progressive in their ideas. . . . Nevertheless, there are some employers who still cling to notions that were accepted fifty years ago. What I have to say today, does not apply to everyone who hires workers; it will apply only to those employers who belong to this backward group.”

Whereupon I proceeded to outline some of the well-known devices and tactics that had been used in fighting trade unions.

My script was somewhat late, submitted only about one week ahead of time. It came back from WLW almost immediately with the suggestion that it be revised completely.

The Director called me into his office. We went over my script together. My initial statement, the Director suggested, should be, “The whole question of unions is confused by countless charges and counter charges. Let us consider some of them.” Wherever specific statements of known anti-union tactics were made, I was asked to preface them by such remarks as “union men claim that,” and “it has been charged that,” and “it is related that.” When we had finished, the Director was satisfied that WLW would not object. Although I agreed to the changes, I did not approve of them. The revised script was returned by special delivery, arriving on Saturday. The talk was scheduled for 2:00 o’clock the following Monday afternoon, November 26, 1934.

At 1:00 o’clock that Monday I received a long-distance telephone call from WLW’s Educational Director. The revised script was not satisfactory.

Why? I had made no false statements. What was wrong? Where, specifically, might I make revisions in time for the broadcast?

Station WLW would not broadcast the talk at all. An organlogue would be substituted. My questions were not answered. The talk was broadcast over Station WOSU alone.

My Director, when he learned what had happened, drove immediately to Cincinnati. I had armed him with several standard texts on labor problems, and believed he intended to make every effort to back me up.

What transpired there I do not know. Several months later, however, I saw the light in the following item by the United States Department of Labor:

“After a week’s shut-down, caused by a strike of over 3,000 employees, the four plants of the Crosley Radio Corporation at Cincinnati opened on April 5. The strike was called by the Radio and Refrigeration Worker’s union, which demanded recognition of the union, rights of seniority, time and one-half for all work in excess of 36 hours a week, weekly pay instead of 3 times a month, and a half day’s pay if called to the plant and then sent home because of no work. Without signing any statement of policy, the company agreed to the specific demands of the union with regard to wages and hours.”²⁴

²⁴ *Ibid.*, pp. 252-53.

After this all script was most carefully checked and censored until the feature was, eventually, dropped.

The American Civil Liberties Union has published a study of some twenty-five typical cases of station censorship with an Appendix listing numerous other instances.²⁵ This volume points out the following fact:

Scores of programs are carried daily presenting news comments and less often, political controversy. Each of these programs must face what is in effect a double censorship: first and by far the severer, that of the station managers, dictated by their own prejudices, their fear of offending listeners and by the possibility of suits for libel and slander; and second, that of the Federal Communications Commission, which through its authority to grant and renew licenses has an indirect influence over program although it expressly denies any power to censor them.²⁶

The danger of this power of censorship resting in the hands of the station owner is most acute at the present moment owing to the fact that a growing number of individuals with definite propaganda motivation and with a decided hatred of minority groups and movements are getting control of radio stations for the specific purpose of conducting campaigns of propaganda under the guise of education. As a rule stations are being purchased by powerful commercial and financial interests and grouped into chains or controlled from a central organization.²⁷

The continued movement toward centralization of ownership of radio stations, as illustrated by Hearst Radio, Inc., the Scripps-Howard radio interests operating as the Continental Radio Co., the National Broadcasting Company, the Columbia Broadcasting System, the Mutual Broadcasting System, and other large organizations either owning stations or consisting of a group of affiliate stations, is proof of the fact that slowly

²⁵ Minna F. Kassner and Lucien Zacharoff, *Radio Is Censored!* (published by the American Civil Liberties Union, November, 1936).

²⁶ *Ibid.*, p. 3.

²⁷ Mr. William Randolph Hearst, through Hearst Radio, Inc., owned and controlled, as of August 20, 1936, ten stations in as many important centers throughout the United States. These were: WINS, New York City; WCAE, Pittsburgh, Pa.; WBAL, Baltimore, Md.; WISN, Milwaukee, Wis.; KYA, San Francisco, Calif.; KEHE, Los Angeles, Calif.; KTSA, San Antonio, Tex.; KNOW, Austin, Tex.; WACO, Waco, Tex.; and KOMA, Oklahoma City, Okla.

but just as surely American radio is moving in the direction of the "chain store" idea, with control of program content resting in the hands of a few large interests.

The Hoover conferences²⁸ were held before chain broadcasting was more than a vague idea in the minds of a few. Consequently the principle established there that radio should be kept free in program was conceived in the light of a number of independent stations each broadcasting its own material. With the coming of the national chains on which programs for a large number of stations originate at one place and are therefore under the control of a few powerful organizations, it becomes imperative that American radio face the fact that an actual program monopoly does exist and is growing in power.

There are approximately 685 radio stations in the United States. The National Broadcasting Company and the Columbia Broadcasting System have absolute control of only 25. However, the Blue and Red networks of the former company consist of 111 stations and the latter system's network comprises 99 stations, the large majority in both cases being affiliated with the chains by network agreements.

Further, these two networks and the Mutual Broadcasting System control, by these agreements, every high-powered station in the United States and every clear channel. These stations are so located that, according to figures issued by the advertising departments of these chains, they reach a listening audience far greater than one hundred million.

The dominant position of the chains is more clearly seen if one considers the power of the transmitting apparatus controlled by them. It is of little value to hold that because a chain controls only one station in an area which contains a dozen others it does not have, more or less, a monopoly of the listening audience. In most instances the chain station is far more powerful than all the other stations in the area combined.²⁹

On January 1, 1937, the total transmitting power of all stations in the United States devoted to broadcasting was 2,634,200 watts. Of this total the 111 stations of the National

²⁸ See pp. 15 ff.

²⁹ See *Broadcasting* (1936 yearbook number).

Broadcasting Company's networks held 1,686,100 watts, the 99 stations of the Columbia Broadcasting System held 644,900 watts, and the 42 stations of the Mutual Broadcasting System held 690,200 watts. Thus the three major chains controlled 2,447,600 watts, leaving only 186,600 watts to all other broadcast stations in the United States. This is more vividly seen when it is recognized that these three chains control 92.9 per cent of all the wattage used for broadcasting in this country and that only 7.1 per cent is assigned to "independent" and to noncommercial stations.³⁰

All station members of the chains are compelled by contract agreements to take certain of the chain programs. Further, there is a move now on foot in one of the large chains to extend this to include a number of its sustaining programs. As a result, the ability of these chains to monopolize program offerings available for the American listener is increasing to alarming proportions.

The suggestion has been made³¹ that the only remedy of this condition is a law limiting the number of stations owned by one group or corporation. This has advantages and disadvantages. While it would, possibly, make more or less impossible the program domination of the chains, it would at the same time make equally impossible the diffusion of many valuable programs over wide areas. The great symphony orchestras, artists from stage and screen, addresses by prominent leaders of modern thought, all of which must originate in the large centers, could not be brought to other sections of the country in any other way than by chain broadcasting. Though the program monopoly of the chains, with the attending power of these chains to censor material and thereby determine what millions of listeners shall and shall not hear, is a decided threat to democracy, it does not appear that the solution of the problem lies in the direction of destroying these chains. It does not seem reasonable to destroy a broadcasting organization simply be-

³⁰ In these figures allowance is made for the fact that some stations belong both to the Mutual Broadcasting System and to one or the other of the remaining chains.

³¹ Ruth Brindze, *Not To Be Broadcast* (New York: Vanguard Press, 1937), pp. 289 ff.

cause it is not being used for the best interests of the people. Rather, the way of reasonableness seems to lie in the direction of careful regulation of this organization so that its evils will be eliminated and its values augmented.

Such regulation, if it is to be effective, must deal, among other things, with the whole problem of censorship, a problem which infests all American radio, independent or chain.

Though the federal government is prohibited, by provisions of the Federal Communications Act of 1934, from censoring radio programs, the station owner is not so prohibited, save in the specific instances of addresses delivered by candidates for political office. Consequently the station owner or the operator of the transmitter from which a program originates can and does exert an absolute and definite censorship over material broadcast. He establishes "standards" determining what, to his thinking, is "good broadcasting." All programs must conform to these "standards." Any material that does not so conform is "blue penciled." Individuals wishing to broadcast information, entertainment, etc., which does not appear to the station owner to meet these "standards" may be refused use of the station's facilities.

To hold, as some do, that this condition is similar to that of the newspaper which refuses to print a great deal of material offered for publication is to disregard the fact that, while anyone can establish a newspaper if he has sufficient financial support or can print his material independently and distribute it at will, the number of possible radio stations in an area is definitely limited. While, in a very few cases, an individual barred from broadcasting over one station can obtain use of the facilities of another station, in general refusal by one station amounts to complete disbarment from the air.

It is true that an individual who has been refused time on the air may, if he thinks his material is of sufficient importance, make charges before the Federal Communications Commission seeking to prove that the station, in barring him from the air, is thereby failing to operate in "public interest, convenience, or necessity." In a few instances this might bring a censure of the

station by the Commission, but in most cases the Commission grants the station great latitude in selecting program material and is careful—some believe overly careful—not to interfere, holding that in such matters the station should be permitted as great latitude as possible. However, should the Commission decide favorably to the one protesting, the chances are that such decision would come only after the material proposed for broadcasting has ceased to be pertinent.

Therefore, in most instances, an individual so censored by the station owner must accept this action as final and absolute and abandon the idea of broadcasting.

Such is the problem; but the solution is not easy. Selection must be made, from the vast amount of material submitted for broadcasting, of that which shall be put on the air. To make such selection, standards must be set and applied. To draw up and enforce such standards in each specific case is a task far too great for the Federal Communications Commission. This body can direct, in a general way, through orders and rules issued from time to time, a policy of program selection. This must, however, be most general, the station owner being left to make specific application of the policy suggested. The difficulty experienced by the Commission in determining standards of “public interest, convenience, or necessity” is illustrative of the magnitude and dangers of the task. The Federal Communications Act of 1934 states a few definite requirements which programs must meet, these, however, being negative—statements as to material that shall not be broadcast.

Further, when specific charges are made that a station’s program offering is not in “public interest, convenience, or necessity,” the Commission can call a hearing and weigh the evidence presented in the light of such general standards for program material as it has established. However, in the interest of freedom of the air, the Commission has felt that such decisions must be most general and that too much interference with the station owner’s choice of programs will result in unwarranted censorship. Indeed, such decisions as have been made in this direction, both by the Federal Radio Commission and by the Federal

Communications Commission, have been violently attacked as censorship.

To take the matter of program selection wholly out of the hands of the station owner and establish a government agency with authority to establish specific and detailed standards for material to be broadcast is fraught with the dangers of government censorship of radio similar to that existing in many European countries today. The activity of this body might be referred to as "editorial selection" and might be championed on the grounds that such selection is done in the best interest of the listener and toward guaranteeing him "better" radio programs, but such activity would be, in fact, censorship. Any law setting up such a body would, most certainly, be declared unconstitutional by the courts of the land.

The Federal Communications Commission has, in determining "public interest, convenience, or necessity" set certain limits to the dictatorship of the station owner. These, as we have seen, are largely negative and most general. Congress has, likewise, limited this dictatorship to a degree. Further, the advertiser and listener exert a powerful influence limiting the authority of the station owner. Nevertheless, when all such limitations have been drawn, there yet remains a vast area in which the station owner, under the present American system of radio control and regulation, is the absolute dictator, able to bar from the air program material that does not square with his prejudices and beliefs.

SUMMARY AND CONCLUSIONS

The station owner is an integral part of the present system of radio regulation, control, and operation in the United States. Basic to the system is the principle that, although the federal government, through laws and through its administrative agency, the Federal Communications Commission, shall supervise and regulate to a degree the use of "channels" through the air in the interest of the people, operation of transmitters shall be intrusted to certain individuals under licenses issued by the Commission.

These individuals, though subject to certain regulatory provisions, are, within broad areas, absolute dictators as to station policy and practice. They are permitted to determine upon standards of "good" broadcasting and to demand that all material presented before their microphones comply with such standards. These standards are, to a large degree, expressions of interests, ideals, prejudices, and concerns of station owners. In terms of these the station owner can and does censor program material with practically complete immunity.

Though some censorship is made necessary by existing laws, such as that which makes the station owner equally responsible with a speaker for libelous utterances broadcast over his facilities, by far the great bulk of such is arbitrarily done in line with what the station owner personally and individually holds to be "good" broadcasting.

Thus most definitely the station owner may and does function to close this avenue for the dissemination of information, ideas, and opinions. In so far as he does this, he limits the number and quality of contacts which individuals, via the radio, may experience, selecting some as "worthy" and therefore to be heard and others as "unworthy" and therefore not to be heard. Thereby he often functions to a degree to produce individuals whose minds are closed and who are therefore inflexible in thought and action. He molds listeners into that cast which fits his standards and often, in so far as he is able, denies a hearing to other ideas and opinions which might challenge his particular point of view.

It is to be recognized, however, that all station owners are not of the same hue. The licensing system followed in this country permits a vast variety of individuals to operate broadcast stations. It makes possible the station owner whose fundamental concern is private profit and who serves the public only in so far as such is necessary to insure this profit. Individuals in this category use the public merely as a means for the accumulation of personal or corporate wealth. Profit is their first and most vital concern. The system also makes possible the station owner whose interest is the propagation of a particular thought-pat-

tern and who uses his station to disseminate his own particular brand of religious, social, political, or economic beliefs or prejudices. Such individuals vigorously maintain that their fundamental concern is "public interest, convenience, or necessity," but interpret this in terms of their dominant interests. Likewise, the system makes possible the station owner whose dominant concern is to open the "channels" of the air to all ideas and opinions regardless of their nature, who seeks to make the radio an unbiased and untrammelled source of varied materials. These individuals are not concerned with the propagation of any particular opinion or system of thought. Their sole interest is that all such opinions and systems be permitted a hearing—be presented to the listener in as fair and equitable manner as possible for his consideration and evaluation.

Thus the present American system of radio makes room both for the autocratic station owner, the propagandist, and the most democratic type of transmitter operation. All may obtain licenses to operate broadcast facilities provided that they are financially able to conduct a station at the level felt to be in "public interest, convenience, or necessity" by the Federal Communications Commission and do not violate the laws governing such operation.

The latitude made possible by the Federal Communications Act of 1934 and the Federal Communications Commission, within certain significant limits discussed in the preceding chapter, makes possible station owners whose activities limit the democratic functioning of the radio and station owners whose activities make the radio a democratic institution.

The question immediately poses itself: Can a democracy safely delegate even a portion of so important an area as the radio spectrum to individuals who use it undemocratically? In view of the previous contention that protection as applied to the radio in a democracy means keeping open at all times the "channels" through the air for dissemination of all shades of opinion and all types of ideas, the answer is a decided "No." To the degree that a station owner closes his microphone to ideas and opinions which do not square with his individual or corporate

interests does he make impossible the democratic way of life. This cannot be allowed in a democracy. Freedom to limit the free consideration and discussion of ideas and opinions is not the freedom that democracy needs to exist but is rather the freedom of a privileged group to enslave others. Democracy must outlaw such freedom.

In a democracy any station owner, whatever his point of view or interest, who refuses to permit individuals holding certain opinions contrary to his own to use his broadcast facilities is a dangerous element and must be eliminated. Democracy must have its prohibitions as well as its freedom. It must prohibit that "freedom" which eventuates in slavery.

CHAPTER IV

THE ADVERTISER

RADIO began in the laboratories of scientists and electrical engineers. When the principle of wireless communication was discovered and some of its possibilities sensed, the electrical industry began to expend money for experimentation and research. In many instances a portion of the appropriations made by colleges and universities toward the support of their electrical engineering and physics departments was devoted to study in this new field. Further, numerous individuals personally financed their own researches or were supported by persons or interests concerned with discovering the possibilities of this phenomenon.

Thus the earliest programs broadcast were experimental—means for studying wireless communication. The listeners which such programs attracted were largely those interested in the technical problems involved or such as were attracted by the novelty of hearing a voice or music “coming out of the air.” The nature of material heard was of no importance, the paramount consideration being the fact that such was heard.

During the World War wireless communication made great strides, and the Western Electric Company, the Westinghouse Company, and the American Telephone and Telegraph Company, among others, began to manufacture equipment to meet the needs of the United States army intelligence units. This necessitated installing machinery and other facilities at great expense to the companies.

At the close of the war these companies found themselves possessed of a large amount of expensive machinery and little or no market for their products. While casting about for some means of realizing upon this huge wartime investment, Mr. H. P. Davis, in the spring of 1920 when he was vice-president of the Westinghouse Electric and Manufacturing Company, noticed an advertisement of a Pittsburgh department store to the effect that it had for sale instruments which could be used in

listening to the company's experimental station 8XK. This gave Mr. Davis the idea of manufacturing receiving sets for the general market and presenting from the Westinghouse station programs which would interest listeners.¹

As a result Station KDKA inaugurated, November 2, 1920, a program offering designed to stimulate a market for receiving sets which the Westinghouse Electric and Manufacturing Company was in a position to supply. The idea proved so successful that transmitters began to spring up everywhere—in back rooms, barn lofts, machine shops, etc. Westinghouse, during 1921, opened three more stations: WBZ at Springfield, Massachusetts, September 27, 1921; WJZ in New York City, October 1, 1921; and KYW in Chicago, November 11, 1921. The next year (February 20, 1922) the General Electric Company opened Station WGY at Schenectady, New York. In July, 1922, the American Telephone and Telegraph Company sent out its first broadcast from Station WBNY (later changed to WEAJ) atop the twenty-four-story building on Walker Street in New York City.

All these stations were financed completely by the owners for the purpose of increasing sale of receiving sets and for experimental work in radio communication. Whatever advertising was broadcast was concerned with announcing merits of the receivers which the company manufactured and urging purchase of same. Further, the station itself was not conceived as a source of profit but merely as a means of supplying program material necessary if the public was to purchase receiving sets.

Program material was not difficult to secure. This consisted largely of phonograph records or the music from an automatic piano. News items, weather reports, and the like were also broadcast. The few "live" performers who appeared did so because of the novelty of the experience. Opera singers and established and well-known entertainers were, in a few instances, persuaded to broadcast but almost always under assumed names. These individuals usually made no charge for their services.

¹ Pamphlet A-04914, issued by the Westinghouse Electric and Manufacturing Co.

As broadcasting began to catch the imagination of the American public and owners of receiving sets were demanding more continuous programs of better quality, the problem of financing the infant industry developed. Free talent was less and less available, entertainers and singers realizing that broadcasting could become a source of increased revenue to them. The listening public was not satisfied with "canned" music and was asking for better program material. These demands were such that it was no longer possible for the manufacturers of receiving sets to carry the whole burden. The money available for research and experimentation was in no wise sufficient to meet the need.

Various propositions were made and schemes suggested to meet the expense of broadcasting. One individual sought to invent a radio coin box such as to make each receiver a pay station from which the listener could receive only as much radio as he paid for. Government taxation was advocated by some but was never seriously considered in the United States. Secretary Hoover and members of Congress concerned with radio felt that the matter of financing broadcasting should be left in the hands of the industry itself.

Late in 1922 the American Telephone and Telegraph Company sought to solve the problem, which was by that time growing acute, by issuing a circular to advertisers announcing that sales messages would be broadcast from Station WEAJ at the "nominal charge" of one hundred dollars for a ten-minute talk of approximately 750 words. Mr. William H. Rankin, president of the William H. Rankin Company, New York advertising agency, decided to make trial of this new advertising medium and purchased the first ten-minute commercial program ever broadcast in the United States. This consisted of an address by President Rankin on "Advertising and Its Relation to the Public" and was presented on December 20, 1922, over Station WEAJ. This broadcast brought in some ten telephone calls and fifteen "fan" letters

One of these calls was from the advertising manager of V. Vivadou, Incorporated, manufacturers of cosmetics. As a result Mr. Rankin sold this company a program advertising its

product, Mineralava, a mud-clay beauty preparation. The feature star of this program was Miss Marion Davies who, twice a week, read a talk written by Hector Fuller, prominent author. The offer of an autographed photograph of Miss Davies to all who would write in to the station resulted in ten thousand replies.

This program was soon followed by another purchased by Mr. Elwood Haynes and advertising the Haynes automobile.

In 1923 the musical show *Wildflower* opened in New York and found itself playing to an almost empty house. Mr. Rankin suggested that Hector Fuller write a twenty-minute "blurb" selling the play to the listening audience. This was done and was followed by a broadcast of the play from the stage. At this performance the announcer stated that everyone who had listened to the program and purchased a ticket for the show during the next week would receive an autographed picture of the star, Miss Edith Day. As a result five hundred tickets were sold the next day, soon the cast was playing to a full house, and it was not long before the S.R.O. sign was out.

Success of these ventures convinced the radio industry that its problem of financing broadcasting was solved. Other accounts were speedily obtained as manufacturers rushed to take advantage of this new and most profitable advertising medium.

The advertising fraternity was, at first, skeptical of radio, then fearful of it, and then forced to accept it. After the announcement made by the American Telephone and Telegraph Company offering broadcast time for sale, *Printers' Ink* wrote as follows:

It is a matter of general advertising interest that the American Telephone and Telegraph Company is trying to establish a new advertising medium. Through its station WEAJ, New York, it is permitting advertisers to broadcast messages. So far the company's venture is only in the experimental stage. As a tryout it has placed a nominal charge of \$100 on a ten-minute talk. During the time about 750 words can be delivered.²

This editorial characterized radio advertising as "loaded with insidious dangers," a "scheme . . . against good public policy."

² Editorial: "Radio an Objectionable Advertising Medium" *Printers' Ink*, February 8, 1923.

Mr. Rankin protested to the publishers of *Printers' Ink* and was answered by another editorial in which it was pointed out that a family which had invested \$250 in a "radio outfit" expected to be entertained with high-class music or with witty after-dinner speeches of famous public men. The publication stated that it had "listened in to Mr. Rankin's recent broadcasting effort and failed to recognize it as coming under either of these heads."³

Regardless of this and other attacks upon the use of the radio as an advertising medium, the broadcaster was certain that it was no longer necessary for him to appear in the role of a philanthropist. Indeed:

Broadcasting became a business. Radio was found to be a new advertising medium that reached the public mind through the ear. Shortly after WEAJ inaugurated the sponsored programs other stations were quick and happy to adopt the idea of selling time on the air, while still others, faithful to their ideals, held aloof to commercialism of the ether. They held firmly to the contention that advertising by radio was "a commercial snake with rattlers in the garden of entertainment." It was not long, however, before radio won the title "fourth great bulwark for fourth dimension of advertising." A motion picture star spoke for ten minutes over WEAJ and offered an autographed photograph of herself to all who wrote to her. She probably expected about a dozen requests. She was overwhelmed with 10,000.⁴

From December 20, 1922, when a total of one hundred dollars was paid for radio advertising, to the present the income from advertisers using the radio has increased to almost unbelievable proportions. During 1936 broadcasters sold \$114,000,000 worth of time, and talent cost reached a grand total of \$36,000,000. During that year it is estimated that the American public paid \$891,000,000 for radio entertainment. This figure includes the cost of 8,000,000 new receivers purchased during the year.⁵

While a small number of radio stations are supported by funds from other sources than advertising, the great majority of

³ Editorial in *Printers' Ink*, February 15, 1923.

⁴ Orrin E. Dunlap, Jr., *Radio in Advertising* (New York: Harper & Bros., 1931), pp. 22-23.

⁵ From business statistics compiled by *Radio Today* and summarized in the *New York Times*, February 7, 1937.

broadcasters in the United States depend entirely upon this source for their revenue. Consequently it is to be expected that the advertiser, who pays the bills, is able to exert considerable influence in determining what shall and what shall not be broadcast. Often this influence is indirect, but at other times it is most direct and positive.

It is true, as President Paley of the Columbia Broadcasting System has pointed out,⁶ that every station owner sets standards of what he considers "good broadcasting" and that advertisers are forced to meet these standards if they desire to use the station's facilities. Such standards are determined, in part, by requirements of the Federal Communications Commission, by whatever ideals the particular station owner may or may not have, and by various pressure groups able to influence the station management. However, to a great extent, they are based on the station owner's experience as to what will attract and hold the largest possible listening audience. This latter factor, in many cases, is of greatest importance in determining standards of "good broadcasting."

The advertiser pays for mass circulation via radio just as he does via the newspaper. He wants to be fairly certain that thousands or millions will listen to his program. He knows that, on an average, the greater the number of listeners, the greater will be the number of sales of his product. Thus station owners are anxious to increase the total number of listeners, thus being able to offer to a prospective advertiser a wide circulation of his message. They spend vast sums each year in elaborate listener surveys of their service areas so as to be able to place before an advertiser figures showing the number of listeners he can expect, the economic, educational, and social status of these listeners, etc.

This being the case, the station owner is going to seek in every possible way to build up his listening audience. Anything which he finds offensive to this audience, or to a number of individuals in it, or which tends in any way to alienate listeners from his station, he will not allow to be broadcast. On the other hand,

⁶ See pp. 62 ff.

he seeks constantly for material that will please this audience and attract additional listeners. Such is "good broadcasting."

Indeed, so strong is this policy that an advertiser who proposes a program which, in the light of past experience, appears to the station owner as of such a nature as to offend the listening audience or cause many to turn to another station will be refused time on the air of the particular station, even though he may be willing to pay well for such time. His proposed program material would not meet the standard of "good broadcasting."

Among those subjects discussion of which is prohibited by many station owners on the ground that they are offensive to listeners and will alienate large groups are birth control, race problems, and social disease. In November, 1934, Dr. Thomas Parran, Jr., New York state health commissioner, was to have spoken over Station WABC on "Public Health Needs." He refused to make the broadcast when the station ordered the following deleted:

We have made no progress against syphilis, though its results crowd our jails, our poorhouses and our insane asylums. Yet there are specific methods of controlling it, better known to science than the methods of controlling tuberculosis. We need only to do what we know how to do, in order to wipe out syphilis as a public health problem.

In my philosophy, the greatest need for action is where the greatest saving of life can be made. I consider, then, that our greatest needs in public health are first, the leveling-up of present services so that every community may receive the benefits that have long accrued to the leaders; and second, a frontal attack by all communities against maternal mortality and deaths among new-born infants; against dental defects and faulty nutrition; against tuberculosis, where splendid gains have been made; against cancer and syphilis where we have done little or nothing.⁷

Under the present system of American radio and within limits set by the Federal Communications Commission and the ideals of the station owner, the advertiser actually "calls the tune." It is his interests that are considered, even when a particular advertiser is barred from the air.

As regards his own programs, the advertiser is a direct censor.

⁷ Minna F. Kassner and Lucien Zacharoff, *Radio Is Censored!* (published by the American Civil Liberties Union, November, 1936), p. 44.

With the advice of his advertising agency and the station owner, he builds his program so that it will attract listeners. Anything in the script that does not serve this purpose is omitted or "blue penciled." Beatrice Lillie, the famous English comedienne, announced to the press after her first American broadcast:

One angle I find that radio performers have to contend with here is rigid broadcasting censorship. The network's deleting of lines is on a much larger scale in this country than in England. Sometimes it is not quite clear why the continuity is done at all. There are some instances where I could not see any reason for the editing.⁸

Humor is strictly censored through fear of offending business interests or because it might "outrage the sentiments of finicky moralists." In 1931 a railroad executive rose in "righteous indignation" when a certain comedian, broadcasting over Station WABC, named Mr. Bopp, was pictured as having the same low character as an engineer who banged Pullman cars about at 2:30 A.M. to keep people awake. His protest was listened to courteously by the broadcaster and, in the future, Mr. Bopp was referred to as "a creature who shoved old women into gutters."

Consumers' Research has been approached many times with suggestions for broadcasts, but plans have been cancelled consistently when it refused to tone down its material or eliminate references offensive to commercial interests.

During the winter of 1935-36 Mr. Alexander Woollcott, the *Town Crier*, was broadcasting a program for the manufacturers of Cream of Wheat over the Columbia Broadcasting System chain. It was well known that he had a large and appreciative audience, and he was considered a valuable broadcaster. However, at various times he expressed his dislike for the forms and policies of government in Italy and Germany. In November, 1935, he was warned by his sponsors to make no more references to Hitler or Mussolini since "large racial groups might be alienated." Indeed, numerous protests had been received from Germans and Italians in this country and sales of Cream of Wheat began to decline in communities populated by these nationals. When Mr. Woollcott refused to comply with the warning of his

⁸ *Ibid.*, p. 29.

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sponsors, he was told that unless he agreed to keep away from controversial subjects his contract would end December 29, 1935. Mr. Woollcott answered thus:

I replied that mine was a kind of oral column, presenting me as a citizen leaning over the fence and talking freely with his neighbors. If the broadcasts had any audience it was because my obliging neighbor enjoyed listening to me report my likes and dislikes on books, plays, pictures and events of the day.

I also said I could not in self-respect guarantee to keep silent about Hitler, Mussolini or any other bully, jingo or lyncher. It would be unfair both to myself and my sponsor to try and continue under censorship, for the fact that taboos existed would lessen my own interests in the broadcasts and make them deteriorate in short order.⁹

Consequently the broadcasts were discontinued under protest from a large number of listeners.

It is a significant fact that the "March of Time," a fifteen-minute re-enactment of the news of the day formerly broadcast over the Columbia network, advertised itself as "radio's only uncensored program."¹⁰ Much has been made of the fact that the sponsors knew no more what was to be broadcast than did the listeners hearing the program. The announcer stressed this point at the beginning of each broadcast. Mary Watkins Reeves, discussing this program, writes:

If it wanted to, the *March of Time* program would say: "Phooey to you from us!" to its sponsor—and not a thing would happen! In fact, if it wanted to, it might even go so far as to hurl a loud raspberry in the general direction of the chewing gum concern that foots the ether Time's expenses—and still march on as usual in perfect safety and good will.

And that, if you know your radio, is a Very Strange Fact.

Take John Funnyman, for instance. His sponsor insists on okaying every word of the comedian's script before it goes on the air. Let John pull one joke, one phrase, that his boss blue-penciled and he'll find himself bounced out of radio's back door without a job. That quaint old custom goes for all John Funnymen as well as singers and actors and orchestras and the rest.

Yet nobody can tell the *March of Time* what it can and can't broadcast.

There's a reason for that. And the reason is that first, foremost and always, the *March of Time* must bring you a *completely accurate presentation of the news*—sponsors, even presidents and kings and nations notwithstanding. And

⁹ *Ibid.*, p. 47. As quoted from the *Chicago Daily News*.

¹⁰ *Radio Stars*, October, 1936, p. 30.

it is clearly understood and agreed in the contract with its sponsors that the first minute said sponsor accepts censorship of any kind the contract is immediately void.¹¹

Because of this contract the "chewing gum concern," as also the previous sponsor of the program, found it necessary to cancel the contract and leave the "March of Time" unsponsored for several months.

Thus, both indirectly and directly, the advertiser is a powerful influence in American radio. He pays the radio bill of the nation through his purchase of time on the air. To sell him this time, the station must have built a large audience favorably disposed to the station's program offerings. Numbers and advertising good-will must be available for the sponsor's use. To accomplish this the station must see to it that nothing is broadcast at any time through its facilities that might alienate individuals or offend their sensibilities. If this is not done listeners will go to another station or be ill disposed to offerings of the offending station. Such decreases the value of the station for the advertiser and, in turn, decreases the station's revenue. Likewise, the advertiser builds his programs so as to attract the greatest number of listeners and make of them prospective purchasers of his product. Any script or part of a script containing material that might be offensive to the prospect is censored by him directly and in his interest.

Many stations and advertisers believe that the largest and most favorable audience can be built by appealing to the adolescent or preadolescent mind. Thus they fashion program content on this basis. Cheap music and humor are used. All the tricks of low comedy and melodrama are incorporated into a script. Response to such programs is enormous. Millions of box tops are sent in for souvenirs and contest letters reach unbelievable proportions.

Further, advertising "blurb" is blatant and preposterous on such programs. Wild and wholly unscientific claims are made for the products offered on the theory that the great majority

¹¹ *Ibid.*, p. 30.

of listeners are uncritical and will believe anything so long as it is told amid music and humor that appeals to low mass intelligence.

There are stations and advertisers, however, operating on a wholly different basis. These believe that the radio can and should become a means of education by which the level of mass intelligence is raised. Thus they present programs which, while the initial audience is small, do gradually attract an increasing number of appreciative and discriminating listeners.

The Ford Motor Company is typical of these latter. When this company was considering going on the air with a regular feature, Mr. Arthur S. Garbett, of the National Broadcasting Company, urged that a high-class program appealing to a discriminating audience be presented on the ground that such would eventually prove of more value to the sponsor. His suggestion was adopted and the Ford Symphony Orchestra organized. At first the listening audience, though deeply appreciative, was small. Gradually it has grown in numbers until this program has become one of the major features of the network.

The principle upon which this venture was based is being recognized to an increasing extent by the major broadcasters and an increasing number of such programs are appearing. When the Metropolitan Opera was dropped by its sponsor because the expense involved appeared not justified by the number of listeners, the National Broadcasting Company took over the sponsorship for one year on a sustaining basis. During the 1936-37 season this feature was sponsored by the Radio Corporation of America because of its value to music lovers everywhere.

Often advertisers have sought to justify mediocre and "cheap" programs on the grounds that in such they are giving the public "what it wants." These hold that the best way of building a large, favorably inclined audience is to determine, by surveys and other statistical means, the likes of the public and then cater to them. To do more, they contend, is not within the province of radio.

Such advertisers fail to recognize certain pertinent facts. In the first place, all such methods of determining public likes and dislikes are defective. In most instances the choice offered the public is between programs already on the air. Listeners are polled as to which they listen most often, and those receiving the largest number of votes are placed highest on a scale which it is held measures public desire. This procedure, at best, is

like asking a fellow citizen stranded for some months on a little island in the south Pacific, "What are you eating?" and, on discovering that he is eating snakes, assume that this is the delicacy which he prefers above all others. The poor fellow's only choice, however, may be between snakes, lizards, and flies!¹²

The fallacy of operating on the theory of giving the public "what it wants" has been exposed, particularly in the case of the motion-picture industry. Believing that the public wanted cheap sex pictures, the industry was facing bankruptcy. When it adopted the policy of producing better pictures and educating the public to appreciation of such, a policy which was forced on it by strong pressure groups, the industry began to crowd its theaters and make money again.

This lesson must be learned by the radio advertiser. The volume of complaint against programs now offered and against the advertising "blurb" blatantly thrown at the listener is increasing. Unless the advertiser is prepared to give the public better programs than his surveys indicate it wants, his future is uncertain.

Many advertisers are cognizant of this fact and are raising the level of their program material while decreasing the time devoted to crying their wares. In several instances only a brief mention is made of the sponsor's name and product. This goodwill advertising is found, in many instances, to be the better use of radio as an advertising medium. Opposed to this group, however, are those advertisers who believe that the radio should be used as a means of direct selling. The battle between advocates of these two positions is still to be fought; though, in the mar-

¹² Maurice T. Price, "Weighing Radio by Educational and Social Standards," *Progressive Education*, January, 1936, p. 42.

shaling of forces now going on, listeners are almost unanimously on the side of the former.

The radio advertiser is no longer, as in late 1922, a lone individual trying a strange, new medium as a means of communicating his message. Today he is a great industry handling more than \$100,000,000 annually and consisting of sponsors, agencies, stations, networks and subgroups, regional networks, and various middlemen functioning between the individual station and the agency or sponsor. This industry

is beginning to develop form, substance, and guiding principles. A fairly efficient structure is emerging from the chaos which ruled the years of 1929–1930, when so-called spot broadcasting first competed with national networks. The groundwork of scientific advertising technique is being laid in the work of agencies, networks, and individual stations, and in the infrequent research by universities and similar organizations.¹³

Indeed, it is not too much to say that American radio, in fact if not in theory, is built around this industry. Programs are designed almost wholly to meet the needs of advertisers. Sustaining features, with few exceptions, are presented to create a larger and more favorably disposed listening audience which can be sold to advertisers or in the hope that some advertiser will purchase them as vehicles for his products. Indeed, “broadcast advertising is the keystone of the so-called ‘American System’ of broadcasting, which in turn implies a broadcasting structure privately owned and competitively operated, and deriving its revenue from the sale of ‘time’ to advertisers.”¹⁴

When, in the early days of American radio, the problem of financing was placed in the hands of station owners for solution and it was discovered that the radio could be used as an effective means for advertising, the advertiser became the dominant figure in the field. He would, and found it profitable to, pay the bills of radio, therefore he had to be served. The American broadcasting structure had to be erected so as to meet his needs. Around him there grew a vast retinue serving his court. With

¹³ Herman S. Hettinger, *A Decade of Radio Advertising* (Chicago: University of Chicago Press, 1933), p. vi.

¹⁴ *Ibid.*, p. viii.

few exceptions these individuals were concerned with "public interest, convenience, or necessity" only in so far as it could be understood and used to build an audience receptive to the advertiser's message. When they could be convinced that the public wanted something different than that which was being served them via radio, they were willing to make changes to serve this want, but only because this was "good advertising." A recent volume dealing with radio advertising affirms at the very beginning that the "fundamental utility of radio broadcasting to the listener must constitute the starting-point of any analysis of broadcasting or broadcast advertising."¹⁵

Mr. George Henry Payne, member of the Federal Communications Commission, calls attention to the fact that

Mr. Walter Giffert, president of the American Telephone and Telegraph Company, went so far as to say in a paper brought out by the Federal Communications Commission's telephone investigation as follows: "If anyone tries to tell me that he is acting in a business capacity in the public interest, I am inclined to say, 'O Bunk,' in my own mind, unless the public interest and his interest coincide."¹⁶

Advertisers have studied the psychology of radio listening, expending large sums of money and time, in an effort to discover better means of advertising via this instrument.

It is obvious that, with the advertiser the dominant and controlling factor in American radio, whatever service this instrument can be to the democratic way of life is decidedly limited. Interested in the sale of his product, he is concerned to limit the listener's contacts, to close his mind to favorable consideration of other products, and to make him inflexible in thought and action regarding competing offerings. He seeks to present advertising material in so compelling a fashion that the listener will act on his authority and not after an investigation of other possible ways of action. Often impossible and exaggerated claims are made as to the consequences of such action, so that

¹⁵ *Ibid.*, p. 3.

¹⁶ Quoted from a mimeographed copy of an address delivered by Commissioner Payne at the opening of the fifth year of the University of the Air and broadcast over Station WEVD, December 18, 1936.

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the listener is carried away by a storm of false hopes. His critical faculties are dulled or anesthetized.

Further, the advertiser does not seek to use the radio as a means of intelligent living and acting. He wishes to sell his product, caring little whether the listener actually needs the thing offered or what effect his purchase of the article will have on other factors more vital to his well-being. He strives to sell his automobile, let us say, and is little concerned that the purchaser may be one whose income is such as to make impossible a decent level of existence if the purchase is made.

A great public domain has been occupied by an industry, clever and impelling, the fundamental motivation of which, with a few glaring exceptions, is private profit. Interest in public welfare, as Mr. Giffert's statement so honestly states, goes only so far as its consideration will increase and protect such profit.

However, there are glaring exceptions, and from these shine a ray of hope for American broadcasting. Several stations owned and operated by educational institutions use advertising as the source of a part or of all of their income. Station WWL, at Loyola University,¹⁷ is "a commercial station conducted by an educational institution." Its advertising is chosen with great care and is presented always with the object in view of giving the station's listeners "a well-balanced program service." As a commercial and educational enterprise, the station seeks to serve all elements within its listening area, including those who have products to advertise. St. Norbert College¹⁸ operates, through its subsidiary, WHBY, Incorporated, two stations on a strictly commercial basis, presenting educational programs as deemed advisable. All advertising broadcast by these stations is chosen with care and according to standards of refinement, taste, and public service set by College authorities.

These and numerous other instances of similar nature are evidence of the fact that the use of advertising as a means of

¹⁷ See S. E. Frost, Jr., "Loyola University," in *Education's Own Stations* (Chicago: University of Chicago Press, 1937).

¹⁸ See *ibid.*, "St. Norbert College."

station support does not necessitate the disregard of public welfare or the presentation of cheap or unworthy programs.

The standards implied in a recent address delivered by Mr. David Sarnoff, president of the Radio Corporation of America, are those of many commercial stations, in so far as such can be approximated within such a system: "The final value of these achievements of science and invention must be measured in terms of their usefulness and significance to man. Unless such developments bring a fuller, freer, happier existence to the mass of mankind, their gifts are worthless."¹⁹

Advertising is an important and necessary technique of modern living within the present economic structure of the United States. It is the means by which the producer acquaints possible consumers with his product and thereby facilitates distribution within a capitalistic system of living together. Further, the consuming public must become familiar with available products and their merits. The methods of the small village store with a variety of products in full view on its shelves are not applicable to the modern urban and highly congested way of living. Thus advertising is the means for bringing to the attention of possible consumers the existence, merits, and uses of available products.

Further, the creation of new wants is a function of the advertiser. Having manufactured a new product and seeking distribution, he must discover means for bringing to the attention of individuals the existence of his product. If he is to obtain distribution sufficient to make possible the manufacture of his product, he must, in many instances, set about to create within public consciousness the desire for such. Fundamental to the progress of mankind is the broadening of contacts with the attending increase of wants and desires. To the extent that such wants and desires are consonant with a "fuller, freer, happier existence to the mass of mankind" are they necessary for the most complete realization of the democratic way of life. Adver-

¹⁹ David Sarnoff, *Communication and Democracy* (an address delivered February 14, 1936, before the Third Annual Woman's Congress and published by the Radio Corporation of America), p. 3.

tising, therefore, which functions to create such wants is truly a service which no modern group can dispense with within the present economic structure.

That a great amount of modern advertising does not meet these demands and standards of public service is obvious to anyone who gives the matter even the most casual consideration. A deal of present-day advertising is designed to mislead consumers, to present products in a false and distorted light.²⁰ Numerous advertisers are interested wholly and exclusively in selling their products. To this end they employ every trick and device known to the trade, caring little for the concomitant consequences. High pressure, misrepresentation, fear, emulation, and the like are used often with the sole objective of making a sale.

Misuse of the technique of advertising has challenged many to discover ways and means for eliminating abuses and turning the technique to more social uses, making it, in so far as possible, serve public welfare.

As employed within the field of radio, advertising shows both its sins and its virtues. Every old trick known to the trade, and some new tricks learned by experimentation with the radio, finds a place here. Many "foul" means are used by radio advertisers to influence the listener to purchase their products. However, radio has been employed by other advertisers as a dignified means for bringing to the attention of listeners the merits of their products and for stimulating desire to own the same. Accepting the necessity, under present conditions of economic competition, of advertising, they seek to make their radio advertising as near as possible a public service.

Many, interested in the problem and disgusted with the abuse of radio by numerous advertisers, wish to ban advertising from the air altogether. They would close the air to the blatant and the dignified advertiser alike. Others, recognizing the necessity of advertising within the existing economic structure in the United States, a structure at the base of which is competitive

²⁰ Houston Peterson, "Conflicting Ideals," *Journal of Adult Education*, January, 1937, pp. 5-9.

capitalism, seek rather to deny use of the air to advertisers using means which they condemn as "unfair" while encouraging others. The Federal Trade Commission, the Federal Communications Commission, and various organizations among advertisers are working in this direction.

Particular techniques for using the radio as a means for advertising within the present structure remain, in large measure, to be discovered. At present many of the methods used are transferred more or less bodily from other mediums. The radio is a distinct and unique medium of mass communication. To it men react differently than they do to the press, the billboard, and the magazine.²¹ This must be understood and, in the light of such understanding, proper and efficient ways of employing it must be worked out. This is the task of the advertiser and will require long study and careful experimentation. Unless both are seriously undertaken there is almost absolute certainty that the advertiser will himself be the cause of closing the door of radio to that service which he can render within the present commercial system.

Advertising can be a public service within the present structure of American economic life if conducted as a means for acquainting the consumer with the existence of products and their actual merits. The responsibility rests upon the advertiser to make certain that his use of "the air" lies in this direction. To the degree that he places individual and corporate profit above such public service does he deserve the rebuke of a democratic listening public.

One of the techniques of this use of the radio in public service is part and parcel of the principle of "program balance." In brief, the principle of "program balance" is that at no time shall the program schedule of a station be overweighted with one particular type of material. Whether or not there is such overweighting is determined by public interest and concern. So long, for example, as the public is actively concerned with a particular issue—a presidential or local election, a major disaster, an adventure or exploration, a social or economic question—the

²¹ Hettinger, *op. cit.*, pp. 19 ff.

broadcaster feels justified in devoting a major portion of his broadcast hours to this concern. These hours are lessened as public interest wanes.

Applying this principle to advertising via radio, it becomes obvious that many stations fail to consider "program balance" in this area. Though advertising, within the present system, may be a public service and a matter of vital concern to the listener, it is seldom if ever so to such an extent as to monopolize the major portion of a station's time. Many stations, however, broadcast all the advertising they can sell and place no limit upon the length of the "blurb" presented. It is true, on the other hand, that most of the large stations and the networks limit advertising material to a certain number of minutes of each hour. However, until these limitations are determined in terms of program balance and until scientific means have been discovered for knowing when a program is truly balanced, radio will be open to the just criticism of those who are dissatisfied with the admittedly undue emphasis placed upon advertising material by many broadcasters.

An undue amount of advertising will kill a station's popularity just as quickly as too much religion, too much "education," and too much "propaganda." Radio cannot hope always to hold an audience with interesting or amusing programs while it pours into their ears from time to time unwanted advertising "blurb." This method is neither good advertising nor good radio.

Further, to the extent that advertisers function as pressure groups within radio to force upon American broadcasters policies and practices which serve only their immediate desire to sell a product and which do not look fundamentally to the service of the public, to the extent that radio is thereby made a means for increasing private or corporate profit at the expense of the listening public, does advertising via radio function to produce a social situation in which the democratic way of life is made less possible.

It is not meant, in the foregoing, to assume the present commercial pattern of American radio as ideal or even as the best possible. Rather is the intent to call attention to the fact that,

within the present system, a system the support of which comes from advertising, it is possible to make advertising a valuable service to the listening public and that station owners and advertisers are to be found seeking to do just this. Even within the present system it is possible to make radio advertising more in "public interest, convenience, or necessity" than it now is.

The other question as to a possible change of the system such as to eliminate advertising will be discussed later.

CHAPTER V

THE EDUCATOR

THAT the radio is a powerful and efficient instrument for molding the human mind and determining action has been recognized by many almost from the beginning of aural broadcasting.

For fifteen years advertisers have used this means, in the United States more than anywhere else, most effectively for producing a favorable attitude on the part of the public toward their products and thus increasing sales. Their reports are conclusive evidence that the vast sums spent in this direction have not been wasted.

A further proof of the power of radio in affecting opinion is the report of the National Broadcasting Company and the League for Political Education made in May, 1936. During the 1935-36 season these two organizations co-operated in "America's Town Meeting of the Air," a weekly broadcast from Town Hall in New York City and featuring authorities on various questions of social and economic significance. After the scheduled addresses, members of the audience were encouraged to express their opinions or ask questions of the speakers. An audience of several hundred interested individuals was admitted each week to the broadcast. Schools in New York City and in surrounding areas co-operated by sending students to the broadcasts and requiring them to report to their classes on the matters discussed. Two representatives from classes in history, economics, and civics from thirty-five schools attended each week. Other students in these classes were required to listen to the broadcasts over their home sets.

Tests, consisting of ten questions on each topic discussed, were given weekly before and after the broadcasts to all students co-operating in an effort to determine the effect of the project upon their thinking. Statistics were compiled from these tests by Mr. Sidney Barnett, instructor at the Richmond Hill High School. Among other things it was shown that 29.3 per cent of those participating changed their attitudes toward the

economic and social problems discussed during the six weeks of the project.

Recognizing this power of the radio, many individuals and groups have attempted to gain control of the instrument and employ it to mold thinking into casts that serve their particular and personal ends while others have sought to keep it free from such control. Indeed, many of the problems of radio today result from this conflict of purpose.

The attitudes of educators toward the radio have been most varied. In its early stages a great many considered it of no consequence, as a fascinating toy for boys to play with or a strange manifestation of the physicist's genius. Today, despite its phenomenal development, there are numbers who still believe that it is no concern of the educator as such. Its function, they maintain, is that of fast commercial communication and of entertainment, its educational influence being secondary and of such slight importance that it can be left wholly in the hands of the industry.

However, the majority, possibly, of educators today look upon the radio as an instrument more or less suited to their use, and many are busying themselves with experiments for discovering methods and techniques of its more efficient use. These may be divided roughly into those who conceive the radio as a direct teaching device to be used in the classroom, those who feel that it cannot be so used here but is rather an important instrument for adult and mass education, and those who hold its function to be in both areas equally.

RADIO IN THE CLASSROOM

Considerable experimentation has been undertaken to discover ways for using the radio within the classroom. Some of the earliest broadcasts were of this nature. Researches begun in Cleveland, Ohio, as early as 1926 and continuing to the present have yielded much valuable information in this direction. The experiments conducted have eventuated in a varied curriculum of radio lessons which is being used to some extent in practically all the schools of the city and in a number of other places

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within range of the station employed. At present plans are under way to erect a short-wave radio station for use in broadcasting to the schools of the city.

In Chicago the broadcasting of lessons was begun in 1926 with only a few schools listening. By 1930 more than eight hundred schools in six states were making some use of programs broadcast for the Chicago public school system, and this number has increased steadily since that date.

The Board of Education of Rochester, New York, began offering radio lessons for schools in 1933. Very soon there were classes in all the schools of the city listening to these programs and teachers, in many instances, were enthusiastic in their praise of the offerings.

Somewhat extensive researches in this use of the radio have been made in the public schools of Portland, Detroit, Des Moines, Buffalo, and Oakland. Likewise, experiments in the field have been conducted by several state departments of education.

The Ohio School of the Air, established in 1929 with a grant from the state legislature, has been an experiment in radio education at the various grade levels. Its broadcasts are presented daily to an audience of school pupils estimated at approximately five hundred thousand in some twenty states.

Wisconsin has done much experimental work through its School of the Air. Programs broadcast over the state-owned station, WLBL, reach hundreds of schools throughout the state and in adjoining areas.

A great deal of the material broadcast from the thirty-eight stations for which educational institutions now hold licenses is designed for classroom consumption.

The American School of the Air, a project of the Columbia Broadcasting System, presents daily lessons throughout the school year to hundreds of classrooms.

In May, 1936, it was estimated that approximately three hundred thousand schools in the United States were equipped with radio receiving sets and were making some use of broadcasts designed for classroom use.¹

¹ *Broadcasting*, June 1, 1936, p. 41.

This experimental work has been conducted along three fairly definitely defined lines: (1) complete teaching of the lesson by the broadcaster, the classroom teacher serving to prepare the class for the broadcast, to carry out radio instructions, and to conduct follow-up discussions; (2) presentation of model lessons which the classroom teacher may watch and from which he may learn the best methods of teaching the particular subjects; and (3) making available supplementary material to be listened to during school hours or at other periods of the day or evening, the results of which can be employed to enrich the classroom work.

Experimental work done at Cleveland, Ohio, in direct teaching of lessons by the broadcaster with the classroom teacher acting as supplementary help is typical of that done in this area.² The plan, as finally adopted, required the following steps: (1) the careful planning of lesson units by a master teacher or specialist; (2) the try-out of the lessons with representative pupils; (3) the preparation of revised lesson units; (4) the mimeographing and distribution of materials to the schools; (5) the preparation of each class for the broadcast by the classroom teacher; (6) the broadcast by the specialist with the class following directions, listening, answering out loud, writing, and otherwise participating; (7) follow-up of the lesson by the classroom teacher; and (8) periodic tests and examinations.³

This method, obviously, has some merit and is being employed in many places with results that are satisfying to a number of educators. Most significant among these is the fact that superior teachers are brought to a vast number of students scattered over wide areas. For example, Dr. Walter Damrosch is a master teacher of music. Each week his lessons are brought into schoolrooms throughout the world and millions of children listen and learn. Here is an opportunity offered to the schools of the world to learn music and its appreciation from a master, one whose ability is beyond comparison.

Many schools and other educational institutions throughout

² H. M. Buckley, William L. Connor, and Gertrude Celestia Hawkins, *Radio Instruction in Cleveland: Thirteenth Yearbook, Department of Elementary School Principals, National Education Association* (June, 1934), pp. 394-402.

³ *Ibid.*, p. 394. (Model lessons are given in full on pp. 397-402.)

the country have on their faculties teachers of superior ability in such fields as history, literature, art, science, mathematics, etc. Without the radio they are confined to that small group that is able to assemble within the sound of their voices from year to year. By means of the radio it is being made possible for many such to enter classrooms over wide areas and teach large numbers whom they will never see. Numerous school systems are making use of such talent in this capacity and are experimenting with techniques for making such teaching effective.

By this method classes which would otherwise have to content themselves with the instruction of "mediocre" or merely "good" teachers are being enabled, because of the radio, to sit at the feet of superior teachers and learn from them.

Despite these values of the method, especially under the present system of education in many school systems, it has many serious dangers which must not be overlooked. In so far as it minimizes the importance of the teacher in the classroom does it destroy one of the most important factors in the educative process. Education is, among other things, a personal matter. Nothing can take the place of the personality of the teacher standing within a classroom and meeting the specific needs of each pupil at the moment and in the light of that understanding of the student which the teacher can obtain by this intimate personal contact. A voice coming over the loud-speaker, however rich and expert, cannot satisfactorily supplant the teacher.

Further, since radio teaching is more or less confined to the lecture method, it lacks that element of participation most necessary to learning. Though attempts are being made to stimulate and use participation on the part of the pupils, it is recognized that here are definite limits which restrict the effectiveness of the radio teacher. This method is found to be most effective where telling or lecturing is predominant.

Again, radio teaching of this type tends to make necessary a regimented curriculum. Many classes must meet at the same time and deal with the same material very much in the same way. Subject and treatment are handed down from a central source rather than developed out of the learning situation.

Thus use of this method tends toward standardization and crystallization of material that is more or less superimposed upon the child.

So long as a school system has a regimented curriculum such that, let us say, at 10:30 A.M. each day all fifth-grade science classes in the system are studying the same material and in the same way, such master teachers can be employed to advantage. However, within a system which individualizes its teaching in terms of the needs and interests of each particular child, the method has no effective place.

All of these difficulties are recognized by those working in the field with the result that few are convinced at present that such is the best method for using radio as an educative instrument. However, before anything authoritative can be said here, much more experimentation must be undertaken.⁴

A second use of the radio in the classroom situation is that of presenting model lessons from time to time so that teachers can learn from superior teachers better methods of conducting their classes, techniques for handling materials and problems in the field, and organization of lessons. By this means a supervisor can demonstrate to many teachers at the same time and within their own classroom situations. However, this method is at best general and fails to take account of the particular conditions in each classroom. Many good suggestions and general ideas can be gained by a teacher listening to such a lesson. However, as this work becomes more specific it loses relevancy to the teacher's individual classroom problems and thus decreases in value.

Though it is felt by some that here lies a rich field for the use of the radio by school systems, it is recognized that a great deal of careful experimentation is necessary before any definite conclusions can be drawn.

A third use of the radio in the classroom, and one that seems to have the most possibilities for effective teaching, at least at

⁴ For a detailed discussion of this development see: R. G. Jones, "The Radio as a Medium of Practical Instruction in the Schools," *Nation's Schools*, V, 55-57; "Broadcasting to the Schools of a City," *Radio and Education* (Chicago: University of Chicago Press, 1931), pp. 83-92.

the moment, is the bringing via the loud-speaker of experts to the school as frequent guests and helpers. Within the memory of most individuals living today are those rare occasions when a world-traveler, a guest from some far-away country, or a hero in some field of endeavor to which they aspired came to the school and lectured to the student body at a special auditorium period. Today such individuals may come daily, or as often as their presence fits into the work of the class and they are available, to the classroom and assist the teacher in making vivid and stimulating the work of the day's lesson or project.

The Columbia Broadcasting System, through its American School of the Air, broadcasts lessons often presenting natives or travelers from the countries being studied to give a first-hand picture of conditions, customs, and attitudes which one would encounter there.

Describing this work, Mr. William S. Paley, president of the Columbia Broadcasting System, says:

These school broadcasts do not try to present a catalogue of all the facts that might be useful in an education. Instead, their first purpose is to help the teacher throw new light, new vividness of meaning, upon facts that may already be familiar. In the timeliness, the intimate approach and flexibility of radio as a medium, lies a great deal of their contribution to classroom instruction.

Thus, in this year's [1935-36] study of literature, living American poets of eminence come to the Columbia microphone to tell the students personally about their work and their purposes. In history, the growth and building of some of our great cities are being dramatized in such a way that the listener can feel himself actually present in their formative epochs. Art is being studied not as something to be admired, but as a personal experience to be lived; and in dramatizing the lives of great artists so that their voices speak in the classroom the broadcasts not only tell a story but also stimulate the pupil to creative experiment on his own account.⁵

These guests go into hundreds of schools and bring new life to the lesson material.

Miss Annas Higgins, broadcaster in the field of mathematics for the Chicago Public Schools and a master teacher of her subject, some three years ago built a series of broadcast lessons with

⁵ "Many Listen To Learn," *Clearing House*, X, No. 7 (March, 1936), 390.

the purpose of making mathematics "alive" for children in the early grades. Her method was to tell the story of the early development of number, counting, trade, and measuring. These stories proved most fascinating, judging from the reports of both students and teachers, and served to give a more vital appreciation and understanding of the field. Teachers in Chicago and in nearby areas used these broadcasts extensively.⁶

Material broadcast to classrooms for definitely educative purposes and, also, a great deal of general informational material that stations present can, at times, be used to great advantage by the wide-awake teacher to vitalize the work of the lesson period and to give students a broader understanding of the subject than would otherwise be possible.

Radio, as Tyler has pointed out, "is more current than textbooks or magazines." As such it may be employed to bring to the classroom the latest advances in the fields being studied, discussions of topics that are in the process of developing, addresses of statesmen before momentous gatherings, news of the moment, and other materials which serve to make education very different from the dry, sometimes dreary, rehashing of past happenings—a thing of vital living in the contemporary world.

In a recent study administrators of Texas schools in which radio was being used were asked to list the benefits which their experience indicated had resulted from this venture. The following are some of the answers received:

Radio enlarges the educational field by supplementing classwork with material students would not otherwise get. . . . Radio stimulates interest in school work by breaking routine. . . . Radio keeps students in closer touch with current news and thereby creates interest in reading. . . . Radio creates a better appreciation of music and drama. . . . Radio creates interest in public affairs and broadens the outlook of the less fortunate child. . . . Radio enables students to hear outstanding speakers and artists.⁷

Many teachers and administrators, surveying the work that has been done by schools in using the radio along the three lines

⁶ "The Broadcasting of Mathematics," *Education on the Air* (Columbus: Ohio State University, 1934), pp. 70 ff.

⁷ Roy N. Stone, "Use of Radio in the Secondary Schools of Texas," *Texas Outlook*, June, 1936, pp. 29-31.

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suggested above, are convinced that here is just another "frill" advocated by "seekers after the new and untried in education." They suggest that its use by educators will continue for a time, as have hundreds of other "educational fads," and then, as the nature and significance of radio is more properly understood, will be abandoned.

Others, however, who have tried radio as a teaching device are enthusiastic as to its value and possibilities within the structure of the schools. They hold that the experience of hundreds of educators as well as the numerous researches which have been made in the field are conclusive proof that radio has come to stay as a vital instrument for classroom instruction and that its use will eventually revolutionize the techniques of teaching. They maintain that radio is an integral part of the educational system, as vitally necessary as are textbooks or classroom teachers.

Between these two extremes is a growing number of educators who believe that the radio can and must find a place in the educational structure, but are not prepared to say with much definiteness what that place will be. They hold to the position that there is not sufficient experimental evidence available to evaluate accurately and conclusively the educational functions of radio. They are of the opinion that a survey of the work already done in the field and a study of the letters and reports received by every station engaged in such educational broadcasting makes it difficult for one to believe that education as such is out of its field when it seeks to make use of the radio as a teaching device. Their conviction is that there has been laid at the door of the educator a valuable and important instrument which he is obligated, by the very nature of the task which is his, to master and use to increase the power and effectiveness of the work which he is doing.

While experimentation in this field has not advanced sufficiently far for one to draw many conclusions, nevertheless it appears, at least to the present observer, that, with the spread of the philosophy and practices of the "child-centered" school, complete teaching of the lesson by a broadcaster will be aban-

done, except perhaps in very small areas. In such a school the class, in the older sense of the term, is not the unit. Neither is rigidity of subject or time permitted. Each pupil, or a small group of pupils with, for the time being, a more or less common interest or purpose, is the educative unit. These units pursue their interests under the guidance of a teacher and bring into their respective fields of endeavor whatever material is found to be relevant, regardless of subject areas.

In such a system the broadcast lesson as such is wholly irrelevant. Constructed on the basis of interests found in one group at one particular time, it will not meet the needs of other groups with different interests. A nicely worked out lesson is most certainly inapplicable to the educative situation in which the pupil finds himself at the moment. Consequently the broadcast becomes a handful of seed sown to the wind.

It seems evident, then, that, as this newer philosophy of education becomes more and more operative and the classroom situation is determined by pupil interest, the radio must move from the practice of teaching fixed lessons in a regimented subject-matter educational system to that of serving education that is no longer rigid. Thus, it appears, radio education must be prepared to abandon direct teaching of lesson materials and become more of a means for the general enrichment of the educative process. Techniques here remain to be discovered. It is fairly easy to transfer the techniques of subject-matter teaching to the radio and use them there to instruct classes carefully regimented. The radio teacher, if he is selected because of his superior ability to employ these techniques, may easily become the master teacher entering the classroom to teach in a superior fashion the lesson of the hour or, even, to show the classroom teacher how the lesson should be taught. However, when no such clearly defined subject areas are recognized and when the educative experience of the pupil in his particular situation becomes the focal point of the process, new techniques must be discovered. To define the function of the radio within this new movement is a task challenging those who believe that this instrument can and must be used in the classroom situation.

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A further use of the radio within the classroom situation has to do with programs not specifically prepared for school use.

The children who come to the classroom have, in most cases, listened to the radio from infancy. A great deal of their thinking as well as many of their social and psychological attitudes have been determined to some extent by what they have heard through this instrument. The material broadcast daily has a tremendous influence upon the thinking, the outlook, and the ways of life of each individual in the community. It plays its part in determining the social pattern in which, and often in spite of and against which, the educator must work. Often that which the child and his social group hear over the radio more or less negates the work the teacher seeks to do. Thus the radio is one of the factors, and by no means the least significant factor, setting the teacher's task. It plays a most significant role in creating the mind with which the teacher works.⁸

To close his eyes to this influence and its potency in the life of the present-day school population is for the teacher to "hide his head in the sand." It is most significant that, with the exception of outdoor play, the pastime [listening to the radio] constitutes one of the chief activities, if not the principal activity, of their [children's] leisure-time recreation. . . .

Generally speaking, one of the most efficacious ways of reaching the American home is through radio programs listened to by children. Messages to children, for example, fire prevention, safety, Junior Red Cross, Scout Week, and others of a similar nature, skillfully interwoven in children's programs, are likely to reach millions of children in a most effective manner.⁹

Since American radio, to a large extent, is dominated by commercial interests which seek to mold the child's mind in ways that serve their purposes, pupils are subject daily to an influence which the educator cannot safely ignore especially since this molding is done in a way which holds great fascination for children.

A growing number of teachers, cognizant of these facts, are

⁸ See I. Keith Tyler, *Radio in the High School: Ohio State University Educational Research Bulletin*, Vol. XIV, No. 8, November 13, 1935.

⁹ Azriel L. Eisenberg, *Children and Radio Programs* (New York: Columbia University Press, 1936), pp. 184-97.

seeking, within the structure of present-day American radio and despite the many conditions making their work more difficult, to direct the listening of children as part of their educative task. They recognize that here, at least, is a place where they can take hold and counteract, to some extent, the baneful influence of many radio programs and of the propaganda woven into them. Their efforts in this direction have proved of considerable value in creating among children a sense of the relative significance of programs broadcast.¹⁰

Left to themselves, children have been found to listen more or less indiscriminately to radio programs which are broadcast during the hours when they are at home, and to be highly susceptible to the influence of these programs and to the advertising contained in them. Though they do make distinctions among these programs, distinctions that are in some ways significant, these are, on the whole, not such as to be discriminatory.¹¹

Methods that are being employed by teachers in developing the ability among their pupils to discriminate among radio programs and to be critical of advertising propaganda are numerous. Merely to suggest a worth-while program to a class and urge pupils to listen has its effect in many instances. To post lists of recommended programs on the school bulletin board or print them in the school paper have been found to be valuable means for calling such to the child's attention. A further method, found to be most effective by many teachers, is that of weaving "good" and timely programs into the classroom work by making listening to such part of the "home work" of the child. An example of this method was referred to above in discussing "America's Town Meeting of the Air." This activity is helpfully prepared for by previous class discussions of the material with which the program deals. The requirement that reports be made and discussed in a later class period has been found helpful in clearing up misunderstandings, expanding

¹⁰ *Ibid.* p. 145.

¹¹ *Ibid.*, pp. 49-66.

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materials, and fixing the child's appreciation of such programs.¹²

The fact that children are easily influenced by the advertising material broadcast during programs to which they listen and that much of this material tends to influence the child in ways not considered advantageous for his welfare by the teacher makes it necessary that the school assist each pupil, in so far as possible, in developing the ability to be critically apprehensive of what he hears. Many interesting and valuable experiments are being conducted with this objective in view. An example is that of a teacher who realized that her class was being influenced by a certain popular program to buy and use a tooth paste which was recognized to be of little value. This teacher discussed the matter with her children with the result that the class divided itself into groups, each using a different brand of tooth paste over a period of time. Each day inspection of teeth was part of the classroom procedure. At the conclusion of the experiment the children reached the conclusion that the claims of the particular tooth paste originally championed by their favorite program were not accurate. This result was carried over into other programs so that gradually the class developed a critical attitude toward radio advertising and a desire to make tests of the advertising claims heard before accepting them as accurate.¹³

Faced with the listening habits of children and with the fact that even the American commercialized radio offers much "good" material along with the "bad," the teacher is obligated, if he considers his work to be more than that of a drillmaster of subject material, to assist the child in developing tastes and learning how to select among broadcasts offered to him outside the regular school hours and to evaluate critically the claims of such programs. The broad conception of "education as life," as

¹² Gilbert M. Banker, *Planning for Efficient Use of the Radio: Thirteenth Yearbook, Department of Elementary School Principals, National Education Association* (June, 1934), pp. 383-87.

¹³ This experience was related to the author by Miss Margaret Harrison, of New York University, who conducted the experiment.

a process of building social intelligence such that the individual can live more constructively in his world, demands that the teacher consider this as one of the most important functions of his job.

Still another use of the radio within the classroom situation is that of having children prepare and conduct their own radio programs, writing the script and rehearsing the program as part of class activity. An example of this procedure is that of a class at the Frank A. Day Junior High School, Newton, Massachusetts. A mother describes the effect of the project thus:

If you can imagine a child living in a high state of exhilaration, seeing nothing, hearing nothing, doing nothing except that which has a vital bearing on the task in hand, you will have a faithful picture of Nancy during those hours of preparation for script writing. Her only tools were a short stubby pencil, a few dingy-looking sheets of paper, and a dusty tome or two from the public library; yet, for her, English had come to life. The process of learning to use her mother tongue had become as vital to Nancy as the quest of a good news story is to a good reporter and as intensely interesting and gripping as a game of football to a college halfback. . . .

The pupil broadcasting undertaking had proved for the boys and girls of the Frank A. Day Junior High School the very essence of true education. The youngsters were learning for the fun of it. The spirit of play had become a vital part of the learning process. Education had proved that it need not be a dead, a lifeless thing. Never was there the least opportunity to blame the pupils for a lack of interest or ambition. The undertaking had succeeded from the first in capturing their imagination. No work was too hard, no hours too long for the young people if the result they sought was attained. There was long and serious discussion about enunciation, pronunciation, and correct usage. Every opportunity had been given them by their teachers to get at sources of information for themselves, and the importance of first- rather than second-hand information was constantly emphasized. Nancy especially was encouraged to make the independent research for historical material which the skit she was working on demanded.¹⁴

This is modern education at its best. The project grips the child's whole being; every phase of his learning is focused and carried forward by an intense and all-embracing interest. Here is the integrated curriculum in action. Correct speech, writing, rules of proper English usage, enunciation, research methods,

¹⁴ Mildred Buchanan Flagg, "My Daughter Nancy at the Microphone," *Clearing House*, March, 1936, p. 388.

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history, literature—all are drawn upon to complete the project in hand. No modern teacher could ask for a more adequate method of educating than is here illustrated.

GENERAL EDUCATIONAL BROADCASTING

Though many educators feel that classroom use of broadcasting is futile and will soon be dispensed with, there are few who will maintain that the educator should not be vitally concerned with the broader educational aspects of the radio in the fields of adult and mass education.

The social significance of broadcasting has been suggested above. It has come to be one of the most significant factors in influencing the thinking and consequent action of modern peoples. As one broadcaster has said:

Radio broadcasting has brought isolated regions into contact with world events; it has brought the East and the West and the North and the South together; it has carried the world's greatest music and drama into the small towns and villages; it has brought the voter and his representative into closer contact; it has given the farmer the best available information on his problems; it has given the mother in the home material help in the rearing of her children; it has brought nations into a more sympathetic relationship; it has introduced leaders in the arts and sciences into the schoolrooms and homes of the nation, and it has brought the spiritual message of religious leaders to the fireside.¹⁵

Though a great blessing and aid to the development of the people, radio may also be a great curse, for all great human inventions, even printing, even language itself, have proved to be two-edged swords. They can cause as much evil as good. It depends upon how they are used. Radio is as great—and as dangerous—as any. It will not, in careless hands, bring on any millenniums, and it can broadcast injury and discord and ugliness into the furthest reaches of inhabited space. To be light-minded about the radio is to jig along a precipice.¹⁶

Since radio is so significant, since it can be employed in the destruction of man's most cherished values or in the building of a more intelligent and informed people, the educator cannot be

¹⁵ M. H. Aylesworth, "The Social Effects of Broadcasting," an address delivered before the National Institute of Social Sciences, New York City, January, 1933.

¹⁶ Lyman Bryson, "The Revolt of the Radio Listener," *Journal of Adult Education*, IV, No. 3 (June, 1932), 234.

unmindful of its effect upon those individuals with whom he is working in the educative process and upon the community and the entire social situation in which he and they live. To remain unconcerned while others, with objectives far different, gain control of the radio and employ it in the service of their ends is for the educator to forfeit a right that is his and to shirk a duty which rests upon him as an educator. For the educator, broadly conceived, is not concerned merely with the imparting of subject matter to students, but with the whole life of his pupils and with all those factors which determine their environment.

A great many educators, recognizing this obligation and opportunity, are seeking in various ways to use the radio as an educative instrument for the people as a whole. At present thirty-eight educational institutions own and operate radio stations from which are broadcast numerous programs designed to inform the listener regarding his problems. Educators in large numbers are making use of commercial facilities in their attempt to inform and teach the great masses who listen to the radio. The University of Chicago Round Table, the Harvard lectures, and the five programs presented under the auspices of the Office of Education, United States Department of Interior, are a few examples. By individual lectures, extended series of discussions or lessons, debates, dramatic presentations, etc., educators are using the radio for mass education.

The existence of all this endeavor poses a fundamental question: What is educational broadcasting?

A great deal of broadcasting is termed "education" by those interested. Often a manufacturer speaks of radio as "a means for educating the public" toward the purchase and use of his product. If it be true that "broadly construed, education denotes any change in habit or attitude wrought in an individual as a result of his interaction with the natural and social environment,¹⁷ then all advertising via radio must be termed educational. It does effect changes in the habits and attitudes of those listening. A great many may buy and use the product

¹⁷ From mimeographed lesson material used in *Education 2007b*, Sec., Teachers College, Columbia University (spring, 1936).

advertised while others may become antagonistic to the advertiser as a result of his radio "blurb." In either case a change in attitude has been wrought. Further, all propaganda, music, entertainment—indeed, all that comes over the radio—may be educational in that it does more often than not affect the habits and attitudes of listeners.

Such a definition, however, omits any criteria of value. It makes no distinction between "good" and "bad" education. The educator, on the other hand, is concerned not merely with changing habits and attitudes, but seeks to effect such changes in a definite direction, in terms of ideals and objectives. In terms of these ideals and objectives some broadcasting will be termed "good" while some will be termed "bad."

In an effort to introduce such criteria, Dr. W. W. Charters has defined an educational broadcast as "one which raises standards of taste, increases the range of valuable information, or stimulates audiences to undertake worth-while activities. In short, an educational program is one which improves the listener."¹⁸

This definition, though delimiting the field to some extent, proposes criteria so general and so capable of wide and varied interpretation as to leave the educational broadcaster confused at best. It is an easily established fact that programs which, from the point of view of one broadcaster, do just this and thereby fit perfectly into the definition, from the point of view of another broadcaster with a different set of standards will be thought of as doing just the opposite. "Taste," "valuable information," "worth-while activities" are terms of value and are defined differently by different individuals. That which is "good taste" to one will be "bad taste" to another. "Worth-while activities" from the point of view of an ardent conservative will certainly not be so classed by an ardent radical. Indeed, the criteria suggested in this definition may be made to cover everything from programs presented by "Jacob Ginsberg" to sell his "two-pants suits at bargain prices" to those broadcast by the Philadelphia Symphony Orchestra, depending

¹⁸ "An Analysis of the Techniques of Educational Broadcasting," *Education on the Air*. (Columbus: Ohio State University, 1936), p. 16.

upon the point of view of the listener. It is highly probable that all broadcasting, from the point of view of various listeners, may be defined as educational in terms of Dr. Charters' definition. It is equally probable that any program so defined by one individual may be declared anything but educational by another with a different set of values.

"Improvement" presupposes direction of movement and a more or less definite end in view. These ends are different with different individuals. For example, a program which presents information regarding "family planning" is, in the minds of many, educational. It furnishes the listener with what they consider "valuable information." In so far as it influences listeners to use methods for limiting their families in terms of economic conditions, health, etc., it will be said by them to "stimulate audiences to undertake worth-while activities." However, an ardent Catholic will, with few exceptions, brand the information as dangerous and subversive and the activity as degrading and against the "will of God."

Dr. Charters has thrown the matter into the realm of values where endless disputes rage, where each individual claims the right to use his value system as the measure of educational broadcasting and condemns all others who do not employ the same criteria. Following Dr. Charters' definition, there is nothing on the air today that will not be termed educational broadcasting by some individual or group.

The definitions previously discussed have the virtue of including both programs broadcast for school use and programs for the great audience of adult and non-school listeners. At the far extreme from these is the definition proposed by the National Broadcasting Company for classifying its programs: "broadcasting that is of assistance to formal schoolroom instruction."¹⁹

If the word "formal" be stressed here, it becomes highly possible that, as education moves away from "formal schoolroom instruction," educational broadcasting of that type will cease. Further, so limited a definition does violence to such programs as those supplying instruction and valuable information to chil-

¹⁹ *Broadcasting*, I, 32. Published by the National Broadcasting Co.

dren, adults, or to the general public outside of the schoolroom situation. The great music from opera and orchestra, news broadcasts, public addresses by governmental officials or others of authority in various fields—all such are not, in terms of the proposed definition, educational.

In an effort to arrive at an adequate definition of educational broadcasting, the Federal Radio Education Committee, under the direction of Dr. John W. Studebaker, United States commissioner of education, circulated a questionnaire among educators and broadcasters during January, 1936. The result was a mass of definitions covering all possible shades of differences from the extreme of the first definition suggested to that of the one proposed by the National Broadcasting Company. That which some considered “educational” was held not to be so by others. It was plainly evident that no criteria of educational broadcasting could be established from the answers to this questionnaire.

Nevertheless, if educational institutions are to use the radio, it is vital that there be some understanding of, and agreement as to the nature of, educational broadcasting. To what end must educators build their programs? Are they to be concerned simply with broadcasting to schools? Should they make use of the radio to propagandize their convictions, doctrines, beliefs? The answer to such questions is most important today. Define educational broadcasting as first suggested, and the educator is merely one among many acting to change human habits and attitudes, with nothing definite to set him off from all other broadcasters. Add to this definition a statement of aim or purpose in terms of value, and define educational broadcasting as does Dr. Charters, and educators become as numerous as are points of view. If educational broadcasting is that activity the purpose of which is to change human habits and attitudes in the direction of good taste, useful information, and worth-while activity, strange individuals can make claim to the title of “educator.” Indeed, educators will differ widely among themselves, each crying, “Lo, here! I have found the true article! Mine is educational. All else is false.” Define educational

broadcasting as have most of those writing upon the subject, and there is little of value to be discovered for guidance of the educator in the task which he is undertaking.

Approach to any adequate and useful definition of educational broadcasting must be made through an understanding of the present-day social situation and the function of education in that situation.

The universe of human experience, as has been maintained in the previous discussion, is characterized by change, interaction, and human purposing. The individual, seeking to realize his purposes, finds himself interacting with an ever changing environment.

Every experience of interaction leaves its residue in the nature of the individual. To some extent, possibly only slightly at times, the individual is changed in habit or attitude by everything that happens to him. Further, every encounter raises a difficulty which must be met and resolved if activity is to continue. This is particularly evident when the objects encountered are other human individuals. These must be dealt with, and the individual seeks so to deal with them that his purposes are realized.

Thus one of man's chief concerns is the discovery of methods for dealing with these situations—for the solving of his problems. Discovering these methods, man seeks, in so far as possible, to pass them on to his children. However, if the young are to become able to meet their problems they must receive from the old, not rigid ways of living and action, but general methods of attack, of dealing with situations, methods that suggest without determining, that can serve as flexible guides in new situations.

Thus conscious education should seek to pass on to the new generation, and to others, that accumulation of materials which have been found to be of value and to assist others to "build social intelligence along the lines of" their "social problems." Its fundamental aim should be to assist others in dealing with the problems which they will encounter.

As an individual gathers information and grows in the ability

to employ it critically for the solution of his problems in a changing environment, as he becomes intelligently critical of the situation in which he finds himself, growth is effected and progress toward more efficient dealing with the exigencies of daily experience is made. In such a way one builds "adequate social intelligence."

In meeting situations everyone must make choices. Whether he makes these in such a way as to solve his problems and move on to the solution of other problems which arise, or merely accepts the solutions offered by others, depends upon his ability to be critically intelligent.

Education, then, if it is to be adequate for the actual universe of human experience—a universe one of the characteristics of which is change—cannot merely hand on to the rising generation or to others of the same generation blueprints for activity. Rather, it must seek to make the individual, at all stages of his growth, "more intelligently and adequately self-directing." Indeed: "'Self-direction', 'ever more intelligent', 'ever more adequate'—these are the phrases that must constitute the teacher's watchwords and guide his efforts."²⁰

In other words, education, if it is to function adequately in an environment such as man finds, must make possible broad, wide, varied, and rich shared contacts, must strive to make the individual open-minded for the consideration of possible consequences of proposed activity, and make him flexible in thought and action so that such foreseen consequences may function as determinants of action. Such education is democratic.

Every teacher, whether he teach in the classroom or in the broadcasting studio, in so far as he is "inspiring and dynamic," will have convictions, will believe that certain things are true, right, worth while. He will have certain standards of "good taste" and "valuable information." However,

if he keeps his eye firmly on the building of adequate self-directive intelligence in his students, and subordinates all else to this end, his convictions will fall into their proper place and help rather than hinder progress toward the clearly

²⁰ William H. Kilpatrick, "Teaching with Conviction," *Journal of Adult Education*, VIII, No. 2 (April, 1936), 142.

seen goal. . . . Everywhere, and at all times, the true teacher will make clear that he holds even his dearest convictions subject to revision in the light of new evidence.²¹

Thus education that will function adequately in a changing world may be defined as that conscious process by which an individual, whether immature student or adult learner, is given broader, wider, more varied, and richer shared contacts with others, with factors in his physical environment, with materials in books, and with all other constituents of his environment; is assisted in becoming more open-minded so that he may consider all possible consequences of proposed activity, and more flexible in thought and action to the extent that he can make such consequences determinants in his actual activity. Education must make possible the acquiring of data, material, and the establishment of an attitude toward this material—the use of such in the solution of problems that are peculiarly the individual's in the particular situation in which he is called upon to act. In other words, education must seek to build ever more adequate self-directive intelligence.

This definition of education suggests a workable definition of educational broadcasting: any radio program the intent and effect of which is the building of more adequate self-directive intelligence. This definition recognizes that programs may be only in part educational. They may do little more than furnish the listener with material, with contacts. Many musical programs are such. In so far they are educational. However, a complete educational program will be in all respects educational, as the term has been defined.

It becomes obvious that most radio programs lie somewhere along a scale the outer limit of which is complete educational broadcasting.

An advertiser, in so far as he broadcasts with this objective foremost in his mind and in so far as his broadcasts attain this end, even though he believes thoroughly in his product, is an educational broadcaster. If the intent and effect of his broadcasts are to make the prospective buyer adequately intelligent

²¹ *Ibid.*, p. 143.

and better able to choose among many similar products, they are educational.

It is a fact, however, that much present-day broadcasting, though coming under the guise of education, is mere indoctrination, propaganda, an attempt to stimulate uncritical and unintelligent action on the part of the listener, to produce activity regardless of many pertinent factors. This applies particularly to advertisers, though it is recognized that there are a few advertisers who do honestly seek to make their programs educative, and there are some advertising programs which do serve as educative experiences for listeners. It also applies to many broadcasts by educators and educational institutions. Often educators design programs, not with the purpose of making listeners adequately intelligent, but to incite a certain definite uninformed and largely blind activity. Political broadcasts, propaganda addresses or dramatizations, are often of this nature. They seek to present one side of an issue in so impelling a way, to slur over factors that challenge the position taken, that the listener will act immediately and in more or less ignorance of other relevant material. These function as does the lawyer who has a case to win. Evidence is presented which will serve the cause of the client represented, and every possible means is used to hide or minimize other evidence that would be detrimental, however pertinent such evidence is in reaching an intelligent conclusion. The purpose is to win, to sell the product, to convince the listener, and not to make him adequately intelligent.

Two factors, then, must be considered in evaluating a radio program as educational in the sense that this term is here defined: the intent of the broadcaster and the effect of the program upon the listener. The intent may be educational and the effect otherwise. Many an educator has striven to produce an educational program to discover that his efforts produce anything but educational results. On the other hand, the intent may be merely to amuse, to indoctrinate, to propagandize, and the effect upon the listener be educational. When both intent and effect are to make the listener more adequately intelligent and self-directive, to make him able to meet and solve his prob-

lems so as to go on to the solution of other problems as they arise, the program is completely educational. Thus the ideal educational broadcast is one which, both in intent and effect, builds more "adequate self-directive intelligence."

By way of summary, educational broadcasting is that broadcasting which, in intent and effect, serves, in part or wholly, to make the listener more self-directive, more intelligent, and more adequately able to deal critically and effectively with those problems which confront him. The broadcaster can and should abide by his convictions. He will have certain standards of good taste, valuable information, worth-while activity; however, in so far as he does educational broadcasting, he will subordinate these to the fundamental educational purpose of building in his listeners more "adequate self-directive intelligence."

The fact that educational broadcasting, as defined, is possible challenges the educator so to strive that its amount is increased. His task is that of creating individuals, both in the classroom and in the broader social areas that constitute his environment and that of his pupils, more "adequately self-directive." The radio is an instrument by means of which he can accomplish this more effectively. To leave it in the hands of interests not primarily concerned with "intelligent self-directive" activity on the part of listeners is to shirk a duty.

THE EDUCATOR IN A COMMERCIAL SYSTEM

The educator who strives to make his students more "adequately self-directive" finds himself beset on all sides by forces endeavoring to negate his efforts. In radio, as operated in the United States, his most formidable antagonist is the system itself.

In making this assertion it is not intended to overlook the fact that commercial interests have been most generous in giving time to educators, furnishing them with expert assistance, and in every way co-operating with their endeavors. Indeed, in many instances educators have found themselves with considerably more radio time at their disposal than they could profitably or efficiently use. This fact must not be overlooked.

However, the fundamental concern of the commercial station operator is profit for himself and his advertiser and not that of the educator. Thus he employs educational programs not so much for their own value or because he is devoted to their objectives, but because he knows that they will prove of value to him. This fact was made clear when an executive of the National Broadcasting Company gave the following as reasons why a station owner will give time to educational features:

- A. It gives him a program service at no cost to his station.
- B. It can be an audience builder for his station.
- C. It will create valuable good will for his station within the community.
- D. It will help him fulfill the "public interest, convenience and necessity" obligation which is part of his license agreement.²²

Though the educator is given time on commercial stations for the broadcasting of his materials, this time is a gift which may be withdrawn at any time that the program presented by the educator does not prove to be an asset to the station owner. On numerous occasions, some of which have been narrated in previous discussions, educators have been refused time on the air because their material was considered by the station owner as detrimental to his financial interests. Further, the station owner, in many instances, exerts a careful censorship over all educational material broadcast, often so limiting educators who wish to broadcast that they withdraw in despair.

Further, commercial station owners often give time to educators so long as they do not have a buyer for the allotted hour. As soon as the hour can be sold the educator is shifted to another hour or is removed from the air completely. This practice has seriously cramped educators who wish to plan a series of programs in which a continuity is maintained. In many instances such a series has been put off the air after it was under way because of commercial commitments.²³

The educator is concerned deeply with the treatment ac-

²² Maurice Lowell, *Listen In* (New York: Dodge Publishing Co., 1937), p. 41.

²³ See *Four Years of Network Broadcasting: A Report of the Committee on Civic Education by Radio of the National Advisory Council on Radio in Education and the American Political Science Association* (Chicago: University of Chicago Press, 1936).

corded him by commercial interests and should strive to get and use more and better time on the air. However, his concern cannot stop here. He should also interest himself in the whole program structure of American radio, striving at all times to make it more educational. He should study, in so far as is possible, the American radio offerings, come to understand their effect upon the American, and for that matter the world, social scene, and seek to discover ways and means for so directing his activity that these shall come more and more to serve the democratic way of life by creating among the masses of the people more "adequate self-directive intelligence." For only as radio does this can it make possible efficient and constructive living in modern changing society.

CHAPTER VI

THE PUBLIC

IN A recent report issued by the National Committee on Education by Radio it is pointed out:

The vast empire of radio, with all its ramifications, investments, and expenditures, exists, in the final analysis, for the listener, and for him alone. Slow though he may be in making his decisions known, ultimately his word is final in the settlement of all the perplexing problems which beset radio. To his whims all broadcasters must cater; to his pocketbook all radio advertising is directed; to his welfare a growing number of programs is directed. The consumer is king of the radio domain.¹

In theory the interest of the public is paramount and its welfare must be the first consideration throughout radio. Control and regulation of the operation of all transmitters rests, as has been shown, in the hands of the public and is to be administered for it by its legally authorized representative, the Federal Communications Commission. It is specifically stated in the Federal Communications Act of 1934 that this administration must be in accord with "public interest, convenience, or necessity." Every decision, every rule or order, every official act of the Commission must under law be determined by this standard. The welfare of the public, democratically determined, must be the first consideration.

This Act provides, further, that authority to operate transmitters may be granted by license to individuals, groups, or corporations for a limited period of time and subject to all rules and regulations of the Commission. Holders of such licenses, station owners, are obligated by law to operate such facilities as they are permitted to construct in "public interest, convenience, or necessity." They must, at all times, convince the Commission that this is being done or forfeit their licenses. Such is the theory and the law.

However, financial support of all radio stations is to be secured by the licensee and by methods satisfactory to him but

¹ *New York Times*, August 23, 1930, sec. 9, p. 10.

not conflicting with standards determined by the law and the Commission—such standards being of a nature designed to enable the broadcaster to serve “public interest, convenience, or necessity.”

The great majority of radio stations in the United States derive their support through sale of “time” to advertisers. Further, in most instances price paid for this “time” is dependent upon the number of listeners which a station can attract and hold by means of its broadcasts.

Because of this fact the great majority of station owners are fundamentally concerned with making their transmitters as lucrative a source of revenue as possible. To this end they study most carefully the likes and dislikes, prejudices, wants, and desires of the individuals within the radius of their stations and seek to discover techniques by which they can use the results of these studies in building programs that will attract the largest possible audience. Likewise they are careful that nothing is included in a program that will offend and thereby alienate listeners. Under the commercialized system of American radio the very existence of most station owners as such depends upon their ability to think straight at this point.

However, this interest in the listener is not, in the case of the majority of station owners, the end but is rather a means for making their stations financially productive, making them avenues for private or corporate profit. In most instances whatever concern station owners pay to the public is determined not primarily by the welfare of this public but by its contribution to their financial profit. Foremost in the thinking of most station owners is the financial success of their stations. They seek to understand and serve the public only in so far as such activity makes more certain their financial success.

While it is true that a few station owners are not so motivated, while there do exist radio stations dedicated to public welfare so that they subject private profit to this concern, such are exceptions and are not to be considered typical. The “American system of broadcasting” has made possible, if not encouraged, the type of station owner who in theory is concerned

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with public welfare but in actual practice subjects this to the more paramount concern of making his station a source of financial return.

The advertiser, a necessary factor in this American system, purposes to sell his product. He comes to the radio with the idea that it can be employed as a means of private or corporate profit. To make it so function, the advertiser must make the proper appeal to as many prospects as possible. This necessitates that he understand the individuals within the radius of the station or stations broadcasting his message. Not only must he know their likes and dislikes, prejudices, wants, and desires, but he must be cognizant of their economic status, their educational and cultural level, their nationality, political inclinations, etc. He must build his programs around all of this information, he must be guided by these considerations, if he would be a successful salesman.

However, the advertiser's concern with individuals and groups is motivated by a more fundamental concern—that of using them as means for profit. To this latter concern he subjects all else. There are advertisers, it is true, who honestly believe in the merits of their products and are convinced that in so far as they urge the public to purchase and use them they are acting in the interest of public welfare. However, it is too great a strain on human credulity to maintain that the majority of advertisers are such. The fact that broadcasts by Consumers Research and other similar organizations are violently opposed by advertisers is convincing proof that profit and not public welfare is of paramount concern with the vast majority of advertisers. Sponsors, in most instances, are unwilling to have their products subjected to scientific criticism or to have their claims and advertising “blurb” tested by facts. They depend, for the most part, upon the uncritical attitude of the majority of listeners.²

Thus it cannot be denied that the individual seated before his receiving set, alone or with his family or friends, is the hub of the

² Houston Peterson, “Conflicting Ideals,” *Journal of Adult Education*, January, 1937, pp. 8-9.

great radio wheel. All lines converge upon him. What he wants, or what he can be made to think he wants, radio seeks to give him, for it is he who is the ultimate censor of American radio programs. By a slight turn of the dial he can completely and absolutely censor any program which fails to attract or hold his interest.

Nevertheless, there is a vast difference between consideration of this individual in terms of his welfare—considering him as an end—and consideration of him as a mere means by which the station owner or advertiser is enabled to increase private or corporate profit. The theory of American radio, a theory written into the Federal Communications Act of 1934, places emphasis upon the listener as an end. It is his interest and welfare that must be considered first and above all else. The actual practice of the majority of station owners and advertisers is to consider him as a means for their private or corporate profit.

Thus the American radio scene is characterized by two more or less clearly defined groups working at cross-purposes. A growing number of individuals are insisting that the theory of the regulation, control, and operation of American radio be also the actual practice, that all agencies concerned function so that the institution actually serves *public* welfare first and foremost. They are demanding that all else, especially the profit to station owners and advertisers, be made secondary, and that no one be permitted to hold a broadcast license who refuses so to govern his actions. The dominant purpose of radio, as they conceive it, is to serve the democratic way of life. This means for them that the listener and his welfare must be the end of American radio.

Working in opposition to these and their purposes are many station owners and advertisers who, though conscious that they hold in their licenses and in their access to “channels” of the air a public trust, are motivated above all else by private profit. Their dominant purpose is the financial success of a business venture. They conceive the listener as a means to this end.

To defeat the purposes of the former group there is maintained a “vicious,” “sinister,” and “not . . . particularly intelligent” lobby in Washington “attacking every endeavor of

the cultural and educational interests to improve the quality of radio programs," a lobby which "has filled the radio 'industry' with the novel idea that they control the government" and which "has endeavored to dictate the actions of the Federal Communications Commission."³

Between these two groups "a fierce struggle is going on for the control of the great resources of the air." The outcome of this struggle will answer the question: Shall American radio be operated in "public interest, convenience, or necessity" or in the interest of private or corporate profit; shall the listening public be the end for which broadcasting is conducted or the means toward realization of another end—financial return to business interests?

In this struggle the fundamental principles of the democratic way of life are defended and challenged. Victory of the former group will mean that, regardless of all else, radio shall serve to guarantee to each and every listener broad, wide, varied, and rich shared contacts, open-mindedness for the consideration of possible consequences of proposed activity as such consequences are revealed through contacts, and flexibility of thought and action so that such consequences may serve as determinants of action. Dominant here is the belief that public welfare is best served when every institution within a social situation effectively makes such guaranty. Victory of the latter group will mean that radio shall be an instrument permitting only such contacts, such condition of mind, and such flexibility of thought and action on the part of listeners as shall serve the interests and purposes of those financially interested in the instrument, whether as station owners or as advertisers.

The listening public must decide this struggle. Its active decision in favor of one group or the other, or its failure to make an active decision, will determine the victor. As Commissioner Payne has pointed out in a most timely warning: "Unless the public is aroused, its interests are apt to be neglected and lax

³ George Henry Payne, "Is Radio Living Up to Its Promise?" (an address delivered December 18, 1936, at the Fifth Inaugural of the University of the Air and broadcast over Station WEVD).

administration is apt to creep in. In this way private monopoly, without warrant of law, establishes itself and, too late, the public bestirs itself to recover ground that never should have been lost.”⁴

When it is realized that many of the most popular programs broadcast over the national chains draw an audience numbering in the millions, one is tempted to visualize this vast crowd as seated in some mighty auditorium or open area listening to a single speaker or entertainer and to act in terms of this conception. Such, however, is not a correct characterization of the situation.⁵ The “audience” of radio is composed of individuals or small groups in more or less isolation from others. Regardless of the ingenuity expended in building up the illusion of others, it is impossible to bring all the effects of audience participation into and through the speaker of a receiving set. Thus the techniques of radio must be vastly different from those of any other means of mass appeal.

Further, because of the vastness of the “audience” which radio may draw, listeners are of many types, of many economic levels, of varied social and educational backgrounds. Their likes and dislikes, prejudices, desires, run the whole scale from the most primitive to the most cultured and refined. Among the more than twenty-five million radio-equipped homes in the United States are those of the wholly unlettered and those of the most scholarly, of the most poverty-stricken and of the most wealthy, of the crudest unskilled laborer and of the captain of industry. The American people as a whole, with all their differences and varieties, listen to the radio.

It is in the interest and toward the welfare of *all* these that American radio, in theory and in the Federal Communications Act of 1934, must be administered and operated. The Federal Communications Commission was established so to administer radio that, in so far as possible, the welfare of all will be served and no group will be neglected.

⁴ *Ibid.*

⁵ Hadley Cantril and Gordon W. Allport, *The Psychology of Radio* (New York: Harper & Bros., 1935), pp. 9 ff.

However, the station owner and the advertiser desire to gather as many of these as possible into their listening audiences. Advertising appeal is designed, in most instances, to attract all those in this vast potential audience who are possible purchasers of the product offered for sale. The station owner has a wider purpose in that he seeks to draw as vast an audience as possible, recognizing that over his microphone will come appeals for the purchase of many products.

In both instances the audience is varied. For example, a program the purpose of which is to sell razor blades must take its primary appeal to adult males. Children and women are not its primary concern. The station owner, however, will offer his microphone to makers of beauty preparations and breakfast foods. Consequently he must bring to his place on the dial and hold women and children as well as men. Further, within the group of male adults which the razor-blade advertiser seeks to attract are individuals of most varied interests, outlooks, culture, education, prejudices, etc.

As a result, in the majority of instances, both station owners and advertisers seek to discover the lowest common denominator of interest within the group to which their appeal is directed and to build their programs with this as a standard. They eliminate anything that might offend any group within this audience and pitch the tone of their production on a level that will attract and interest the greatest number.

If a graph is drawn such as to place all the individuals in this vast radio audience on a scale which incorporates, in so far as possible, all the pertinent factors, programs can be built so as to cover in appeal a large area of this scale. At either extreme, however, will be individuals and groups of such a nature that little or nothing in the program has any appeal. This broadcasters recognize as inevitable so long as the fundamental purpose of the program is to interest the largest possible audience. Consequently minority groups are unserved.

In their attempt to increase the listening audience broadcasters are constantly seeking ways and means for extending the span of their appeal and thereby bringing into the effective

range of their broadcasts larger and larger groups. This accounts for the large number of "variety" programs appearing on the air. Into such programs is packed a varied collection of activities and methods of appeal in the hope that each individual desired as a listener will find something to his liking, something satisfying to his interest. Good music and popular swing rhythms, fine sentiment and low humor, a delicate touch of beauty and broad strokes of slapstick, the unusual and the obvious—all are combined into one hour's entertainment designed to appeal to a vast audience of most varied characteristics.

Since commercialism is basic to the present American system of radio, this appeal to a low, if not the lowest, common denominator is felt to be necessary by many station owners and advertisers. Sale of a product depends, in a large measure, upon contacting a large number of prospects. The greater the number of such contacts, the more possibilities there are for sales. But, as has been suggested, this inevitably means that certain individuals and groups will not be served by the radio.

Those concerned with making radio of service to all the people condemn this policy heartily as not coincident with "public interest, convenience, or necessity." They are willing to grant that radio should serve the great mass of listeners but are at the same time insistent that it should not, in so doing, fail those minority groups which are at present unserved by commercial radio. They hold that certain programs, and even certain sections of the broadcast spectrum, should be devoted to the interests of minorities.

It is being recognized increasingly that little enough is known about listeners in spite of the extensive surveys constantly being carried on by educational and commercial broadcasters alike. The consumers of radio programs do not fit any one pattern. There are a variety of tastes, a variety of interests and a variety of educational backgrounds represented in the radio audience. Programs must be prepared for specialized groups of listeners; there is no one audience to be catered to. In this respect the commercial and the educational broadcasters face the same problem. With each program the essential question must be answered: To what audience will it appeal?⁶

⁶ *New York Times*, August 23, 1936, sec. 9, p. 10.

Commercial radio, seeking in the interest of advertisers the largest possible audience, makes competition inevitable. This competition has both advantages and disadvantages. In the competitive struggle each advertiser endeavors to bring to his program talent that will be more attractive to the listening audience to which he would appeal than that appearing on his rival's programs. Convinced that his public wants a certain type of entertainment, he enters the market to contract the best of that type that is available. Thus, in many instances, entertainers are brought to the microphone who otherwise would, possibly, not be heard outside of the large population centers. The high quality of many American radio programs is to be credited to this competition.

However, since all advertisers are appealing to the greatest possible number, radio presents, at times, a disgusting similarity in the program material offered. Programs built in terms of the lowest common denominator of public interest are broadcast from a host of stations at the same time, differing only in the product advertised. Consequently the individual or group desiring something other than that which makes such an appeal find the air almost entirely unserviceable to their desires. In the face of this condition they feel that present commercial competition within American radio is not in "public interest, convenience, or necessity" and urge that some station or stations within their service area set about to care for them and their interests.

Thus those seeking to operate American radio for private or corporate profit and for that alone will strive to make it serve the largest possible audience by carrying programs built in terms of the lowest common denominator of listener interest. As a result many will be unsatisfied with much of the program material offered while numerous minority groups will have little or no radio that meets their interests and needs. On the other hand, those who conceive of American radio as serving all the listeners will bend themselves to meeting the needs of every minority group in so far as possible, building many programs which appeal only to specialized groups while at the same time

making place in the radio day for other programs which have large mass appeal. Any careful study of the law fundamental to American radio, and any understanding of the purposes actuating the writers of this law, will reveal the fact that those who take this latter position "have the law on their side." "Public interest, convenience, or necessity" can mean nothing else.

Recognizing the appeal of these minority groups, commercial radio is seeking to make room for many programs which have, admittedly, only a restricted appeal. During the fall and winter of 1936-37 the Columbia Broadcasting System, in consultation with Mr. Deems Taylor, presented a variety of musical features incorporating the works of the great masters played by the finest artists obtainable. Classical music of the highest type predominated and few of these programs were sponsored by commercial concerns. Among these features were: the Beethoven sonatas for piano played by Alexander Semmler; the Philharmonic-Symphony Society of New York under the direction of John Barbirolli, Arteur Rodzinski, Igor Stravinsky, Georges Enesco, and Carlos Chavez; the chamber music of Brahms played by the Coolidge String Quartet and Frank Sheridan, pianist; the Cleveland String Quartet and the Walden String Quartet; programs from the Curtis Institute of Music; the Cincinnati Symphony Orchestra conducted by Eugene Goossens; the Kreiner String Quartet; and concerts from the Cincinnati Conservatory of Music. The National Broadcasting Company presented a season of Metropolitan opera and has signed Arturo Toscanini for a series of unsponsored concerts. A study of program offerings from stations reveals a great mass of such material designed especially to meet the interests of minority groups within the prospective listening audience of stations.

However, there are individuals and groups who hold that this is not sufficient. They suggest that stations should be devoted entirely to particular groups and group interests—one station in an area serving popular taste, another serving lovers of music, another presenting discussions of an educational nature, another devoted to classroom teaching, etc. They would have each station devote itself entirely to its particular service so

that an individual might turn at any time to a particular place on the dial and get something that suited his taste of the moment.

Technically such would be impossible. No area could be served efficiently at all times with enough stations to meet all the varied interests of the individuals living there. Further, only in a most general way could such be accomplished provided there were no technical difficulties. For example: The station devoted to classical music might, at a certain period of the day, be broadcasting Wagnerian music while some lovers of music want Italian opera. To carry this idea to its limit would mean the establishment of stations sufficiently numerous to broadcast at the same time several types of music. Regardless of the number of stations serving an area, and regardless of the variety of materials presented, there will always be minority groups unable to find at a particular moment broadcast programs to their liking. "Good" programs are not all of one hue. There is no clear line of demarcation between programs such as to make possible stations presenting one kind to the exclusion of the others. It matters not what a station presents, there will be some listeners who find its program offerings both bad and good, both distasteful and to their liking.

An experience is significant at this point. Station KECA, in Los Angeles, California, was set apart by its owners for the broadcasting of "great" music. Its programs for a period of time were exclusively of this nature. No advertising was broadcast, finances being furnished from sources interested in the presentation via radio of "serious music." After a lengthy experiment in this area, those in authority became convinced that: serious music is faced by popular apathy. Our listeners . . . constitute a minute minority of the radio audience. In determining the proportion of this minority, we could no longer faintly imagine that we were rendering an adequate broadcasting service by transmitting exclusively to them. It is now our duty, knowing these facts, to extend and diversify our repertoire; to give the lovers of serious music a proportional service, but no more nor less than their numbers and support will justify. Thus we will reflect our scene and practice democracy.⁷

⁷ *KECA Concert Programs*, September, 1936, p. 1.

It seems evident that, regardless of whether each station presents a diverse program schedule in which are some programs appealing to minority groups and others designed for mass appeal, or whether stations are designated for the broadcasting of specific types of programs, the result will be the same: Some minorities will remain unserved at the time and in the way they desire. The solution of this vital problem of serving minority groups within American society does not seem to lie in the direction of specialized stations.

Though there are many, as has been suggested, who maintain that the fundamental purpose of radio is to give the listener what he wants or thinks he wants at the moment, there are others who believe that radio should, in so far as possible, give him something more and better than he now wants, should give him what he ought to want if he is to attain to the fullest realization of himself, and should bring it about that he comes to want this "something more." These latter maintain that "public interest, convenience, or necessity" means more than "giving the public what it wants," that there is implicit in it an educational obligation. They hold that public welfare is served when the lives of individuals are enriched and their tastes refined.

A leader, whether he is one holding public trust, an educator, or the operator of a radio station, if he is to work in accord with "public interest, convenience, or necessity," is obligated to see beyond the moment, to understand those whom he leads in the light of what they may become, and so to direct his activities that those he leads move a little way toward this "higher" life. Simply to give the public what it wants at the moment is to fail to act in public welfare interpreted in the fullest sense of the term.

If this position is correct, one of the fundamental problems of American radio, considered in terms of "public interest, convenience, or necessity," is educational.

The vast majority of individuals refuse to listen to programs via radio which do not catch and hold their interest. They think of this instrument as a source of amusement and shun anything

that smacks of education or “uplift.” It is easy to turn the dial away from a program that should be heard in the interest of their educational development to one they want to hear because of its attractiveness. The public cannot be educated if it is not listening.

Those who seek to build programs in accord with standards different from those determined by “what the public wants” are constantly faced with this fact. Educators, believing they have something that the public should hear, have come before the microphone only to find that the listening audience have turned the dials of their receiving sets to other stations. It is a well-known fact among broadcasters that programs such as the Metropolitan opera, the finer symphonies, and the more classical works draw small audiences. Indeed, one of the larger advertisers during the 1935–36 season found that the singing of classical compositions by his highly paid opera star drew so small an audience as to make the programs unprofitable. The problem was solved, however, when the singer, regardless of protests from members of this small audience, turned to popular and semiclassical numbers.

Though the intention of the broadcaster may be to elevate the taste of the public—to function educationally—and though his programs are built with this purpose paramount, he will, more often than not, fail simply because listeners turn from his station to others making their appeal to what the individual wants at the moment.

In face of this fact, education via radio must start very near the level at which the listener now is. Education, fundamentally, is the changing of an individual from what he is at the moment into something other and different. This necessitates, obviously, starting with what is and where it is. No sound musical education would start with the *Fifth Symphony* of Beethoven. Rather, it starts with the child’s desire to express himself in rhythm and tone. Moving slowly and by easy stages from this point, it may arrive in time to the finished performer playing the *Fifth Symphony*.

If radio is to function adequately in “public interest, con-

venience, or necessity," it must educate; but it must recognize that education is growth and that growth begins with an individual at a certain stage of development. The failure of much that has been attempted in education via radio is to be attributed to the fact that broadcasters motivated by commendable desires to elevate and enrich the life of listeners have not worked with this fact as a guiding principle. They have not functioned educationally.

To use their failure as evidence that broadcasting will succeed only when it "gives the public what it wants," as some commercial interests have done, is in no wise justifiable. The contention of these individuals is one extreme, the other being that of broadcasters who seek to give the public what they are convinced it should have at all cost. The solution of the educational problems of radio lies somewhere between these two extremes and will be discovered only when the principle that education is growth has been productive of broadcasting techniques such as will make possible the production of effective educational programs—programs that will give the listener something better than he wants at the moment, or thinks he wants, but will not so far outstrip his field of interest as to result in his censoring the program by a turn of the radio dial.

Further, broadcasting is an art. As Professor Dewey has shown: "The actual work of art is what the product does with and in experience."⁸ Further, "Every experience, of slight or tremendous import, begins with an impulsion, rather *as* an impulsion."⁹ The whole organism has a need for which it seeks satisfaction. So doing it reaches out, figuratively, for that in the environment which will give such satisfaction. Again:

The expressiveness of the object of art is due to the fact that it presents a thorough and complete interpretation of the materials of undergoing and of action, the latter including a reorganization of matter brought with us from past experience. . . . The expressiveness of the object is the report and celebration of the complete fusion of what we undergo and what our activity of attentive perception brings into what we receive by means of the senses.¹⁰

⁸ John Dewey, *Art as Experience* (New York: Minton, Balch & Co., 1934), p. 3.

⁹ *Ibid.*, p. 58.

¹⁰ *Ibid.*, p. 103.

A work of art consists in what is brought to the individual and what he brings, fused into a complete whole. Both contributions are vital and necessary. Omit, or minimize, either and there is something less than a work of art.

A radio program may be a beautiful gem as seen by the producer who brings a certain wealth of past experience to the immediate listening situation. This consists of a wide understanding of broadcasting technique, years of culture and education, and wide knowledge. It is truly a work of art for him. There is complete fusion of the received and the receiving. However, in another situation, one in which the individual listening does not bring to the experience such wealth, the program may be anything but a work of art.

An illustration will make this point clearer. There are many foreign-language radio stations in New York City. Programs presented over these stations, heard by those speaking the language and with the cultural and emotional background of the nation from which the language came, are, in many instances, works of art. They function in a complete fusion of the received and the receiving. However, to those other individuals who do not understand the language these programs are nothing more than a confused jumble of sound. In this latter situation there is nothing that could be called art.

To a less extreme degree, but nonetheless accurately, this principle applies to all radio programs. In so far as the received and the receiving are fused into a complete whole, such programs are means for producing works of art.

Broadcasters have often failed to recognize this fact. They present programs which appeal to them and which they believe should appeal to the listening audience. Often they discover that there is no such appeal. Often broadcasters present material which they hold should be heard and find that listeners are not interested. Whenever this occurs the broadcaster has ignored the receiving element of art. He has mistaken a product for a work of art and has failed to realize that the *work of art* is always and everywhere "*what the product does with and in experience.*" "Good broadcasting" is a work of art.

Mr. Will Irwin states the point at issue when he writes:

European critics of American radio harp monotonously on one string. Under government control, they say, radio operates to raise the cultural level. The official directors of programs, being themselves men of cultivation, try always to give the public something a little better than it wants. On our side, of the water the advertiser, who is the true patron of this art, is interested only in attracting the greatest number of listeners. And usually he makes a mistake common among caterers to popular taste by giving his public something a little worse than it really wants. He ignores above all the opportunity to educate listeners to higher standards of taste. Hence the night, when the largest invisible audience sits at the receiver, clamors with cheap music and flimsy, "folksy" drama, while fine music finely rendered must take the slack hours of the afternoon. Hence the European critic fails to think the matter out to its end. Radio, like any news medium for transmitting thought enwrapped in art, must find itself by trial and error. The story is usually that of progress from cheap and sleazy stuff toward higher art which may break out into genius. Mountebanks and tumblers trading crude dialogue at country fairs, or prelates exhibiting primitive mines to ram home lessons of morality and religion, founded the English drama. Wild young rapsallions from the universities carried it along until they stumbled upon artistic form. There followed Marlowe, Shakespeare and Jonson. With every stage of this advance the audience kept step. The cinema is just now running a similar course. Except as a transmitter of music, the radio can never develop, can never find itself, under such rules and policies as generally prevail in Europe. Being free, we are experimenting—not consciously of course, but effectively nevertheless.¹¹

A growing number of commercial broadcasters, many connected with the national chains and the more important independent stations, are becoming conscious of this fact and are seeking to discharge their responsibility for developing the art of radio. The National Broadcasting Company speaks for these broadcasters when it says:

The . . . reason for devoting a large portion of . . . time to "light entertainment" is that only thus can it [the National Broadcasting Company] attract the audience which subsequently can be brought to listen to music of finer and more developed type.

Its musical programs during recent years have fully kept pace with the development of that audience. . . .

¹¹ *Propaganda and the News* (New York: Whittlesey House, McGraw-Hill Book Co., 1936), p. 264.

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The central task of radio in music . . . is the awakening of cultural appreciation.

As this appreciation grows, it becomes in itself a new demand for more music requiring a further and higher appreciation.¹²

Though there is much broadcasting that makes its appeal simply to what the public now wants—seeks to satisfy the lowest common denominator of public interest—and though a great many broadcasters fail to recognize or to be interested in the educational implications of the charge to operate their transmitters in “public interest, convenience, or necessity,” a great many who hold positions of leadership in the industry are intensely conscious of this obligation and are bending their efforts in that direction. Critics of the present quality of program content most certainly have factual material to substantiate their criticisms. A great deal that is broadcast does not meet the highest standards of American culture or of a growing number of broadcasters. However, a careful study of program offerings today will reveal the fact that numerous features of high quality are available via radio and that the frequency of such offerings is increasing.

During the last ten years the level of program quality has risen materially.

. . . . In 1926 many of the so-called features could be heard only by those fortunate enough to own sets which could pick up programs from a distance.

A thorough search reveals that there was available to the New York radio audience, during the entire week of February 28 to March 6, two operas, *La Traviata* and *Pagliacci*; one light opera, the *Mikado*; the Boston Symphony; a studio philharmonic orchestra; one pop concert; the London String Quartet; and the United States Army and Marine Bands. Hotel orchestras furnished dance music primarily—Ben Bernie and Vincent Lopez being mentioned particularly as successful maestros. Other music was not significant. Actually we had to search hard for features worthy of mention. Talks were by explorer MacMillan on “The Arctic from the Air”; by Bishop Frederick Fisher on “The Roosevelt Hunting Trip”; by F. K. Powers and by A. S. Fedde on the income tax; and “Star Picking” by Cecil B. DeMille and another on the movies by Douglas Fairbanks. There was also a talk on Turkish women, but the impresario was not identified! For serious listeners we had the Dean of the Columbia Law School and the Health Commissioner

¹² *Broadcasting* (published by the National Broadcasting Co.), II, 6 and 12.

of New York. Jimmy Walker's address at a Bronx Board of Trade dinner was the high political spot of the week. Three news broadcasters were mentioned, H. V. Kaltenborn on WOR; a Mr. F. Ford, who gave a news digest on WHAP; and Fred Wile on WJZ (his subject being "Political Washington"). On Sunday there were sermons, Christian Endeavor meetings, Bible classes, vespers, and chamber music. One hour was devoted to German lessons on WNYC (then, as now, the local municipal station); and a period of equal length was also allotted to the teaching of French and of Spanish by this station.

. . . . In almost every case the programs available to the New York audience in the first week of March, 1936, were scheduled over the major networks and so were available practically to the entire nation.

In music, *Fidelio* was carried from the Metropolitan Opera House with Flagstad and other stars participating. Outstanding performers during the week were Grace Moore, Joseph Bentonelli, Lawrence Tibbett, Gladys Swarthout, Giovanni Martinelli, Dusolina Giannini, Rosa Ponselle, John Charles Thomas, Nino Martini, and Carmela Ponselle. The Minneapolis Symphony, the New York Philharmonic, the Cleveland Symphony, the Boston Symphony, the Chicago Symphony—all were available and, as well, the Victor Kolar Symphony Orchestra, the Boston Sinfonietta Orchestra, the Cleveland Pop Concert, and the Music Hall of the Air. Conductors were Eugene Ormandy, Hans Lange, Arturo Toscanini, Arthur Fiedler, Artur Rodzinski, Ernest Schelling, and Serge Koussevitsky. The United States Army, Navy, and Marine Bands were still available. Popular dance orchestras were directed by Abe Lyman, Paul Whiteman, Guy Lombardo, Wayne King, Ray Noble, Vincent Lopez, Ben Bernie, and Fred Waring.

. . . . In the same week the radio audience heard King Edward VIII of England, former President Hoover, Secretary of State Hull, and Secretary of Agriculture Wallace, five United States Senators, five members of the House of Representatives, the governors of four states, the General Secretary of the Communist party, the Director of the United States Bureau of Navigation, the United States Commissioner of Immigration and Naturalization, and the Mayor of New York. From abroad came King Edward's message to the Empire; comments from London by Vernon Bartlet, veteran analyst of international affairs; the Welsh Guards Band from Wales; and folk music from Germany. The subjects of some of the talks available to the audience were: "A Layman Looks at the Supreme Court," by Senator Vandenberg; "Taking the Red Ink Out of the State Government," by Governor Fitzgerald of Michigan; "How Long Can Our Land Last?" by Senator Guffy; "The New Deal vs. the New Party," by Representatives Miller and Amlie of Illinois and Wisconsin, respectively; "The Agricultural Situation," by Secretary Wallace; "The New Deal in Retrospect," by Representative Bolton of Ohio; "Dictatorship," by Representative Mott of Oregon; "The Communist Position in

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1936," by Earl Browder; "Communism vs. Americanism," by Representative Fish of New York; "National Problems," by Secretary Hull; "Freedom of the Press," by Mr. Chester H. Rowell, editor of the *San Francisco Chronicle*. In addition there was a discussion of the American merchant marine by the president of one of the big steamship lines and the Director of the United States Bureau of Navigation; an interview by Shepard Stone with Mr. Mayakawa, Japanese newspaper correspondent, on far eastern affairs; an address by Mr. Hoover before the Young Republicans Meeting in Colorado Springs; a discussion of "Our Deportation Laws" by former Attorney-General Allen of Massachusetts, Magistrate Charles Solomon of New York, and the United States Commissioner of Immigration and Naturalization; a debate on "The Townsend Plan" by Dr. A. W. May and Mr. Hieber of the Townsend Organization; an open forum on "Health Security and the American Public" in the weekly "American Town Meeting" series; a discussion on international diplomacy in the regular Chicago "Round-Table" program. Besides, there were broadcast the speeches at the celebration of the one hundredth anniversary of Texas independence and the meeting of the Veterans of Foreign Wars.

News commentators were H. V. Kaltenborn, Lowell Thomas, Boake Carter, John B. Kennedy, Frederick W. Wile, Gabriel Heatter, and Edwin C. Hill. News broadcasts from national and local sources were regular features during the week. The "March of Time," a popular news drama, is now a unique American institution.

There were also such regular programs as the American School of the Air; the "Music Appreciation Hour," conducted by Walter Damrosch; "Education in the News"; "You and Your Government"; "Our American Schools"; and the program conducted by the National Congress of Parents and Teachers. The religious programs were sermons by many outstanding ministers, priests, and rabbis.¹³

Such a survey reveals the fact that startling improvement in program quality has taken place in the last ten years. The offerings of the chains and the more important independent stations are constantly increasing in cultural and educational value.

At present there is a noticeable trend to move the lighter and more popular programs to daytime hours and to present at night material of a more solid and classical nature. Analysis of station offerings will furnish factual proof of this trend.

It is usually recognized that the period between 8:00 and

¹³ Levering Tyson, *Retrospect and Forecast in Radio Education* (New York: National Advisory Council on Radio in Education, Inc., 1936), pp. 8-12.

11:00 P.M. is the most valuable of the broadcasting day. During these hours listeners are at home and have time to hear radio programs. It is during this time that the peak of listening is reached throughout the country. Thus these are the most profitable hours for advertisers and the highest prices for radio time are charged for their use. A study of the program offerings of six leading New York stations during these hours reveals that approximately half the time is devoted to serious addresses, classical and semiclassical music, and discussions of news and important events.

Scanning the programs offered by these six stations on Friday, January 8, 1937, the following material of the "better" type is discovered:

WEAF (key station of the NBC red network):

- 8:00- 9:00 P.M.—Bourdon orchestra; Jessica Dragonette, soprano;
Revelers Quartet
- 9:30-10:00 P.M.—Court of Human Relations
(A total of 1½ hours from a possible 3 hours)

WOR (key station of the Mutual network):

- 8:00- 8:30 P.M.—Concert orchestra, Cesare Sodero, conductor
- 9:00- 9:15 P.M.—Talk, Raymond Gram Swing
- 10:30-11:00 P.M.—Concert orchestra, Alfred Wallenstein, conductor
(A total of 1½ hours from a possible 3 hours)

WEVD:

- 8:00- 8:15 P.M.—Bryce Oliver, commentator
- 8:15- 8:30 P.M.—"Public Utilities under City Control," Maurice P. Davidson, chairman, Progressive City Committee
- 8:45- 9:00 P.M.—"Labor Legislative Prospects for 1937," George Meany, president, State Federation of Labor
- 10:00-10:15 P.M.—"American Medical Association on Trial," James Rorty, writer
- 10:15-10:30 P.M.—Julius Risman, violinist
- 10:30-10:45 P.M.—"National Labor Scene," Chester M. Wright, editor
International Labor News
- 10:45-11:00 P.M.—String music
(A total of 1½ hours from a possible 3 hours)

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WMCA:

- 8:15- 8:30 P.M.—“Fire in Abandoned Houses,” John J. McElligott, fire commissioner
- 9:00- 9:15 P.M.—Hungarian ensemble
- 9:15- 9:30 P.M.—Garnett Marks, commentator
- 10:30-11:00 P.M.—“News: A Plan for Real Pensions,” Dr. J. E. Pope
(A total of 1½ hours from a possible 3 hours)

WJZ (key station of the NBC blue network):

- 9:00- 9:30 P.M.—Concert orchestra, Rex Chandler, conductor
- 10:00-10:30 P.M.—Kraeuter String Quartet
(A total of 1 hour from a possible 3 hours)

WABC (key station of the Columbia Broadcasting System):

- 10:00-10:30 P.M.—Philadelphia Orchestra, Eugene Ormandy, conductor
- 10:30-10:45 P.M.—“The Foreign Trade Zone as It Affects New York,”
Representative Emanuel Celler of New York
(A total of ¼ of an hour from a possible 3 hours)

Thus, during the better hours for broadcasting, when the largest audience is available, these six stations, with a total broadcasting time of eighteen hours in this time span, offered for this typical evening seven and one-half hours of program material that may easily be classed as of high quality. Other programs offered were of a lighter nature, including comedy, popular songs, and dance music.

It is not meant to argue that there is no room for improvement or that, possibly, there should not be more of such material offered. The point is that, viewed over the last ten years, the quality of program offerings has risen materially and that the available material today contains much that is of a high quality the most valuable to the listener.

It is maintained, further, that radio can develop healthily only as it is able to carry the public along with it. In so far as it loses or outdistances the listening public or in so far as it makes its major appeal to a small and select section of the potential listening public, it becomes a museum piece and not an art, a luxury and not a means of education. To serve “public interest, convenience, or necessity,” radio must attract and

hold its audience and must lead that audience to a richer and more complete and whole experience. To seek merely to attract an audience for the purpose of selling a product and thereby making private profit is certainly not to serve public welfare. Unless this audience is led to appreciate and understand better things radio is failing its obligation. Such leading is an educational process and must be undertaken with a clear understanding of educational technique.

While a great many station owners think only in terms of commercialism, it is nothing less than blind prejudice to fail to recognize that the industry domiciles a growing number who are conscious of this higher obligation and are bending their energies toward its fulfilment.

CHAPTER VII

TOWARD A MORE DEMOCRATIC BROAD- CAST STRUCTURE

ANY institution of society is democratic to the degree that it actively and consciously functions so that all individuals may (1) experience broad, wide, varied, and rich shared contacts with their physical environment and with others; (2) develop an attitude of open-mindedness or willingness to consider possible consequences of proposed activity; and (3) develop a flexibility of thought and action such that they live constructively in a changing environment.

The radio, an institution of present-day society, may be evaluated in terms of these criteria. Such has been attempted in the preceding discussion.

It has been pointed out that, because of the nature of radio as at present understood by scientists and technical experts, only a limited number of transmitters can be operated efficiently. Consequently the federal government has set standards by which selection is made among those seeking this coveted privilege and has imposed regulations to govern their activity.

Basic to these standards and regulations are the four principles determined upon at the Hoover conferences of 1922-25: (1) Control and regulation of the operation of broadcast transmitters rests in the hands of the people of the United States and "the air" is to be administered at all times in their interest and for their welfare. (2) Radio activities must be free of monopoly, in program, in speech, and of malice and unwholesomeness. (3) The home must be protected from invasion via radio of any matter destructive of its ideals. (4) All broadcasting shall be financed by private enterprise.

Guided by these principles the Federal Communications Commission seeks to regulate a privately financed industry,

radio, so that it functions at all times in "public interest, convenience, or necessity."

The Federal Communications Act of 1934 and the Commission interpret "public interest, convenience, or necessity" to mean, among other things, that all operators of transmitters shall overtly recognize the prior right of the federal government in frequencies used by them under their licenses, that there shall be no monopoly of radio patents or service by private interests, that no alien or representative of an alien or of a foreign government shall hold a license to operate a transmitter or have control of such operation, that there shall be no censorship of radio programs by the federal government or its representative administrative agency, that when one candidate for political office has been permitted to use the facilities of a broadcast station all other candidates for the same office shall be given equal opportunity to use the same facilities freed from any censorship by the operator of the facilities, that no profane or indecent language shall be broadcast, that no material relative to lotteries, gift enterprises, or similar schemes shall be broadcast, and that in time of war or national emergency the President of the United States may assume complete control of all broadcasting facilities.

The Commission conceives its function to be that of protecting the interests of the public in the area of radio, and makes careful study of the program offerings of broadcast stations the basis for determining whether or not such stations are operating in "public interest, convenience, or necessity." Often, when the law does not make specific provisions for interpreting the meaning of this phrase, the Commission sets standards of taste, refinement, and decency which appear to it to be in accord with the best interest of the public and evaluates program content by these standards. If, in its judgment, a station's program offerings do not satisfy such standards, it may revoke the station's license and order it off the air either for a stated period of time or even permanently.

This procedure has been upheld by the courts on the ground that the legal censorship prohibited by the Federal Communica-

tions Act of 1934 consists in "prior restraint," and that the Commission, in reviewing a station's program offerings, is not exerting such restraint but is rather carrying out the instructions of the law to see at all times that transmitters are operated in "public interest, convenience, or necessity."

It has been shown, however, that this procedure, though not censorship in the legal sense of the term, is in fact a most potent type of actual censorship.

Thus, considered from the point of view of the federal government, the present system of American radio is beset with the problem developing out of the conflict between the function of the Federal Communications Commission as protector of American "ideals" and the traditional devotion to freedom of speech. At present both the existing radio law and the activities of the Commission do limit such freedom most effectively. If America is to move toward a more democratic broadcast structure some solution of this problem must be discovered.

Another problem of vital significance to democracy is posed by the commercial factor in American broadcasting. As has been pointed out, one of the fundamental principles of the present system of American radio is that all operation of transmitters shall be financed by private enterprise. Consequently the commercial station owner and advertiser have become indigenuous to the system. Though required by law and by orders and regulations of the Commission to function in "public interest, convenience, or necessity," and though much broadcasting material does serve public welfare, the commercial station owner with few exceptions is primarily interested in the financial success of his undertaking. Holding a permit to use a sector of the public domain of the air, he is concerned with receiving from his venture as large a financial return as possible. Consequently his policies and practices are determined, in a large measure, by this objective.

Further, the commercial station owner, within limits set by the Federal Communications Commission, is permitted to censor programs, to dictate who shall and who shall not be permitted to use his facilities, and to follow practices and pro-

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cedures which serve standards which appear to him personally to be "right" and profitable. Thus, by an arbitrary rule, he may make impossible the broadcasting of materials which large numbers hold to be the public interest and concern or force the broadcasting of other materials which many hold to be detrimental to public welfare.

Again, the advertiser, using by grant or contract facilities of a station owner, is primarily interested in the sale of his product. Though he may seek to satisfy the listener's desire for entertainment, instruction, or "uplift," he is not, in the majority of instances, interested in such save as they serve as means for insuring his financial success. To further this paramount interest he directly and indirectly influences the activities of the station owner and causes material to be broadcast which will serve his end while keeping from the air other material which might challenge success of his major objective.

Therefore, both the commercial station owner and the advertiser, under the present system of American radio, are permitted to employ a public domain for private profit on the theory that the public will be best served if numerous broadcasting organizations, interested in their own financial success, are permitted to compete for public favor. With few exceptions both the commercial station owner and the advertiser consider the listener as a means to the end of their financial success and not as an end in himself. So considering they determine, in the light of their objectives, what the listener shall or shall not hear, closing the air to that which they feel does not serve their interests and "ideals" and forcing on the air that which they believe will so serve.

This fact poses a second problem of the present system of American radio: Is commercialized radio consistent with "public interest, convenience, or necessity"? Stated somewhat differently, it is: Will enlightened self-interest on the part of commercial station owners and advertisers make them servants of public welfare?

Consideration of this problem must take into account the fact that both the commercial station owner and the advertiser

find the radio an efficient means for “educating” the listener to want what they want him to want. Subtle and often very effective methods of interested propaganda are employed, not only to make the listener satisfied with what he gets via the radio, but so to determine his tastes and desires that he will come to demand what the commercial station owner and the advertiser want to give him—what it is in their interest to broadcast.

A survey of American radio must not overlook the fact that, though the present system does make possible the commercial station owner and the advertiser, both motivated by financial considerations, it also provides for the operation of transmitters by nonprofit organizations, among which are several educational institutions, which finance their stations by means other than commercial advertising. However, these organizations are motivated by “ideals,” “principles,” and “prejudices” which govern their use of the radio and which are employed as standards for determining what their listeners shall and shall not hear.

Thus the present system of American radio is characterized, on the whole, by an actual and effective censorship of program material both by the federal government and by the large majority of station owners and advertisers, whether they be motivated by financial or other considerations. While a few stations strive to reduce this censorship to the minimum, others make no pretense of the fact that they exert a strict censorship of all material broadcast, holding that to bar “unworthy” material from the air is a distinct virtue.

Consequently the present picture of American radio is one of stations seeking to limit the fields of contacts possible for their listeners to experience to those which serve their particular narrow interests and stations seeking to make possible for their listeners broad, wide, varied, and rich shared contacts, stations seeking to close the minds of their listeners to everything except their particular appeal and stations seeking to create within all their listeners open-mindedness and a willingness to consider all the possible consequences of proposed activity, and stations seeking to make their listeners as inflexible in thought and

action as possible so that they become easy instruments of their interests and stations seeking at all times to develop within all their listeners a flexibility of thought and action such that they may live more constructively in their changing environment. Somewhere at or between these extremes are to be found all broadcast stations, with, it is most important to note, the great majority nearer the former than the latter.

Thus, in the light of the criteria of a democratic institution suggested previously, the present system of American radio is one in which both democratic and undemocratic practices are possible. Much that is American radio today does serve the democratic way of life; however, much more is obviously not far along the road which leads to democracy or is definitely destructive of the democratic way of life. Further, while the fundamental principle of the theory of American radio—that all transmitters must be operated in “public interest, convenience, or necessity”—is democratic, many specific interpretations of this theory and many practices resulting from the private financing of transmitters militate against democracy and make all efforts to attain the democratic way of life difficult if not practically impossible.

Cognizant of the problems suggested above and of the defects of the present commercialized system of American radio when measured by criteria of the democratic way of life, many are exploring the radio systems of foreign countries to discover if some form of government ownership of the radio, such as is to be found there, will prove to be the solution of America's problems. Among such are, on the one hand, those who believe that the American system, despite its values, must be abandoned completely in the interest of democracy and something analogous to one or another of these foreign systems put in its place. On the other hand, there are those who hold that certain features of foreign broadcasting can with profit be incorporated into the American system.

In view of these beliefs and in view of the fact that numerous proposals for dealing with American radio are grounded, more or less, in certain practices and policies to be discovered in the

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broadcasting structure of European countries, a brief survey and evaluation of typical foreign systems becomes pertinent.

BROADCASTING ABROAD

No adequate understanding of broadcasting abroad is possible apart from an appreciation of the growing intensity of the nationalistic psychology, based upon a "belief that loyalty to the idea of a national state is greater than all other loyalties," which "arose during the sixteenth, seventeenth, and eighteenth centuries, and came to full flower in the nineteenth,"¹ and is at present dominating the European scene.

Pre-Renaissance loyalties were, for the most part, local or tribal, or imperial. With the growth of vernaculars and the consequent sense of linguistic kinship, the appearance of various kinds of heretical movements, the rise of monarchies, the growth of trade, the rivalries of monarchies in discovering and appropriating new lands, and the popularizing of philosophic rationalism, numerous groups began to develop a solidarity among themselves and an isolation from others. The revolt of the Dutch against the Spanish in the sixteenth century, the revolt of the Americans against the English in the 1770's, and the French Revolution exerted a tremendous influence toward popularization of the principle of self-determination. The Industrial Revolution, stimulating as it did commercial competition and antagonisms among national groups, and romanticism, with its exalting of folk language, folk literature, folk culture, and folk history, quickened the growth of nationalism.

The nineteenth century saw a series of wars of national self-determination out of which came the modern states of Italy, Greece, Germany, and Belgium. Then came the World War, which has been characterized as "only an episode in the progress of national sovereignty," the "greatest war of national self-determination."

Added to these economic factors are sentimental and emo-

¹ For a history of this movement see C. J. H. Hayes, *The Historical Evolution of Modern Nationalism* (New York: R. R. Smith, Inc., 1931); *Essays on Nationalism* (New York: Macmillan Co., 1928).

tional factors which have made of national loyalty a religion. As Riegel has so well pointed out:

. . . It is difficult to explain nationalism except as a religious phenomenon. One worships and adores, one tries to commune with the immortal spirit of one's country, one tries to make himself a part of a power (nationalism) greater than himself, one reinforces his faith by constant repetitions of the rituals of saluting, singing, and pledging allegiance to the flag, one gladly immolates himself on the noble altar of country. Nationalism is the religion of the twentieth century, and save for a small number of exceptions, it is universally more potent in determining the average man's thought and behavior than Christianity.²

This growth of nationalism has resulted in increased bellicosity and friction among national states. Each seeks to protect itself against others, to secure raw materials from outside its national boundaries to strengthen its economic life, to win and control foreign markets, and to carry its nationalistic-religious culture to other nations considered "backward" and "less fortunate." Suspicion and mistrust become the rule.

Likewise, this nationalistic faith breeds intolerance within nations, making the saying of anything challenging to the nationalistic creed or nationalistic ambitions a crime. National solidarity increasingly demands a united people more or less unquestioningly supporting the national government and its objectives. Any effective challenging of these objectives cannot be tolerated.

Thus, when Dr. Paul Joseph Goebbels, Nazi minister of propaganda and public enlightenment, in October, 1933, proclaimed the national press law "the absolute right of the State to supervise the formation of public opinion," he was expressing, in extreme form, what is fundamental to the nationalistic-religious faith which is steadily growing throughout Europe. To effect this, European nations have consistently employed all channels of approach to the human mind. In this endeavor:

The nationalistic states of today have recognized the fact that the surest and safest form of control is that which regulates the kind of information

² O. W. Riegel, *Mobilizing for Chaos* (New Haven: Yale University Press, 1936), p. 10. (Mr. Riegel was formerly on the European staff of the *Chicago Tribune* and the *New York Daily News*. He is now director of journalism at Washington and Lee University.)

and opinion which is available to national subjects, for a subject by conviction is a stronger defense than a subject by force. Foremost among the channels of information which determine man's thinking is the world-wide organization of electrical transmission devices which carry the burden of news.³

Consequently communication devices have always been a matter of deep concern to European states and without exception, though to a greater degree in some states than in others, avenues of communication have been made servile to the demands of nationalism.

Spurred on by intense political and cultural rivalries, the nations of Europe began, during the nineteenth century, a "communications race, which, like the armament race, was based upon the deep-lying compulsions of nationalistic honor and prestige as well as upon military necessity."⁴

It was recognized that electrical communications could be used most effectively to unite national groups and control markets and avenues of trade. Further, the possibility of employing them for spreading nationalistic culture to other lands was recognized. Consequently, from the first, national governments in Europe have assumed the right to control all such means of communication and to use them in their interest.

This position has been most emphatically and efficiently maintained by Great Britain. Having a monopoly of gutta-percha, used for cable insulation, she was able to force diplomatic concessions such as to assure her supremacy in cable communications. As a result London very soon became, and is today, the foremost cable center of the world. Other European nations recognized too late the value of this monopoly and entered the lists of competition, but have never been able to challenge Great Britain's supremacy.

At the outbreak of the World War Great Britain had approximately 51 per cent of the world's cables, the United States 26½ per cent, France 9 per cent, Germany 7½ per cent, Denmark 3 per cent, and Spain, Italy, and Japan 1 per cent each.⁵

Consequently, during the war, Great Britain, after the few

³ *Ibid.*, p. 17.

⁴ *Ibid.*, pp. 19-20.

⁵ H. L. Jome, *Economics of the Radio Industry* (Chicago: Shaw, 1925), p. 46.

cables belonging to the Central Powers had been cut, was able so to control world-communications that her enemies were isolated by a most efficient and devastating "cultural blockade" and the Allied nations made dominant in the control of war news available to the world. As the "cable clearing house of the world," England supervised most of the news from Europe destined for both warring and neutral nations, censoring and reshaping it as she pleased. Thus she saw to it that all news regarding the war was favorable to the Allied cause and unfavorable to the Central Powers.⁶ This was no small factor in building up world-sympathy for the Allied Powers, for eventually bringing the United States into the conflict on their side, and for effecting a peace favorable to them at Paris.

The experience of the war was convincing proof to European nations that possession and control of communication devices were essential to national existence and national growth. Thus, since that catastrophe, the nations of Europe have been immersed in a tense and bitter diplomatic warfare to gain control of communication facilities, each watching the other closely so that any advance made by one has been the stimulus for others to make additional and superior advances.

The coming of radio was but another episode in this struggle. If cables were of strategic importance to national existence, it was soon evident that radio was even more so. Here was an avenue of communication as free as air, which ignored all barriers and frontiers, which required a comparatively small financial outlay for construction and operation, which could be received and understood by all with a minimum of effort and intelligence.

Though pregnant with possibilities for internationalism, radio was immediately seized by the nations of Europe and made subservient to nationalistic interests. According to Riegel:

The whole tendency of radio development has been in the direction of increasingly rigid control by patriotic politicians, who have been almost literally sitting on the doorsteps of the laboratories waiting for the technicians

⁶ E. P. Bell, *The British Censorship* (London: Unwin, 1916).

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to appear with their inventions. It may have been to radio's advantage in a purely physical sense that it came into existence during the period of intense national rivalry which preceded the nationalistic war of 1914-1918, but the coincidence meant that radio became identified from the start with the principle of patriotic service to the state. No other means of communication provoked intervention by the state as quickly as did radio.⁷

The fundamental motivation of European nations in radio has been and is desire for military and commercial power, and national solidarity and supremacy. Thus England, Germany, France, Italy, and the smaller nations jumped into the fray with all the power, diplomacy, and wealth they could muster.

As early as 1913 Germany was projecting a pretentious network of radio stations and France was proposing a world-wide radio scheme with colonial and military ambitions as the paramount factors. These plans had in mind commercial and trade advancement throughout the world, especially in South America, and the circumvention of England's control of international cable communication.

Great Britain met this challenge in 1913 with a world-wide radio project known as the "All-Red Chain." This was decidedly nationalistic and was designed to supplement her supremacy in world cable communication with a similar supremacy in the air.

During the World War considerable experimentation was undertaken by European nations. However, because of the undeveloped nature of radio, it was not widely used. However, in the United States some important advances were made. Isolated by British control and censorship of cable communications, the United States sought some method of communication that would be free of foreign interference. Radio seemed to be the answer. Consequently experimental work was pushed in this field. Out of this came the Alexanderson alternator, a high-frequency device which materially increased the dependability of radio communication and introduced that system of radio frequency which makes possible the tuning of broadcasting and reception to the particular wave lengths desired, and a

⁷ Riegel, *op. cit.*, pp. 38-39.

transcontinental and trans-Pacific chain of high-powered stations operated by the Navy Department, as well as several other smaller government-controlled stations. Experience with these chains convinced the United States that radio was of strategic value.

After the war England, recognizing the great importance of the Alexanderson alternator and determined to seek supremacy in the field of radio communication, offered, through the British Marconi Company, to purchase a monopoly of its use for five million dollars. President Wilson, sensing the strategic value of this device and the purpose of Great Britain in desiring to control it, urged the General Electric Company, which then owned the alternator, to refuse all foreign offers. On April 5, 1919, Admiral Bullard, director of naval communications, met with Mr. Owen D. Young and other officers of the General Electric Company and argued with them that sale of this device would give to Great Britain control of radio communication throughout the world. Further, he outlined a wireless policy for North and South America not unlike the Monroe Doctrine. The trade possibilities of this program so influenced the General Electric Company that it refused the British offer.

As compensation for this refusal the government co-operated in the organization of the Radio Corporation of America, a powerful concentration of radio interests able to compete with similar organizations in Europe. It was given, by affiliating with all other radio interests of the United States, a virtual monopoly over American radio.

Answering this challenge, Great Britain, at the Imperial Wireless and Cable Conference of 1927-28, organized Cables and Wireless, Limited, with an operating subsidiary known as the Imperial and International Communications Company, Limited. In this was brought together all the communication facilities of the British Empire.

There was one most important difference between the British and the American radio organizations. In Great Britain complete control of radio was placed in the hands of the government to be used at all times for nationalistic ends. In the

United States the government maintained supervision and some control, but permitted actual operation of the Radio Corporation of America to rest in private hands. Indeed:

Whereas the other nations have frankly recognized the right of the state to absolute control over its communications systems, and have appointed central planning and regulating bodies identified with the government, the United States has clung to the theory that private enterprise should be allowed to operate freely in the field of communication, with no more interference from the government than is necessary to protect the public welfare, prevent unfair competition, and give protection abroad.⁸

Because of the growth of intense nationalism throughout Europe, and because of the strategic value of radio as a means toward this end, it is but natural that each government should seek to control and use this powerful communications device primarily in the interest of its national ambitions, both internally and externally. Such has been most obviously the story of European radio, is the situation existing throughout Europe today, and is basic to the recent reorganization of Canadian broadcasting.

To show specific developments in the various countries of Europe today, a detailed analysis of the situation in Denmark, England, Germany, and France may be helpful.

Broadcasting in Denmark is completely government owned and is directed by a Radioraadet under the joint control of the ministry of education and the ministry of public works. There is also an advisory council on which sit representatives of the principal groups of Danish social life. No advertising is carried, support of the system coming from an annual license fee paid by each owner of a receiving set. All technical operation of the nation's three stations is in charge of the postmaster-general.

The Radioraadet, members of which are appointed by the Danish government and are under its control, has authority to supervise all programs broadcast over Danish stations and to restrict such to that which appears to it to be justified. When a question of government policy arises, this body may refer the matter to the government for its consideration and ruling.

⁸ *Ibid.*, p. 49.

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The broadcast schedule from Danish stations is well adapted to the needs of the small and homogeneous population served. A valuable feature is the broadcasting at 10:30 A.M. daily of prices being offered for fish at the principal Danish, English, and Baltic seaports. All fishing boats are equipped with receiving sets, enabling fishermen to carry their catch to the most profitable market. Entertainment, serious music and addresses, drama, and comedy are presented during the broadcast day.

Evening programs are often devoted to educational subjects, special emphasis being made of the teaching of languages and gymnastic instruction. Courses in Danish, English, French, and German are given and specially prepared textbooks are made available for listeners. Further, a variety of less formal educational materials are broadcast, including talks on history, music, medicine, and literature. Debates and discussions dealing with matters of interest to Danish listeners such as economics, racial heritage, psychology, the press, are featured. A committee nominated by the minister of public instruction prepares and directs a program of school broadcasting including separate courses for primary, secondary, and professional schools and lycees. Subjects taught in this manner include the Danish language, foreign languages, natural science and geography, history, world-literature, the history of fine arts, music, and general topics. Some time is given to the broadcasting of professional materials. Lecturers chosen from associations representing the professions are presented speaking on agriculture, horticulture, and industrial questions of interest to those engaged in the various occupations.⁹

Broadcasting in Great Britain had its beginning as a commercial enterprise. Due to the rapid development of wireless during the World War and to the interest in experimentation in the field on the part of young men who had received training in radio telephony during the war, almost immediately after

⁹ Data regarding the Danish radio system obtained from a private conference with the Hon. Helmuth Moller, Danish vice-consul stationed at New York City.

the Armistice a national demand for broadcasting became evident in Great Britain. Thus the government was confronted with the problem of satisfying this demand "in such a way that Broadcasting would become a permanent element of national life."¹⁰

Since authority over all forms of communication rested in the postmaster-general, representatives of the then approximately three hundred manufacturers of radio equipment undertook negotiations with him during May–July, 1922, looking to some solution of the nation's growing broadcasting problem. As a result of these negotiations, on October 18, 1922, the British Broadcasting Company, Limited, was formed. This Company was registered on December 15, 1922, and finally licensed by the postmaster-general on January 18, 1923. By the time its license was issued four broadcast stations—located in London, Manchester, Birmingham, and Newcastle—were in operation.¹¹

The Company was capitalized for £100,000. Of this amount £60,000 was contributed in equal parts by six leading wireless firms and the remainder by the other manufacturers interested. The first Board of the Company consisted of one representative each from the six firms contributing the bulk of the capital and two elected by the other contributors. Mr. John Charles Welsham Reith was appointed general manager and joined the Board as managing director in October, 1923.

Under provisions of this first license, radio was made "a single centrally controlled non-competitive service" intrusted to those concerned with the development of an industry. However, in granting this monopoly it was understood that commercial considerations should count as little as possible consistent with the necessity of creating a large-scale radio industry to provide the public with receiving apparatus.

In Great Britain, as in the United States,¹² broadcasting was

¹⁰ *B.B.C. Handbook, 1928* (published by the British Broadcasting Corporation, London), p. 37.

¹¹ *Cmd. 1822* and *Cmd. 1976*, of 1923.

¹² For statements of Mr. Owen D. Young, chairman of the Board of the National

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originally conceived as a stimulus to the sale of receiving sets and not as a source of financial profit directly.

In the light of this objective the British Broadcasting Company was limited to a small capitalization and return on this investment placed at $7\frac{1}{2}$ per cent. Since this financial structure was found sufficient to meet only a small part of the expenses necessary to broadcasting, those in authority began to search for some source of direct revenue. Advertising, along the lines then being followed in the United States, was disapproved. Thus: "It was accepted, then, that the maintenance and the development of the service should depend on listeners themselves and not on interested parties."¹³

After considering several proposed methods of financing the venture, the Company, with the approval of the postmaster-general, decided upon a combination of indirect payment by way of taxes or tariffs upon sets and parts sold by the radio trade and direct payment for the privilege of owning and using a receiving set.

Development of this industry was so rapid that, after only a few months, a strong government committee, the Sykes Committee, was appointed to review broadcasting and make recommendations to the government. Its report, presented to Parliament in August, 1923, recommended the following:

1. The diminution of dependence upon the trade for revenue and the fixing of a date at which it should cease altogether. (This date was fixed as August, 1924, following which the entire support of broadcasting was to come from license fees and such other sources as the Company devised)
2. Payment to the Company of 75 per cent of the license fees collected instead of 50 per cent as hitherto
3. Establishment of a simple form of license at a uniform fee and (from an assigned date) free of restrictions as to origin or nature of the set
4. That the Company be granted permission to accept programs "provided" by outsiders with publicity ends to serve. (This power was exploited in only a few instances during 1925 and then quietly waived)

Broadcasting Co., regarding this matter see *Statements by Owen D. Young and Merlin H. Aylesworth at the First Meeting of the Advisory Council of the National Broadcasting Company*, February 18, 1927, pp. 7-8; *Advisory Council of the National Broadcasting Company*, January 30, 1929, p. 6.

¹³ *B.B.C. Handbook*, 1928, p. 38.

5. The admission of daytime programs which had been heretofore prohibited because of interference with other wireless services
6. Extension of a network of stations consisting of eight "main" stations and numerous "relay" stations. (This meant that the Company was to assume responsibility for a "complete national system" of broadcasting)¹⁴

These recommendations were accepted by the government and incorporated into the Company's license of 1925.

Broadcasting as an industry increased rapidly during the next two years. On December 31, 1923, a total of 595,311 licenses were held by listeners. This number steadily climbed until on September 30, 1925, it had reached the "startling" total of 1,464,674.¹⁵

The British Broadcasting Company, as has been suggested, was conceived from the beginning as a "public utility concern." Gradually its commercial scaffolding was removed so that by 1925 it was "operating almost purely and simply as a public service."¹⁶

Success of the venture, from the listener's point of view, was such that

criticism of its "monopolistic" character had practically disappeared in the light of public knowledge of the Board's policy, and the notion, once plausible enough to attract a measure of support, that the programme quality would be improved if several broadcasting organizations were allowed to "compete" for public favor was no longer taken seriously.¹⁷

The Company's license, issued for a two-year period on December 31, 1924, was due to expire at the close of 1926. Consequently the government appointed the Crawford Committee in 1925 to review broadcasting in Great Britain and make recommendations. This committee recognized what was becoming evident to a great many government officials, that "the Board of the 'commercial' company had created a national asset at once too powerful and too delicate to be allowed to retain a constitution which others might choose to operate on other lines and with other objects."¹⁸

Consequently it recommended that the Company be abol-

¹⁴ For full report of the Sykes Committee see Cmd. 1951, of 1923.

¹⁵ *B.B.C. Handbook, 1928*, p. 39.

¹⁶ *Ibid.*, p. 40.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

ished and a public authority be constituted to exercise monopolistic control of all broadcasting in Great Britain. This, in effect, meant adoption of "centralized control in the hands of a disinterested body as the basic principle of the future."¹⁹ It further recommended a long-term license, increased financial power, and a visibly noncommercial constitution.

As a result of these recommendations all the assets of the British Broadcasting Company were transferred to a new corporation chartered by the Crown and licensed by the postmaster-general, the British Broadcasting Corporation. Stockholders of the Company were paid off by the government at the par value of their stocks, and without any "audible" change the whole broadcasting structure of Great Britain was placed under direct control of the government.²⁰ Sir John Reith, managing director of the Company, was made director-general of the Corporation.

The charter of the Corporation,²¹ issued December 20, 1926, constituted a then unique method for dealing with the problem of broadcasting on a national scale. With the two alternatives before it of complete nationalization of broadcasting under government ownership and operation and of throwing broadcasting open to private enterprise and commercial competition, Great Britain established a *public corporation to act as trustee of the national interest*. The five directors of the Corporation were appointed by the Crown, upon recommendation of the postmaster-general, for a period of five years, and the Corporation was given a charter for a period of ten years.

By terms of the charter the Corporation was instructed to "carry on a broadcasting service" for Great Britain, Northern Ireland, the Channel Islands, and the Isle of Man as a "public utility service." Though the Irish Free State, British overseas dominions, and all colonies were outside the responsibility of the charter, provision was made, subject to consent of the postmaster-general, by which the Corporation might make broadcasting agreements with these units of the British Empire.

¹⁹ Cmd. 2599, of 1926.

²⁰ Cmd. 2755, of 1926.

²¹ Cmd. 2756, of 1926.

Chartered by the Crown, the Corporation was granted "perpetual succession and a common seal with power to break, alter and renew the same at discretion," with power to "sue and be sued in all courts and be capable in law to take and hold real or personal property and do all matters and things incidental or pertaining to a body corporate."²² However, one provision was made which distinguished this body from other corporations: "The Corporation shall apply the whole of its surplus revenue (if any) and other income solely in promoting its object."²³

Though a corporation, similar in most respects to other corporations chartered by the Crown, the British Broadcasting Corporation was authorized to operate a monopolistic broadcasting structure in the public interest and, therefore, was not permitted to capitalize itself through selling stock or to use any of its income for other purposes than that of promoting broadcasting in the national interest.

Here was an attempt to free broadcasting, in so far as possible, from undue control of the government and at the same time from commitment to interests which might prejudice its public service. Fundamental to its operation at all times was to be "the national interest."

However, government control of a very real nature was not relinquished. The governors were to be appointed by the Crown. Parliament was to vote all funds coming to the Corporation, license fees being paid to the postmaster-general and by him to the Corporation. Each year its books were to be audited and this audit approved by the postmaster-general. At all times the postmaster-general was to have the right to examine the Corporation's books and other relevant documents. Further, it was provided:

If it is made to appear or appears to Our Postmaster General either on the representation of any person or body politic or corporate appearing to be interested or in any other manner howsoever that there is reasonable cause to suppose that any of the provisions of this Our Charter or of any such License or *any instructions* of Our Postmaster General have not been observed or complied with Our Postmaster General may require the Corporation to satisfy him that such provisions have been complied with and if within a time

²² Cmd. 2756, of 1926.

²³ *Ibid.*

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specified by him the Corporation shall fail so to do Our Postmaster General may if he thinks fit certify the same to Us under his hand, and upon such certificate being given it shall be lawful for Us, Our Heirs and Successors, if We shall be so minded, by writing under Our Great Seal, absolutely to revoke and make void this Our Charter, and everything therein contained Provided nevertheless that the power of revocation so hereby reserved shall not have or be construed to have the effect of preventing or barring any proceeding by *scire facias*, or by the Writ of *quo warranto*, or otherwise according to law, to annul or repeal this Our Charter.²⁴

The license of the Corporation, issued on January 1, 1927, made more specific this control of the government over the British Broadcasting Corporation. In this it is stated:

2. The Corporation shall whenever so requested by any Department of His Majesty's Government at the Corporation's own expense send from all or any of said Stations any matter which such Department may require to be broadcast.

3. The Postmaster General may from time to time by Notice in writing to the Corporation require the Corporation to refrain from sending any broadcast matter (either particular or general) specified in such Notice and the definition of broadcast matter hereinbefore contained shall from time to time be read, construed, and take effect subject to the provisions of any such Notice or Notices which may have been given by the Postmaster General. The Postmaster General may at any time or times revoke or vary any such Notice as aforesaid.²⁵

Thus, though radio in Great Britain was not owned by the government but rather by a Corporation chartered by the Crown, the government maintained the power to use radio as an instrument for government propaganda whenever it so desired and also of censoring any or all of its programs at all times. Any department of the government was privileged to broadcast whatever it desired to have the people hear; and the postmaster-general could at any time prohibit the Corporation from broadcasting anything which he so desired.

In theory the Corporation was to be allowed wide freedom, particularly in its day-by-day operations, while the government was to come into the picture only in matters of wide and important policy. However, this position was, without question,

²⁴ Cmd. 2756, of 1926. The first italics are ours.

²⁵ *License and Agreement between His Majesty's Postmaster General and the Governors of the British Broadcasting Corporation*, art. 4, secs. 2 and 3.

an act of graciousness toward the Corporation and not a policy binding upon the government. That such is the case was pointed out clearly by Mr. Lees-Smith, M.P., representing Keighley and speaking before Parliament, when he said:

. . . The Corporation should understand that the Government and the House, in spite of this Charter, have very wide powers indeed over the policy of the Corporation if they wish to exercise them. The Postmaster General can issue to the Corporation an instruction forbidding it to send out any item either in general or in particular, and any Government Department can issue to the Corporation an instruction compelling it to send out any item which the Government Department desires. Consequently, the Government really has almost full control over the Corporation if they wish to exercise their powers. So also has this House. After all, the Minister will be before the House every year with a special Estimate for the Corporation. This House can make or break Ministers, and, of course, through the Minister, we can have over the Corporation any influence we desire. . . .

I am trying to point out that this House has very wide powers over the Corporation if it wishes to exercise them. In fact, both the Government and the House deliberately impose upon themselves a self-denying ordinance, but I do assert that that involves a certain attitude of mind on the part of the Corporation on the other side, and therefore I would lay down the general propositions that the Corporation ought to regard it as its duty very carefully to listen and to pay heed to Debates in this House about the Corporation, and generally, unless there is very good reason against it, to attune itself in its policy to the general attitude of the House, as we would expect a Minister to do.²⁶

Captain Sir Ian Fraser, M.P., from North St. Pancras, speaking in the same debate, went a step farther when he asserted: "Here is a service which, in an emergency, should be relied upon for complete and absolute loyalty and faithfulness to the Government of the day, no matter to what party that Government belongs."²⁷

The Rt. Hon. G. Lansbury, M.P., representing Bow and Bromley, in the same debate affirmed that "in the last resort, as my right hon. Friend said, Parliament can take away this Charter, or give it, and we, and not the Director-General of the B.B.C., are the supreme authority."²⁸

²⁶ *Official Report, Parliamentary Debates, House of Commons, CCCXIV, No. 117 (Monday, July 6, 1936), 882-83.*

²⁷ *Ibid.*, p. 906.

²⁸ *Ibid.*, p. 915.

It is obvious from the above that the British Broadcasting Corporation, though in theory an "independent" corporation, is actually responsible to the government and must so conduct itself as to satisfy the government of the day. So long as it does this it is permitted to operate free from interference—it is independent. However, immediately that it fails so to do, the government has the power to step in and force its power. Whatever freedom the British Broadcasting Corporation enjoys is by permission of the government and not by any right inherent in its structure.

The British Broadcasting Corporation is to all intents and purposes an arm of the British government and must so function. At any time that it fails so to function the government has the power to step in and by order of the Crown force it in line.

During the last ten years this power has been asserted at various times. Mahatma Gandhi was barred from broadcasting in England because his speech might have embarrassed the government. Because of the government's attitude toward cancellation of its World War debt to the United States, the Harvard-Oxford debate on this issue was not broadcast in England. During the Geneva Disarmament Conference the British Broadcasting Corporation brought only seven programs to the English radio audience from the seat of the conference, and all of these advocated the British position. Five of these were by the official British commentator at Geneva. The sixth was the opening address of Sir Arthur Henderson, and the seventh was an address by the Archbishop of York.

On October 10, 1935, Mr. Tecla Hawariate, head of the Abyssinian delegation to the League of Nations conference at Geneva, appeared before the microphone and broadcast an address presenting the Abyssinian side of the war in Ethiopia. Since his position was in accord with that of Great Britain at the time, this address was broadcast throughout England and through the British station at Rugby—one of the most powerful stations in the world and the "world-switchboard" for rebroadcasting programs to the United States—to American listeners over the facilities of the Columbia Broadcasting System. This

feature was arranged by Mr. Edgar Ansel Mowrer, correspondent at Geneva for an American newspaper.

The original plan was to present Baron Aloisi, official Italian representative at the conference, speaking for Italy on the following evening. At 6:00 P.M., October 11, the British government ordered the Rugby station not to handle the broadcast. The reason given was that the British government, owing to the situation existing, felt that it could not permit use of British radio facilities by an Italian representative who would present a side of the issue contrary to British policy. Indeed:

The British Government had no objection to Mr. Hawariate telling America his views, which at the time, incidentally, were those of the British. And they were anxious to prevent America, which could spoil their sanctions policy, from hearing and being influenced by the other side.²⁹

Mr. Lansbury, in the Parliamentary debate referred to above, called attention to the use the government had made of the radio as a means for its own propaganda when he said:

We remember the General Strike, the events that led up to that strike and the most tendentious propaganda carried on before and during the strike. I maintain that the Government in a democratic country ought to allow the workmen when there is a great struggle like that about to take place or is taking place, to put their case to the public. Another instance was the Election of 1931. For the two years preceding that, during the whole of the time we sat on the benches opposite, there was carried on against us not a straight-forward propaganda but a tendentious propaganda. . . .

I think that the Treasury and some of my colleagues at that time were not at all averse to the propaganda about the Gold Standard and the rubbishy stuff that was put across by professors, who have now all been proved to be wrong.³⁰

Not only does the government have power to force the British Broadcasting Corporation, and through it the British air, to its service, but it does use it whenever deemed necessary. Official censorship is not only a right granted but a right used.

That there has not been more use of this power or a more complete placing of the British air under control of the Crown is due

²⁹ Frank C. Hanighen, "Propaganda on the Air," *Current History*, June, 1936, p. 45.

³⁰ *Official Report, Parliamentary Debates, House of Commons, CCCXIV, No. 117 (Monday, July 6, 1936), 918.*

to the fact that those appointed to the Board of Governors of the Corporation and the director-general usually see eye to eye with the government, whether by nature or by prudence it is difficult at times to discover.

The governors, previous to January 1, 1937, were as a rule old men or women of considerable wealth and many affairs who held their positions in the Corporation more as an honor than as a responsibility. To a large degree they left the business of the Corporation in the hands of the director-general, Sir John Reith. And, in so far as he finds it possible in the light of the powers of the government and the postmaster-general, Sir John is the absolute autocrat of the whole British air. He wields, substantially, the centralized, omnipotent, benevolent radio power that some progressives among us think ought to be wielded. He should, of course, in accordance with that thought, be a progressive. He is in fact a true-blue, conscientious, intense conservative. His social and political outlook is approximately that of Secretary of the Treasury Mills—only much less roving and much more raptly fixed.

Sir John has openly denounced the demagogic heresy that in radio the public should be given what it wants. He gives it, overwhelmingly, what a Scotchman after the heroic order (and orderliness) of John Knox—namely, Sir John himself—thinks personally (and uniquely) that it ought to have.³¹

Further:

The responsibility for all the programs that are broadcast from all the stations in Great Britain and Northern Ireland traces ultimately to one man, Sir John Reith, director general of the BBC. Sir John is a dictator for two reasons—because his job is a dictator's job and because he, himself, is cold, aloof and dictatorial by temperament.

Suppose that printing were the subject of a similar monopoly. Suppose that a chartered company had complete and final authority throughout the whole of Great Britain and Northern Ireland to determine what books, magazines, and newspapers could be printed for public circulation. Suppose that the one company not only chose the material but also printed and circulated it, and nobody else was allowed to print any kind of matter intended for the public.

Such a dictatorship would be unthinkable in any normal country. Yet that is the system which the British have applied to radio.³²

³¹ William Hard, "Europe's Air and Ours," reprinted from the *Atlantic Monthly*, October, 1932, p. 9.

³² Clair Price, "Radio 'The Weapon,'" *New York Times*, November 1, 1936.

Mr. Lansbury characterizes Sir John in the following terms:

I think he has rather spoiled a very magnificent piece of work by what is called paternalism, and also by his—I do not quite know how to put it—assumption of authority and responsibility apart from Parliament or anyone else. I myself, who hate dictatorships, and hate the very idea of the demigod sort of man that dictatorship involves, have always felt, when speaking to Sir John on the two or three occasions on which I have met him, that he would have made a very excellent Hitler in this country, because he seemed to have a great scorn for people like myself.³³

Thus in Sir John are combined two interesting characteristics. On the one hand, he is sensitive to his responsibility to the government. As has been suggested:

Sir John Reith, however personal he may be, and however independent, in his management of the British Broadcasting Corporation, has a “responsibility” to the governmental ownership—to the state organism—behind him. He must therefore proceed cautiously, he must give consideration to reasons of state, in admitting guests to his bureaucratic and authoritative ether.³⁴

On the other hand, within the British Broadcasting Corporation and in matters which do not directly affect government policy, Sir John is absolute dictator. In matters of culture, taste, and education he reserved the right to censor and to dictate. He permits the British people to hear what he thinks they should hear, and nothing more. The standards of taste over the British air are his standards of taste.

Criticizing this fact, Mr. Leonard Woolf states:

Much could be said in praise of the development of broadcasting under Sir John Reith's rule, and today we all know the good points about a dictatorship. If you “want things done,” the man to get them done is a dictator. Nevertheless, if the B.B.C. is to play the part open to it in creating an educated and civilized democracy, a dictatorship is the form of government least suited to it. Dictatorship and democracy are incompatibles, whether in Russia, Italy, or B.B.C. If broadcasting is to fulfill its highest destiny, the controller of the microphone must be absolutely catholic and impersonal, must be, in fact, the representative of an educated, tolerant, open-minded and cultured democracy. Under a dictator the policy of the B.B.C. will necessarily be his policy; listeners-in will not be given all truth and all opinion, but

³³ *Official Report, Parliamentary Debates, House of Commons, CCCXIV, No. 177 (Monday, July 6, 1936), 913.*

³⁴ *Hard, op. cit., p. 10.*

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only that particular cross section of truth and opinion which the dictator thinks good for them.³⁵

The attitude of Sir John toward his staff was referred to in Parliament by Mr. Lees-Smith as "despotism in decay." Because certain religious positions, such, for example, as spiritualism, were not considered by Sir John to be in "the broad stream of Christian tradition," their representatives were refused use of the British air. Mr. E. Marklew, M.P., called the attention of Parliament to this fact in the debate referred to above. Further, Sir John does not receive criticism kindly and has been known to refuse the British air to those who have in the past dared to criticize the British Broadcasting Corporation or himself.³⁶

In matters of controversy the British Broadcasting Corporation has always been most cautious. This caution was inherited from its predecessor, the British Broadcasting Company. During the existence of the Company, "the Post Office exercised an over-riding censorship of subject and material."³⁷ When the Corporation was licensed strict prohibition of political, industrial, and religious controversy was maintained. Following a discussion of this problem in Parliament, a discussion stimulated by violent press comments on the policy then followed, late in February, 1928, the government decided to remove the restriction, but warned that the Corporation should proceed with caution. A statement of the Corporation following this decision is significant: "Theoretically it is now possible to broadcast talks upon all controversial subjects, but great care must still be exercised in the choice and handling of subjects."³⁸

In accord with this policy the British Broadcasting Corporation moved slowly into the field of controversial broadcasting, every program which might be interpreted as controversial was carefully edited and watched, and public reaction to this experi-

³⁵ Leonard Woolf, "The Future of British Broadcasting," *Political Quarterly* (London), April-June, 1931, p. 178.

³⁶ *Official Report, Parliamentary Debates, House of Commons, CCCXIV, No. 177* (Monday, July 6, 1936), 900.

³⁷ *B.B.C. Handbook, 1929*, p. 39.

³⁸ *Ibid.*, p. 59.

ment was studied carefully. Though today considerable controversial material is to be heard from British stations, it is true, as pointed out by Miss Lloyd George, M.P.:

The B.B.C. at the moment is frankly scared of controversy. One ring on the telephone from a Government Department or a few postcards from irritated and none too constant listeners—because it is not the hundred per cent listeners, I understand, who pass most of the criticism—is all that is necessary for the B.B.C. to get into a sort of neurotic flutter. . . . It is not the fact that talks are controversial which is objectionable, but the fact that all sides of the controversy are not always allowed to come to the microphone.³⁹

Such was the organization and some of the problems of broadcasting in Great Britain during the ten-year period from January 1, 1927, to January 1, 1937. Since the license and charter of the British Broadcasting Corporation were limited to a period of ten years, it became necessary in 1935 for the government to consider its future policy as regards the radio. Consequently, April 17, 1935, a committee was appointed by the postmaster-general, Sir Kingsley Wood, to consider the constitution, control, and finance of the broadcasting service in this country and advise generally on the conditions under which the service, including broadcasting to the Empire, television broadcasting, and the system of wireless exchanges, should be conducted after 31st December, 1936.⁴⁰

This committee, known as the Ullswater Committee because the Rt. Hon. the Viscount Ullswater, G.C.B., was the chairman, made a careful and exhaustive study of the broadcasting situation in Great Britain, listened to numerous witnesses, and reported to the postmaster-general in February, 1936. Though commending highly the work of the British Broadcasting Corporation and recommending renewal of its charter and license for another period of ten years, the committee made some most significant proposals. Among such were:

That the Governors should not be specialists or representatives of particular interests or localities . . . ; and that the outlook of the younger generation should be reflected in some of the appointments made;

That the number of Governors should be increased to seven; that they

³⁹ *Official Report, Parliamentary Debates, House of Commons, CCCXIV, No. 117 (Monday, July 6, 1936), 943.*

⁴⁰ *Report of the Broadcasting Committee, 1935, February, 1936, p. 5.*

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should be nominated by the Crown, on the recommendation of the Prime Minister. . . .

That a critic of the B.B.C. should not be disqualified from broadcasting.

. . . .

That minor issues, measures of domestic policy, and matters of day-to-day management should be left to the free judgment of the Corporation;

That the Minister responsible in respect of broad questions of policy and culture should be a selected Cabinet Minister in the House of Commons free from heavy Departmental responsibilities and preferably a senior member of the Government; and that this Minister should have the right of veto over programmes, and the duty of defending the Broadcasting Estimates in Parliament; but that technical control should remain with the Postmaster General;

That the B.B.C. should have the right to state when it is broadcasting an announcement at the request of a Government Department;

That, continuing present practice, the B.B.C. should refrain from broadcasting its own opinions on current affairs. . . .

That the broadcast news service should be unbiased and dispassionate;

That controversial broadcasts should continue, discretion remaining in the hands of the B.B.C.

That the B.B.C. should regularly consult the Parliamentary parties on major political issues;

That during a General Election campaign the time available for political speeches should be allotted by agreement between the parties, and that all political broadcasting should cease three days before the Poll.

That direct advertisements should remain excluded from the broadcast service;

That "sponsored" items need not be entirely excluded, especially in the earliest stages of Television broadcasting, but that their admission should be carefully regulated by the B.B.C.;

That the responsible Departments should take all the steps which are within their power with a view of preventing the broadcasting from foreign stations of advertisement programmes, intended for this country, to which objection has been taken;⁴¹

This report was debated at some length in the House of Commons and, though general satisfaction with the work of the British Broadcasting Corporation was expressed, some severe criticisms were voiced, a few of which have been suggested in the previous discussion. The outcome of these debates and the recommendations of the Ullswater report was a new charter and

⁴¹ *Ibid.*, pp. 42-47.

license granted to the British Broadcasting Corporation for another period of ten years.

Though very much on the order of the former charter, the new one placed the number of governors at seven, technical supervision of radio remained in the hands of the postmaster-general, and the Crown reserved the right of dissolving the Corporation whenever it failed to comply with requirements of the postmaster-general or the Crown. The new license was practically identical with the old one save that permission was given the Corporation to announce whenever it was broadcasting material at the request of a government department, and the postmaster-general was permitted to designate when the Corporation might announce that notice to refrain from broadcasting any material had been given.

Thus the administration and control of broadcasting in Great Britain today is, with the minor exceptions noted, identical with what it has been for the last ten years. In other words, the government, though recognizing its faults and though many voiced severe criticism of some of its policies and practices, placed its stamp of approval on the system and the broadcast structure which had been tried for ten years.

The British broadcasting system is, as Captain Sir Ian Fraser has pointed out,

one of those curious English growths which are often anomalous and illogical, but it worked. That is characteristic of so many of our institutions. Apparently nobody is particularly in control of it, and we all deplore the possibility that the House of Commons should have too much control of it. We reject a Minister whose job it is to control it, and have, instead, a kind of technical godfather who will not interfere too much. There are no shareholders to call the members of the government board to book.⁴²

Great Britain, as has been pointed out, sought to build a broadcast structure which would be a compromise between complete nationalization and commercial competition. Consequently it conceived of the radio as a public utility and intrusted it to a corporation. This corporation is not a department of the gov-

⁴² *Official Report, Parliamentary Debates, House of Commons, CCCXIV, No. 117 (Monday, July 6, 1936), 911.*

ernment, but is rather an "independent" concern. Its governors are appointed by the Crown. They receive a salary and are charged to control and administer radio in the national interest. The Corporation and not the government owns all radio stations. However, the postmaster-general, by virtue of the fact that within his department is placed control of the whole of British communications, is technical supervisor of all stations. Further, he may prohibit the broadcasting of any material which he so desires and he or any department of the government may require the Corporation to broadcast any material which they wish. The Corporation receives its major financial support from license fees charged owners of receiving sets. But these fees are paid to the government which then pays the Corporation.

Though the government has great power over the Corporation, if it wishes to exert it, and though the governors of the Corporation and the director-general have a definite responsibility to the government, to a large measure they are independent of the government. Consequently Sir John Reith, the present director-general, is able to exert a fairly broad dictatorship of the British air. In matters of taste and culture he is supreme. His standards of "good programs" are the standards of the British air.

Such is the British broadcasting system. That it satisfies great numbers in Great Britain is evident from the Ullswater report, from Parliamentary debates, and from numerous writings in the newspapers and periodicals of the country. However, the fact that great numbers are dissatisfied with some of the policies and practices of the system is equally evident from the same sources. That great numbers of British listeners are tuning in broadcasts from other countries in preference to those of the British Broadcasting Corporation is evident. During the last few years this problem has grown to such proportions that the Ullswater Committee recommended that steps be taken to prevent broadcasting from foreign stations of advertising programs intended for Great Britain, and considerable time was given to the problem in Parliament. However, it is recognized that such prevention is possible only if the government assumes

control of reception. Discussing this problem, Mr. W. W. Wakefield, M.P., said:

What is the object of that? It is surely that sponsored programmes from abroad are getting round the intentions of making transmission in this country a monopoly. The difficulty that has arisen from the transmission side will, I think, be found in a far greater degree if the Government takes over part of the reception side of the industry, without the other side. In connection with the sponsored programmes from abroad, I suggest that if the Government directed their attention not so much to making representations to foreign countries and getting ourselves more into disfavor from abroad than we are now, but to getting the B.B.C. to improve their own programmes, so that there is no need for listeners in this country to search abroad for foreign programmes, it would be all to the good.⁴³

From the above it would appear that, at least in the thinking of some, the British programs, in some instances, do not have the listener interest that those coming from other countries do. Whether the fact be that foreign advertisers are broadcasting programs which do appeal more to a number of British listeners than do those of the British Broadcasting Corporation, that the British people, in many instances, want advertising via radio, or whether these foreign programs attract individuals whose tastes differ from those of the authorities of the Corporation, the fact remains that, in the opinion of some at least, "despite the BBC's ban on them, British advertisers romp into hundreds of thousands of British sets from the high-powered Luxembourg station on the continent."⁴⁴

Any evaluation of the British broadcasting system must take account of the fact that within it have developed some of the most interesting and important educational projects known today in the field of educational radio. British educational programs surpass those in the United States in quantity and, until recently, in quality. Listening groups, meeting to hear and discuss programs, are organized throughout England as part of the strong adult education movement in Great Britain. These groups are under the direction of trained leaders who are assisted by pamphlets and other materials prepared by broadcasters.⁴⁵

⁴³ *Ibid.*, pp. 961-62.

⁴⁴ Price, *op. cit.*

⁴⁵ Lester W. Parker, *Study of School Broadcasting in England* (to be published by the University of Chicago Press).

A MORE DEMOCRATIC BROADCAST STRUCTURE

The broadcasting structure in Germany prior to the Hitler regime was semipublic and somewhat decentralized. Ten corporations were in operation, each having a monopoly within defined areas of the country. The stations were owned by the Post Office Department and operated by private program companies. These companies were, in turn, bound together in a loose central federation, the Reichs-Rundfunk G.m.b.H., under the general direction of Herr Giesecke. Government officials were on the boards of the individual corporations and exercised strict supervision over program policy.

Political broadcasting was controlled completely by the government, and only those favorable to the administration in power were granted use of the German air. During the campaign of 1932 there were four candidates for the presidential office in Germany: Hindenburg, Duesterberg, Hitler, and Thaelmann. Hindenburg being in power was the only candidate permitted to use the German radio. Bruening was presented to the German listeners supporting the candidacy of Hindenburg. All other candidates and their supporters were denied time on the air. Hitler protested to the German broadcasting authorities, pointing out that, according to the public charter under which they operated, "political impartiality" was enjoined. This protest was referred to the minister of the Department of Interior who responded that for the remainder of the campaign all politics would be excluded from the German air. However, on the Saturday evening before the election Bruening gave a radio address in support of Hindenburg. This address was designated as "governmental" by the authorities and branded "political" by the Hitlerites.

Under Hitler strict and one-sided government control of the air was established. In July, 1932, von Papen set up regulations aiming at public ownership of all radio stations under strong centralized control. Herr Giesecke was sent to a concentration camp. The administration of German broadcasting was placed completely in the hands of the government, the Reich buying all securities privately held.

Nazi directors were put in charge of the various stations and

Dr. Goebbels was placed in absolute control of the system with power to appoint and dismiss all station directors. Though these directors were made responsible for all nonpolitical programs on their individual stations, political material was controlled directly by Dr. Goebbels from Berlin.

A Chamber of Broadcasters was created uniting broadcasters, the wireless industry, wireless trade in receiving sets, and the wireless press under strict government supervision.

Listeners were carefully and effectively organized. Each of the thirty-nine party regions was assigned a district radio office. Under these, in each of the one thousand districts, were established Kerisfunkwarte, and in each locality was set up a Funkwarte. Every German home was required to have a receiving set and all public places were equipped with loud-speakers. Community reception was decreed whenever an important political broadcast was to take place. Radio lieutenants were instructed to see that every factory, public square, and school was fitted with a receiver. Today, when such broadcasts are on, work almost stops in Germany and the people listen.

Every receiving set owner in Germany must pay a license fee of twenty-four marks (about ten dollars) annually, the highest tax fee in all Europe.

After the purge of June 30, 1934, Herr Wormys, manager of the Great Western broadcasting station at Mühlacker, was put in a concentration camp because of his anti-Nazi activities. He escaped and fled to Czechoslovakia. In Prague he began to organize anti-Nazi groups. He joined with Otto Strasser, head of the Black Front, an anti-Nazi organization, and went to a lonely inn near Bribram where he set up a broadcasting station and began sending propaganda via air into Germany. His purpose was to discredit and eventually overthrow the Hitler government. After some time he was discovered through German spies and murdered.

German listeners are prohibited, under penalty of arrest and severe punishment, from tuning in certain stations in France, Russia, Czechoslovakia, and Austria from which anti-Nazi propaganda is broadcast for German ears.

A MORE DEMOCRATIC BROADCAST STRUCTURE

Thus broadcasting in Germany, according to Dr. Goebbels, is "a sharp and reliable weapon of the Government . . . the chief instrument of political propaganda. . . . It is to create so broad a basis for National Socialism among the people that one day the entire nation will be drenched through and through with our philosophy."⁴⁶

In an address opening the radio exhibition in Berlin, August 28, 1936, Dr. Goebbels stated the German attitude toward broadcasting as follows:

It is not true that the prodigious dynamic forces of this century are mankind's enemies. They are man's friends and servants when submitted to a wise and superior political regime that controls them, leads them, and uses them according to plan.

A new form of politics and economics is demanded. The Socialist racial state with a national character is the result of this political revolution.

Under the altogether new fashion of leading humanity, such as has been introduced for the first time by the Nazi, the radio is one of the most modern and most important instruments for educational control and cultural disciplining of the people. Therefore the radio is not controlled in Germany as in other lands by a technical Ministry but by a political Ministry—the Propaganda Ministry.⁴⁷

Under this system education is stressed to the exclusion of lighter and more popular features. Lectures of high quality by men of exceptional scholarship are numerous. Broadcasting to schools has developed to a high degree of efficiency with more than twenty thousand schools listening. Classical music is almost an hourly feature. However, for the German mind education means "the attempted pouring of a nation's mentality into moulds admired and desired by its rulers."⁴⁸

Broadcasting in Germany is a powerful means for mental and emotional regimentation. As employed by the Propaganda Ministry, it produces a national solidarity the core of which is a particular nationalistic and racial philosophy. The people are permitted to hear only what those in control wish them to hear. Further, broadcasting is employed in spreading this nationalistic philosophy to other, and to the Germans, "backward,"

⁴⁶ As quoted by Ernest Barker in an address delivered December, 1933, at Bonar Law College and reported in the *Listener*, January 3, 1934.

⁴⁷ As reported in the *New York Times*, August 29, 1936. ⁴⁸ Hard, *op. cit.*, p. 6.

peoples. While any broadcasting which challenges this philosophy is prohibited, and the German people are denied access to broadcasts from outside the nation that question the philosophy, the German authorities are constantly seeking ways and means for crying through the air the virtues of national socialism in the hope that other nations will hear and become "converted."

A dual system of ownership and control of broadcasting stations exists in France. The government operates a group of stations while private enterprise has developed another.

However, the Department of Posts and Telegraphs and Telephones controls political broadcasts from all French stations, both public and private, and has authority to admit or ban such programs as it sees fit from the air.

In the election of 1932 M. Tardieu, then president of the Council of Ministers, announced that he would *permit* his political rival, M. Herriot, to broadcast. This was a "personal individual favor" and in no wise a legal right belonging to M. Herriot. The radio campaign consisted of an address by M. Tardieu, one by M. Herriot, a reply by M. Tardieu and similar replies by five or six of M. Tardieu's fellow-ministers in the cabinet, and a reply by M. Herriot. All addresses by noncabinet and nonministerial speakers were prohibited. On the basis of this the French people voted.

The government owns the most important stations which it leases to private operators who must be at all times subject to government control. The privately owned stations experience great difficulty in maintaining themselves, even though they broadcast considerable commercial advertising, and, with few exceptions, seem to be "on the way out."⁴⁹ Many authorities believe that they will soon be taken over by the government.

The French listener pays a license fee of fifty francs yearly for a home receiver and more for those located in cafés and public places. The *Poste Parisienne* is the most popular commercial station in Paris and the most progressive work is the Radio-

⁴⁹ United States Department of Commerce, *Broadcast Advertising in Europe*, p. 6.

Cité syndicate with a key station in Paris and outlets in Normandie, Midi, Nîmes, Algiers, and Maroc. Radio Luxembourg is a 200,000-watt commercial station owned and operated by the Compagnie Luxembourgeoise de Radio Diffusion and located in the city of Luxembourg, grand duchy of Luxembourg.

Though many worth-while programs are presented by these stations, all controversial and political material is closely supervised and censored by the government and nothing that would embarrass the ministry in power is permitted on the air. In France "the governmental air is the private kennel of the political top-dog."⁵⁰

The Canadian system of radio control, regulation, and operation is an attempted compromise between that practiced in the United States and that of most European countries.

Early radio in Canada was under private control. However, program service was poor, stations were for the most part located in urban areas, leaving the rural sections with little or no service, advertising was profuse, and there was considerable duplication of service. Consequently, in 1928, a Royal Commission, under the chairmanship of John Aird, was appointed to make an extensive study of Canadian radio and "to make recommendations to the Government as to the future administration, management, control and financing thereof."⁵¹

The report of this body, completed in 1929, emphasized the desire on the part of many for more typically Canadian programs. It pointed out: "We have heard the present radio situation discussed from many angles with considerable diversity of opinion. There has, however, been unanimity on one fundamental question—Canadian radio listeners want Canadian broadcasting."⁵² Private enterprises had not been able to satisfy this desire. Owing to the poor quality of broadcasts from Canadian commercial stations,

the majority of programs heard are from sources outside of Canada. It has been emphasized to us that the continued reception of these has a tendency

⁵⁰ Hard, *op. cit.*, p. 7.

⁵¹ *Rapport de la Commission Royale de la Radiodiffusion, 1929*, p. 1. ⁵² *Ibid.*, p. 6.

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to mould the minds of the young people in the home to ideals and opinions that are not Canadian. In a country of the vast geographical dimensions of Canada, broadcasting will undoubtedly become a great force in fostering a national spirit and interpreting national citizenship.⁵³

Further, American advertisers were selling via radio American products to Canadian listeners at a time when Canada was interested in developing home markets. Thus a system of radio control and regulation was proposed "in the interest of Canadian listeners and in the national interest of Canada."⁵⁴

Further, the Commission recommended that freedom of speech be severely restricted, suggesting: "While we are of the opinion that broadcasting of political matters should not be altogether banned, nevertheless, we consider that it should be very carefully restricted under arrangements mutually agreed upon by all political parties concerned."⁵⁵

Early in 1932 the Canadian Royal Commission on Radio Broadcasting was appointed to study this report and make recommendations to Parliament. It was unanimous in proposing its adoption. Consequently it was made the basis for the Canadian Radio Broadcasting Act of 1932 passed by Parliament. This Act became a law on May 26, 1932.⁵⁶

As provided by this Act, the Canadian Radio Corporation, consisting of three members, was set up with authority to build and operate seven 50,000-watt stations blanketing most of Canada and a number of supplementary low-powered stations, to supervise all programs broadcast in the Dominion, and to acquire any and all existing privately owned stations, making them, wherever advisable, units of the national system.

The Corporation was permitted to sell time on its stations for "indirect advertising" and receive revenue for the same. Further financing of the system was provided for by a license fee of two dollars per year to be collected from all owners of receiving sets and a direct subsidy from the government of approximately one million dollars a year.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*, p. 12.

⁵⁶ *Statutes of Canada, 1932*, chap. 51.

The Aird Commission had estimated that installation of the national system would cost in the neighborhood of \$3,225,000, while the yearly operation would cost approximately \$2,500,000.

The Act made no provision for financing the setup other than that suggested above. This proved wholly inadequate to meet the situation. Stations were purchased in Quebec City, Montreal, Ottawa, Toronto, and Vancouver. The Commission leased one station and bought time on many private stations to furnish program outlets in the principal cities of the Dominion. All stations acquired by the government were of comparatively low power, only one or two having 10,000 watts or more. Broadcasting was confined to four and one-half hours in the evening, save when events of special interest were to be broadcast. Thus the national system of broadcasting envisaged by the Aird Commission and by the framers of the Act of 1932 was more or less impossible because of the lack of finances.

In accord with provisions of the Act the Commission established a strict censorship of all programs broadcast in Canada. It ruled: "The Commission reserves the right to prohibit the broadcasting of any matter until the continuity or record or transcription or both have been submitted to the Commission for examination and have been approved by them."⁵⁷

The work of the Commission was not satisfactory to many Canadian listeners. The following is typical of some of the criticisms voiced:

Nothing has happened to weaken any of the arguments used by the defenders of private ownership. Except in the matter of coverage, government control has accomplished nothing that could not have been better and more quickly done under the stimulus of competitive private ownership. Neither has the quality or quantity of programs been improved, nor have any of the objectionable features of private ownership, outside of advertising, been modified. It has not been proven that an efficient, comprehensive broadcasting service can be supported by the revenues obtained through the levy of a modest license fee. From the point of view of the majority of listeners, uninterested in patriotic or nationalistic considerations and concerned only with the entertainment value of programs, the efforts of the Commission

⁵⁷ *Rules and Regulations, Canadian Radio Broadcasting Commission, April 1, 1933, Part V, rule 91.*

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remain a disappointment, and an essential anticlimax to the fireworks which preceded the creation of the Commission.⁵⁸

This growing dissatisfaction with radio in Canada and with the work of the Radio Commission, hampered as it was by lack of finances, resulted, soon after the coming into power of the Liberal party, in appointment of a special committee, under the chairmanship of Arthur Beaubien, with authority from Parliament "to enquire into the administration of the Radio Broadcasting Act of 1932 and amendments," and make such recommendations to Parliament as seemed necessary. This committee began, March, 31, 1936, an extensive investigation into Canadian broadcasting, the results of which were incorporated in the following recommendations to Parliament:

1. Abolition of the Canadian Radio Commission and repeal of the Canadian Radio Broadcasting Act of 1932
2. Return of all technical control of radio to the Radio-Telegraph branch of the Department of Marines
3. Organization of the Canadian Broadcasting Corporation, with nine honorary governors and a General Manager, with powers similar to those of the British Broadcasting Corporation
4. Give the corporation exclusive control over the character of all programs, political and otherwise, broadcast by private stations, and the advertising content thereof
5. Give the corporation complete freedom internally, with power to employ or discharge anyone connected with the system
6. Leave the corporation free to regulate, produce, and broadcast programs
7. Authorize the corporation to make plans for an extension of the national system to all private stations, absorbing them into the system, the aim being complete nationalization of radio
8. Give the corporation complete control of all political broadcasts, assigning time on an equitable basis among candidates for office⁵⁹

On the basis of these recommendations the Canadian Radio Broadcasting Act of 1936 was written and passed by Parliament, becoming effective November 2, 1936. As provided by

⁵⁸ Merrill Denison, *Radio in Canada* ("Annals of the American Academy of Political and Social Science" [January, 1935]), p. 53. (Mr. Denison is a Canadian writer who has been closely identified with the broadcast structure of that nation as a writer of broadcast programs. He has also contributed numerous articles to journals dealing with broadcasting.)

⁵⁹ See *World Radio*, June 12, 1936, p. 4.

this Act, the Canadian Broadcasting Corporation, consisting of nine honorary governors and a general manager, was appointed. Mr. Gladstone Murray, formerly of the British Broadcasting Corporation, was made general manager with authority to guide the destinies of radio in the Dominion.

This new legislation authorized the Corporation to carry on national broadcasting in Canada and to establish, maintain, and operate stations, to acquire or make operating agreements with privately owned stations, to produce programs, and otherwise to function as a government radio agency. Gradually public ownership of radio in Canada is to be extended to include all stations in the Dominion. Coverage is to be enlarged as federal finances permit.

The Corporation reports to Parliament through the minister of transport. Operations are financed through a license fee payable by all owners of receiving sets and by a Parliamentary appropriation. Further, the Act provides that up to \$500,000 may be borrowed from the government for extension and improvement of broadcasting facilities.

Radio in Canada is a public utility and all broadcasting licenses are issued with the understanding that the state may take over the facilities of any and all stations and that no value attaches for good-will.

All technical matters connected with broadcasting are in the hands of the Department of Transport.

Since policies dealing with advertising, censorship, supervision of programs and program material, etc., have not been as yet fully determined by the new Corporation, any evaluation of Canadian radio at the present moment is impossible. How the Corporation will deal with these most important issues is history yet to be made.

This review of broadcasting abroad reveals that throughout Europe and in Canada radio is an arm of the government employed in the interest of national ideals and objectives. It is shot through and through with the nationalistic philosophy which has been growing in popularity at least since the French

Revolution. Consequently it is either completely or in part government owned and operated. In France and Canada, where privately owned broadcast stations are permitted, more or less strict supervision is exercised by the government over their program material. Further, government censorship is accepted without exception, especially in matters of national policies, politics, and other controversial subjects. Thus foreign radio is designed to serve nationalistic ideals and listeners are protected by their governments from hearing anything that will effectively challenge these ideals.

Consequently the contacts which listeners are enabled to experience via radio are limited by each particular government in the interest of national ideals. They may listen to whatever squares with national objectives and they may not listen to that which does not so square. As a result they are denied access to material necessary for critical evaluation of policies and ways of action. They must act often without the contacts necessary for complete consideration of consequences. So limited, they often become narrow. Their minds are closed to the consideration of other points of view. However anxious one is to maintain an open mind, when he is constantly fed material of one hue he will almost inevitably find himself becoming antagonistic to other and contradictory points of view. Thus he becomes dogmatic and unresponsive to that which would call into question his established outlook. Consequently he becomes inflexible in thought and action to the extent that a changing environment finds him unable to adjust intelligently to new conditions and new points of view.

Foreign broadcasting evidences various degrees of control in the interest of national ideals and objectives and consequent censorship; however, radio in every European country is founded upon a policy that points in the direction of undemocratic procedure, a policy of more or less absolute nationalistic dictatorship. In the degree that this is so, broadcasting abroad does not serve the democratic way of life.

A MORE DEMOCRATIC BROADCAST STRUCTURE

THE TREND OF AMERICAN RADIO

It has been pointed out that, whereas foreign nations have frankly recognized the right of the government to exert more or less absolute control over and censorship of communications, the United States has held to the theory that private enterprise be permitted to operate her communications freed from government interference and censorship save where such is deemed necessary to "protect public welfare," prevent "unfair" competition, and give a minimum of protection abroad.

However, there are developments in the United States and conditions abroad which seem to indicate that even this country is being forced to move slowly and surely away from this position and may come eventually to abandon it entirely.

The formation of Cables and Wireless, Limited, in 1927-28, produced a powerful communications structure in Great Britain which the United States was unable at the time to match. The rivalries of private companies in this country made impossible a completely united front against foreign competitors and thus enabled these to gain many strategic advantages. To meet this situation, as early as 1928 agitation was begun for a similar merger of all the country's communication facilities under control of the government. Those favoring the plan held that it would prevent cutting into the revenue of cable companies by cheaper radio service, wasteful duplication of service, and excessive overhead and accounting costs, and would enable the United States to present a united front to protect American national interests in international communications. It was pointed out that various American companies, competing with one another and with foreign monopolies, were being played off one against the other by these monopolies so that they were constantly forced into positions which made it necessary for them to make contracts with foreign governments detrimental to American interests. It was also shown that, because of the varied interests of private commercial interests, America was at a disadvantage when bargaining at international communications conferences where other nations could speak with the united authority of their governments.

Considerable opposition to this proposal was developed at the time on the part of various American political and business groups. They charged that the plan was dangerously monopolistic and would make possible too great an encroachment of federal authority into business affairs. The American Chamber of Commerce and other organizations invoked the White Act and the Sherman Anti-trust Law against the plan.⁶⁰

Despite this opposition President Herbert Hoover proposed to Congress that a study be made of such a unification plan. As a result the Seventy-first Congress conducted hearings on the matter.

With the election of President Roosevelt and the committing of the country more or less to economic nationalism and planning, the idea of a communications merger grew in popularity with the result that Daniel C. Roper, secretary of commerce, was instructed to make a study of American communications such as would serve as a basis of legislation looking to amalgamation and regulation of all forms of electrical communications.

The report of Secretary Roper's committee⁶¹ is most instructive as indicating the very definite trend that American communications is taking. This report recommended the establishment of a central governmental agency to regulate the nation's entire communications system, this agency to be either a quasi-judicial body or a commission directly under control of a Cabinet officer. It further recommended that operation of all communications facilities remain in private hands *for the time being*. It proposed that laws be passed making all American communication facilities nationalistic to the degree that all stockholders, directors, officials, and personnel of operating companies be American. Though it urged encouragement of American-owned communication enterprises in other countries, it recommended that any merger of foreign-controlled communication services with those of American companies be strict-

⁶⁰ Sidney Brooks, *American Communications* (mimeographed copy, privately circulated [Washington, 1934]).

⁶¹ *Study of Communications by an Interdepartmental Committee* (73d Cong. 2d sess.; Senate Committee print). Washington, D.C.: Government Printing Office, 1934.

ly prohibited. It further urged the organization of all communication facilities under government supervision so as to meet "the requirements of national defense."

This report, with a few changes, was incorporated into a bill presented to Congress by Senator Dill and Representative Rayburn and passed by both houses despite stiff opposition by the American Chamber of Commerce and other business interests. Thus the Federal Communications Commission was established with regulatory control over radio, telegraph, and telephone.

The history of radio in the United States is comparable to that in foreign countries in that it is characterized by a steady movement toward government control and regulation for the protection of national interests at home and abroad and for the preservation of national ideals and objectives. From the days of the Wireless Ship Act of 1910 and the Radio Act of 1912, from the Hoover principle of noninterference with program material, through the Federal Radio Act of 1927 and the practice of the Federal Radio Commission of examining program content as a means of determining the public service of a broadcast station, to the Federal Communications Act of 1934 and various restrictive orders of the Federal Communications Commission, the federal government has been slowly but surely moving in upon privately owned radio in "public interest, convenience, or necessity."

So far the United States has refused to take the step next in line—federal ownership of transmitters and avowed government censorship of all program material. This is due, in a large measure to the stubborn and effective fight against such a move staged by various business interests of this country and to the hitherto dominant American philosophy of "rugged individualism" with its belief in private initiative. To date there has been a number of powerful groups opposed to any such move as dangerous encroachment of the government upon American democracy.

However, there are indications that such opposition is being effectively challenged by stronger groups insistent that the government take the next step and assume operative control of

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all radio. The political atmosphere is more favorable than ever before to national planning. Further, a great many, recognizing the dangers to the democratic way of life of a radio system dominated by the profit motive and more or less disgusted with modern advertising via radio, are urging as a solution of these problems that the federal government take over all radio and eliminate once and for all the commercial station owner and the advertiser.

Such a move would undoubtedly eliminate certain defects of the present American system of radio. It would remove advertising from the air. The obviously exaggerated and tricky claims of advertisers dinned into the ears of radio listeners would be made impossible. The fundamental motivation of American radio, at least from the point of view of commercial interests, that of private profit, would be removed. With this would go the censorship of radio imposed by station owners and advertisers and the attempt on the part of both to mold the public mind in their interests. The profit motive of American radio, with all its attendant dangers to the democratic way of life, would be eliminated. Thus one of the major problems of present-day American radio, that of private profit versus public welfare, would be solved. All this would be to the good as far as the democratic way of life is concerned.

However, the second major problem, protection versus public welfare, would be made more difficult of solution. Such a move would be one more step in the direction of policies and practices of foreign countries and at the root of their problems.

It is not meant to argue that the defects noticed in foreign broadcasting would inevitably follow government ownership of radio in this country. Indeed, it might be possible for American radio to be government owned and at the same time escape these dangers. Nevertheless, the fact remains that government ownership abroad has resulted in government censorship in the interest of national ideals and objectives. If anything is to be learned from our neighbors, this fact must be considered carefully before the United States makes a similar move.

Riegel is among those who believe: "Greater government

participation, with a franker mobilization of communication resources for nationalistic purposes, is within sight.”⁶² Should this become a fact, and should the federal government, because of conditions abroad and within the country, eventually assume complete ownership and control of radio, there are indications that the body set up to operate the system would be subject to powerful pressure by nationalistic groups such as to make uncertain the future of a democratic radio in this country.

The existence of such pressure groups was evident when, on March 5, 1936, the Columbia Broadcasting System permitted Mr. Earl Browder, secretary of the Communist party of the United States, to speak over its facilities. Following the address, which members of the National Americanization League and other similar groups attempted to stop, violent protests were voiced throughout the nation. Grosvenor Dawe, director of the Plain Talk Institute, issued an immediate appeal to all advertisers to boycott the Columbia Broadcasting System since it had permitted the use of its facilities for the infiltration of “vile doctrines of Communism which are destructive of Christianity, liberty, and the home.” At least nine stations on the Columbia chain refused to take the program. No station on the Pacific coast used the broadcast. In the House of Representatives, Representative Hamilton Fish delivered an address urging that the Communist party be abolished and flaying the broadcasting system for permitting him to use its microphone.

A government-owned radio would be subject to such pressure groups and their vote-getting powers would, most naturally, be considered in any policy of radio operation. Thus it is a question as to what extent the government would be forced to go in censoring radio programs if it owned all stations. That it would be uninfluenced by such groups as the American Legion, the Daughters of the American Revolution, and other nationalistic organizations is hardly to be expected. It seems inevitable that, if the federal government took the step of assuming ownership of all radio stations, strong pressure would be brought to force the government to take the additional step of establishing a

⁶² Riegel, *op. cit.*, p. 56.

ensorship of material broadcast. That politicians interested in votes would refuse to heed pressure groups demanding such censorship in the interest of nationalistic ideals and objectives is, in the light of bonus bills, hard to believe.

The present system is subject to the pressure of groups interested in economic advantage. Its censorship is in this direction and for this end. A government-owned system would be subject to pressure from groups interested in nationalistic ideals and the censorship that would follow would be justified on the grounds that it sought to protect "the home, liberty, Christianity," or some other national shibboleth.

These facts pose several questions: Which is most dangerous to the democratic way of life? Are the evils of a private-profit radio greater than those of a nationalistic radio? Would it be possible for the United States to establish a government ownership of radio such as to escape the dangers of nationalism and official censorship in the interest of national ideals and objectives?

However such questions may be answered, the fact remains that the United States is at present moving steadily toward more rigid government control of the radio and that government ownership is not impossible. Further, there are powerful interests battling against such a move and other powerful interests urging it upon the nation. In the face of this situation, it is well to consider "America's Way Out."

AMERICA'S WAY OUT

A radio which serves democracy must be such as to make possible for everyone broad, wide, varied, and rich shared contacts, which strives to produce open-mindedness, and functions toward the creation of individuals who are flexible in thought and action.

That such a radio does not exist satisfactorily today has been shown by the preceding discussion. Where the dominant motive is, as in the United States, private profit, the radio is employed, despite its many services in "public interest, convenience, or necessity," to create individuals such as will serve

the interests of those seeking such profit. Where nationalistic ideals and objectives are fundamental, as in foreign countries, the radio is an instrument of the state, molding individuals to the cast of the dominant social and political philosophy. In either case democracy is an alien.

Nevertheless, we must believe that there is a democratic way out for America. A suggestion of what this way may be is now sketched.

A democratic radio must make private profit subordinate to the interests and welfare of the public it serves. To effect this, radio must be controlled by the people. This may necessitate the taking over of all radio by the government, in theory the people's agent, and its operation by this agency. However, if this is necessary, it should not be done as an arbitrary or dictatorial move on the part of those in power, but rather as a move democratically determined. It should be an expression of the will of the majority.

Thus steps should be taken to give the people a fair opportunity to consider thoroughly the merits and demerits of the move. Only when they are convinced that its advantages outweigh the disadvantages should the move be made. All avenues for such consideration should be left open and a thorough presentation of all arguments pro and con should be made. In so far as is possible all groups should be heard and their arguments considered.

If and when this move is made democratically, and the government is prepared to assume complete operation of all radio facilities, a law should be written guaranteeing that such operation will be democratic as defined above. This law should provide for a federal commission of unquestioned integrity and expertness to administer the radio, to set and determine policies, and to decide upon a method for financing the nation's broadcast structure.

To be reasonably freed from pressure by interested groups, this commission should be manned by individuals whose tenure in office is not dependent upon changes of political atmosphere and whose compensation is such as to free them from financial

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pressure. However, members of this commission should be, at the same time, sensitive to the interests and the will of the people. Its decisions should never be arbitrary or dictatorial, but democratically directed in the best interest of the people as that can be determined and interpreted in the light of all pertinent factors.

On this commission should sit at least one member expertly versed in the techniques and methods of education. His function should be that of an educational guide assisting his colleagues in making the radio truly educative. He should be a leader but not a dictator. He should be sensitive to the will of the people but should lead the people to will better.

Into the hands of this commission should be put the supervision and control of all programs broadcast. It should select and appoint station managers who are accountable to its members and should advise them regarding station policies and procedures. The relationship between station managers and the commission should be one of mutual exchange, it being recognized at all times that the local station manager is in contact with actual conditions in his service area and knows the desires and the will of the people. His advice should be considered invaluable to the commission.

Further, free intercourse back and forth between station managers and the commission will serve to keep the system democratic. The commission will see radio from a national and international point of view and can bring to the station manager this wider perspective. On the other hand, the station manager can assist the commission by keeping it in touch with local problems and interests. Together they can weave these two perspectives into a radio structure which will have breadth of view and understanding and at the same time will be sensitive to local conditions and needs. Thus a well-rounded policy of administration can be developed.

Fundamental to the policies established by the commission should be freedom of the air for the discussion of all questions of public interest and concern. [In so far as the limits of radio permit, every individual so desiring should be permitted to

present his point of view uncensored by any authority. Freedom of speech should be basic to the system and nothing should be permitted that would restrict this.

Likewise, the commission, after advising with its station managers and with whatever educational talent is available, should establish an educational policy and procedure designed to serve the nation as a whole and at the same time meet the needs of each particular service area. Constant experimentation and research in this area should be undertaken and the best methods applied at all times. Such a program should be most flexible so as to care for sectional needs and interests while at the same time meeting the broader national needs.

Further, program balance should be determined in the light of the interests and needs of the listeners. This should be the result of thorough and careful studies made by station managers for their particular areas and by the commission for the nation as a whole, and a careful consideration of all pertinent factors. Neither national nor local programs should be allowed to predominate when public interest and need direct otherwise.

The commission, upon advice of technical experts, should see to it that all sections of the country receive equal radio service and an equally varied program structure. However, this structure should be determined by the needs and interests of the particular area considered.

The matter of advertising via radio should likewise be determined democratically, only so much, if any, being permitted as the people want. If it is found to be the will of the majority that all advertising be banned from the air, this should be the commission's policy. However, no dictatorial power should be exerted here, the radio structure being sensitive to the wishes of those served.

Such would be a democratic radio structure. Its fundamental concern would be public welfare democratically determined. The evils of private profit as well as the evils of nationalism and censorship would be eliminated. Within such a system education, as that which makes for more "self-directive intelligence," would be possible. This system would serve all groups and

group interests in so far as this is possible within the technical limits of radio. And the whole structure would be sensitive to the will of the people, making possible at all times effective challenging of its policies and procedures as well as fundamental changes in its structure whenever these are desired by the public.

This is, in outline, the ideal toward which it will be seen American radio must move if it is to become truly and completely democratic—to serve in every way the democratic way of life.

That such an ideal is far away must be evident to one who surveys the present economic and political scene in the United States. Powerful commercial interests hold much of American radio in their grasp and are able to exert a telling pressure upon lawmakers and administrative officers. The philosophy of private enterprise is deep grained into the American mind and those in charge of commercial radio are using every means at their disposal to strengthen this position. The forces that would demand a more democratic radio, though growing in influence, are as yet weak when compared with their antagonists.

However, there are definite advances that can be made in the direction of a more democratic radio, and to these the discussion turns.

IN THE MEANTIME

A limitation at present imposed upon the station owner often makes it impossible, regardless of his wish, for him to operate his equipment in the interest of democracy. This is the law which holds him liable along with a speaker for utterances passing through his microphone. That he is so held makes him overcautious and results in a censorship of speakers which in many instances narrows the range of matters discussed. Further, certain station owners use this law as an excuse to justify an altogether undemocratic censorship of their programs, as a screen behind which to hide their desire to keep listeners from hearing certain things and thereby narrowing their range of contacts.

As a solution of this difficulty Congress should pass such measures as are necessary to free the station owner from such liability at least in all discussions dealing with political, social,

and economic issues. So freed, he can use his microphone as a forum for such discussions without fear or reserve, knowing that the speaker and not he must face responsibility for what is said. There are numerous station owners who honestly desire more freedom for making their facilities of public service, and who would welcome such a measure. Others would find themselves minus the patent excuse to dodge the responsibility of opening time for free discussion.

A further revision of existing radio legislation is necessary if the public is to be protected from the dictatorial power of the station owner. Under the present law the station owner is required, if he permits use of his facilities by a candidate for political office, to grant "equal opportunities" to all other legally qualified candidates for the same office. However, he is not required to open his microphone to any candidates for office. This law should be recast to cover discussion of all political, social, and economic issues. It should require that in case a station owner opens his facilities to a speaker dealing with such issues, he must grant "equal opportunities" to at least one speaker presenting the opposing point of view. Such a measure would make impossible the use of the radio for propagandizing only one side of an issue and the withholding of other pertinent factors necessary if the listener is to have sufficient evidence to make an intelligent decision on the matter under discussion. So to require will tend to make even commercial radio a more adequate forum for the discussion of such issues and thus more an instrument serving democracy.

However, the law should not stop here. To insure that commercial radio be so used, it should be further required that each station, on some equitable basis to be determined by the licensing authority after taking all the pertinent factors into consideration, set aside regular and definite periods at desirable times of the day and night for uncensored discussion of such issues and for educational purposes on a nonprofit basis. Such periods should be protected by laws which shall guarantee to the listener a free and unfettered public forum for the adequate discussion of issues in which he is vitally concerned.

Publicity is a powerful instrument in a democracy. It places in the hands of the people materials necessary for making intelligent decisions. Often, however, these necessary materials are kept from the public. This is particularly true with regard to the operation of radio stations. Often the station owner, possessed of the illusion that his license grants dictatorial privileges, acts as though he has an unquestioned right to determine program time on his station and that his decisions are no business of the public. He opens his microphone to whom he pleases and denies its use to others, and feels no obligation to defend such action before the public. Thus the listener turns the dial of his receiver and either does or does not find the program he desires. In most instances he is never told why. Many station owners feel that the "why" is "none of the public's business."

Such an attitude on the part of the station owner is wholly false to the fundamental principle of radio licensing in the United States. A station license is a public trust, a grant of privilege. Consequently the station owner should be required to report to the public of his stewardship. To insure such accounting each licensee should be required by law to file with the licensing authority and for public scrutiny a periodic statement of all applications made to him for time, of all rejected applications and the reasons for such rejections, of all additions and changes requested in arranged programs on social, political, and economic issues and on educational subjects, and of all interference with and substitution of such programs.

This report should be given wide publicity within the service area of the station so that listeners may know how this valuable public franchise is being handled and to what extent this handling is in their interest. With this material available the public will be in a position to judge intelligently the fitness of a licensee to continue in his privileged position.

The station owner is a trustee of the public, and he should be required to give account of his trusteeship in a manner that will enable those for whom he is a trustee to judge his merits and demerits. Out of such publicity will, without doubt, come many needed reforms in the present commercial system of radio in the

United States, and they will come through democratic means, through the intelligent demands of the people.

Further, intelligent administration of the radio in a democratic society necessitates a clear and comprehensive understanding of wireless transmission and its possible social functions. This is no small task, but one requiring extensive study on an international scale. Consequently Congress should encourage the formation of adequate fact-finding bodies charged with the responsibility of studying radio in all its ramifications, weighing its uses, and serving as an advisory arm of the President of the United States and Congress as regards necessary legislation.

Among other things, the problem of program domination by the large broadcasting chains should be studied in an effort to discover means for preserving the values of such organizations while at the same time eliminating the threat which they offer to democracy. That they do offer a real service in bringing to wide areas programs of meritorious quality which would otherwise be confined to sections of the country within the service area of the large stations is obvious. On the other hand, their power of censorship, their contract agreements with member stations, and their present practice of releasing programs from more than one station heard in a community, are evils to be eliminated if possible. Careful study of this problem is most important for the future of radio in this country.

Already the Federal Radio Education Committee has been organized as such a body for the purpose of studying educational problems. Working under the co-operative leadership of the Federal Communications Commission and the United States Office of Education, this committee has determined upon a series of studies designed to gather extensive factual material to be used as a basis for federal legislation in the interest of education via radio. This committee might well serve as a model for other such bodies dealing with technical matters, entertainment, advertising, social and economic issues, and all other phases of radio.

CONCLUSIONS

Three criteria of all democratic institutions have been sketched: that they function so as to enable every individual to experience broad, wide, varied, and rich shared contacts with his environment for the purpose of understanding and appreciating possible consequences of proposed lines of activity; that they serve to create an attitude of open-mindedness or willingness to consider such consequences; and that they serve to make individuals flexible in thought and action for constructive living in a changing environment. Existing systems of radio, both in the United States and abroad, have been evaluated in terms of these criteria with the result that all of them are found to attain these objectives to a degree, some more than others, but none of them completely.

The present American system makes possible much that, in the light of these criteria, can be judged democratic. However, its commercial foundation makes impossible a fairly reasonable advance in this direction. Private profit, censorship for commercial ends, a dictatorial selection of program material, among other things, make inevitable the subordination of public welfare to private or corporate gain and a resultant warping of the individual both in thinking and in action.

Foreign systems avoid this commercial pitfall only to fall a prey to nationalistic-religious ends, of varied intensity in different countries, which are equally dangerous to democracy. The state and its welfare become the supreme end. Though this end is identified with the best interest of the public by those in authority and by many nationals, it is not an end judged "good" by an intelligently formed public opinion.

A possible escape from both undemocratic pitfalls has been suggested. This consists of the control of radio by a commission freed from the undue pressure of particular interested groups and at the same time sensitive to the public will democratically expressed. The outline of this system has been sketched briefly.

Such an escape, however, seems to this observer a far distant ideal. Meantime advances can and should be made in its direction by further regulating the present commercial system of

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radio so that it will more adequately serve the democratic way of life. Regulatory revisions of the present law and practice have been suggested in outline. Their purpose is to lessen the station owner's power of dictatorial censorship and to open the radio to free and adequate discussion of public issues and to education as broadly conceived. It is recognized that these measures will not completely solve the problems of American radio. However, their enactment is, under present conditions, believed by many to be wholly possible, and they will be a forward step in the direction of a more democratic radio.

CHAPTER VIII

RADIO ON THE CAMPUS

SINCE radio is one phase of the sciences of physics and electricity, it is but natural that professors and students working in these fields should have been among the first to interest themselves seriously in its earliest developments.

However true it is that the majority of important advances in radio have been made, especially in the United States, by individuals connected with commercial and industrial interests, the fact must not be overlooked that contributions of young men playing with this fascinating new "wireless toy" or experimenting in the physics and electrical engineering laboratories of this country and of professors and research workers connected with educational institutions have been of prime importance in the progress of broadcasting. Their efforts have resulted in many discoveries and inventions of unquestioned value.

EXPERIMENTATION

In 1895, after considerable experimentation with Hertzian waves, Guglielmo Marconi constructed a crude induction coil with which he was able to produce signals that could be picked up by a coherer located some twelve or thirteen hundred feet away. The following year he took this device to England and was granted the first British patent covering wireless telegraphy.

At the same time, 1896, Mr. W. M. White, a student working in the laboratories of the Tulane University of Louisiana, successfully repeated Marconi's experiment, transmitting code messages through solid walls of a building to be picked up in another room. During this same year, experimenters at Wittenberg College constructed an oscillator, reflectors, and a loop receiver with micromoter spark gap by means of which signals were transmitted across the laboratory and through solid masonry walls.

In 1897 experimental work with wireless communication was undertaken at the University of Arkansas and at the University of Nebraska. This experimental interest spread rapidly to other campuses so that, soon after the turn of the century, many institutions were engaged in exploring the possibilities of the infant radio. Crude transmitting equipment was being erected and messages of varied content broadcast over ever increasing distances.

In 1906 experiments with radio-telephone were in progress at Cornell University, and a Poulsen arc transmitter was constructed there in 1910. In 1908 experiments in the field were being made at Dartmouth College. A small receiver had been constructed at Loyola University by 1907 and a transmitter was added later. In 1908 the Philadelphia School of Wireless Telegraphy was experimenting with code broadcasts. During the same year experimental work in the field was begun at Villanova College. Ohio State University began experimenting with a wireless receiving unit in 1909 and very soon thereafter added transmitting equipment. A code station was established at Pennsylvania State College in 1909 and immediately instruction in wireless communication was begun. Wireless telegraphy was being explored at the University of Wisconsin by 1909. Purdue University had a receiving and transmitting wireless set in operation as early as 1910. Courses in communication engineering and experimental work in the field were undertaken at Rensselaer Polytechnic Institute in 1910.

Consequently, by the close of the first decade of the present century, more or less regular experimental broadcasts were coming from many laboratories located on college and university campuses to be picked up by wireless enthusiasts within the range of their signals. Reports of these listeners enabled experimenters to test their work and to evaluate new devices for broadcasting.

As the general interest in wireless became more widespread and young men sensed its commercial possibilities, especially in marine work, increasing demands were made upon educational institutions to provide specific training in the field. As a result

sections of courses were devoted to this science and, in a few instances, more or less complete curriculums were offered in the field. Further, laboratory experimentation was stimulated in many educational centers. Wireless communication was fast becoming a subject of study in its own right.

When, in 1912, the federal government took legal cognizance of wireless telegraphy, a great many "hams" or "experimental transmitters" were found to be operating on college and university campuses, usually in connection with physics and electrical engineering departments. Among these institutions were: University of Arkansas, Clark University, Cornell University, Dartmouth College, State University of Iowa, Loyola University, University of Mississippi, University of Nebraska, Ohio State University, Pennsylvania State College, Philadelphia School of Wireless Telegraphy, Purdue University, Rensselaer Polytechnic Institute, St. Joseph's College, St. Louis University, Tulane University of Louisiana, Villanova College, University of Wisconsin, and Wittenberg College. Recognizing the value and importance of this work, the government sought in every way possible to encourage such efforts.

It is significant in this connection that the first experimental license, bearing the serial number "1," issued by the United States Department of Commerce, following passage of the Radio Act of 1912, was that granted to St. Joseph's College, located at Philadelphia, Pennsylvania, authorizing operation of its Station 3XJ. In the next few months numerous other educational institutions were granted experimental licenses permitting continuation of work which was already in progress on their campuses.

On November 4, 1912, the Philadelphia School of Wireless Telegraphy broadcast in code returns of the Wilson-Taft election, giving the first authentic report of Mr. Wilson's victory available in that area.

As use of wireless by the government became more important many young men, trained in the laboratories of educational institutions, were employed in various technical capacities by the federal radio authorities.

BROADCASTING

The coming of aural broadcasting found educational institutions in the forefront. Some of the first "concerts" and "addresses" were broadcast through their laboratory facilities—dim, screeching, and rasping, but a thrill to their patient and enduring listeners.

In 1917 music was successfully broadcast as an experiment from Station 9XM located on the campus of the University of Wisconsin. February, 1919, saw the first clear telephonic broadcast made from this station. By March, 1920, broadcasts were being transmitted regularly from this equipment, though under an experimental license.

On October 27, 1920, Station KDKA, located at Pittsburgh, Pennsylvania, was granted a "commercial" license to operate its code transmitter. However, this license contained a clause authorizing the station to use radio telephone apparatus for a period of one year. Because of this clause this has been considered by broadcasters as the first broadcast license issued by the federal government.

November 2, 1920, is a red-letter day in the history of broadcasting. On that date Station KDKA, under authority of the license previously mentioned, broadcast by radio telephone returns of the Harding-Cox election. The story of this broadcast electrified the nation with the idea of broadcasting and its possibilities. On the same day, however, the Philadelphia School of Wireless Telegraphy broadcast these returns to the Philadelphia area under authority of an experimental license. Though the broadcast of Station KDKA received wide publicity and became a landmark in the history of radio, telephonic broadcasting did not start with this event, but has a history reaching back several years to work done in a large measure by educational institutions and experimenters working in the laboratories of colleges and universities scattered throughout the country.

September 15, 1921, Station WBZ, owned and operated by the Westinghouse Electric and Manufacturing Company at Springfield, Massachusetts, was granted a broadcast license. Since the earlier license issued to Station KDKA was in fact a

“commercial” license carrying with it a clause authorizing use of telephonic apparatus, this was the first actual broadcast license issued by the federal government. However, there has been some dispute as to whether Station KDKA or Station WBZ should be accorded the honor of receiving the first such license. Station KDKA received its first straight broadcast license on November 7, 1921.

Though the exact date has been lost, sufficient evidence is obtainable to prove that sometime during 1921 the Latter Day Saints University was granted a broadcast license with call letters KFOO. This, as far as is known, was the first broadcast license issued to an educational institution and dates from the same year as the first two broadcast licenses issued to commercial interests.

On January 13, 1922, two more broadcast licenses were issued to educational institutions: the University of Wisconsin and the University of Minnesota. Very soon other educational institutions applied for and received similar licenses. In many cases issuing a broadcast license simply indicated that work which had been formerly conducted on an experimental basis was then of such a nature as to make necessary its recognition as broadcasting.

During 1922 seventy-three educational institutions were granted broadcast licenses. In 1923 thirty-nine such licenses were issued and in 1924 the number was thirty-eight. Figure 1 shows the distribution of broadcast licenses issued to educational institutions by years.

A number within these institutions became increasingly interested in the radio as an instrument for education. Several began to vision the microphone as a powerful new arm of the teacher, as a means for extending his influence over wide areas far beyond the classroom and campus. A few professors sought the radio eagerly, bringing their class lectures to the studio to repeat them for the benefit of a “vast” listening audience. During 1925 one hundred and twenty-eight broadcast licenses were held by educational institutions. Figure 2 shows the distribution of licenses held by educational institutions by years.

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In some instances complete courses were offered via radio and at a few institutions college credit was given those who completed such courses. Microphones were installed in classrooms to pick up the lecture in its native habitat and fling it far and wide. Campus bands, orchestras, music students, dramatic

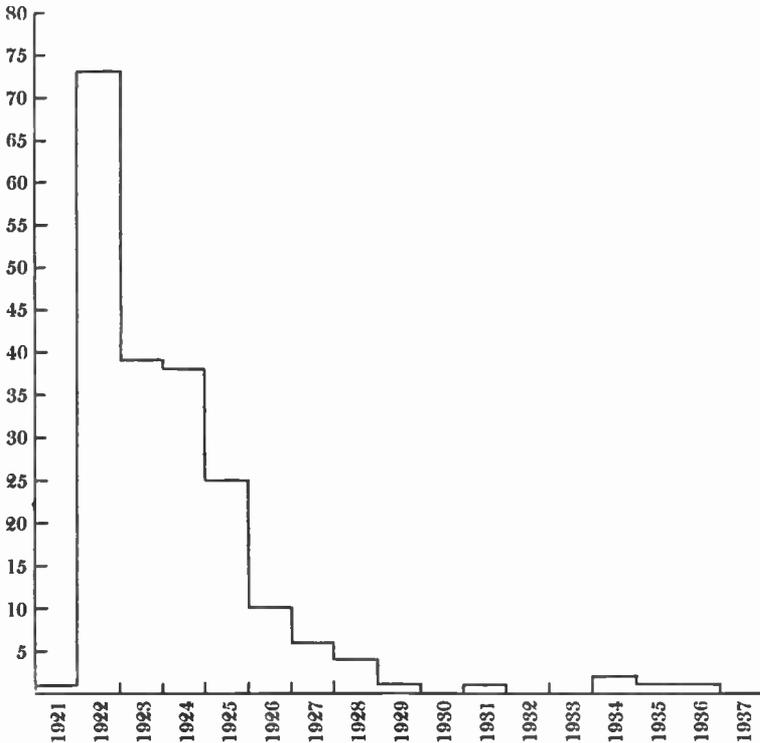


FIG. 1.—Broadcast licenses issued to educational institutions

clubs, all were brought into the studio to present programs. In some institutions extension divisions took hold of the radio with unbounded enthusiasm and faith. Plans were developed and experiments made in conducting extension courses via radio. It was believed by many that education had found a new ally and they were anxious to use it to the limit.

Some administrators, believing that individuals listening to radio programs originating on the college or university campus

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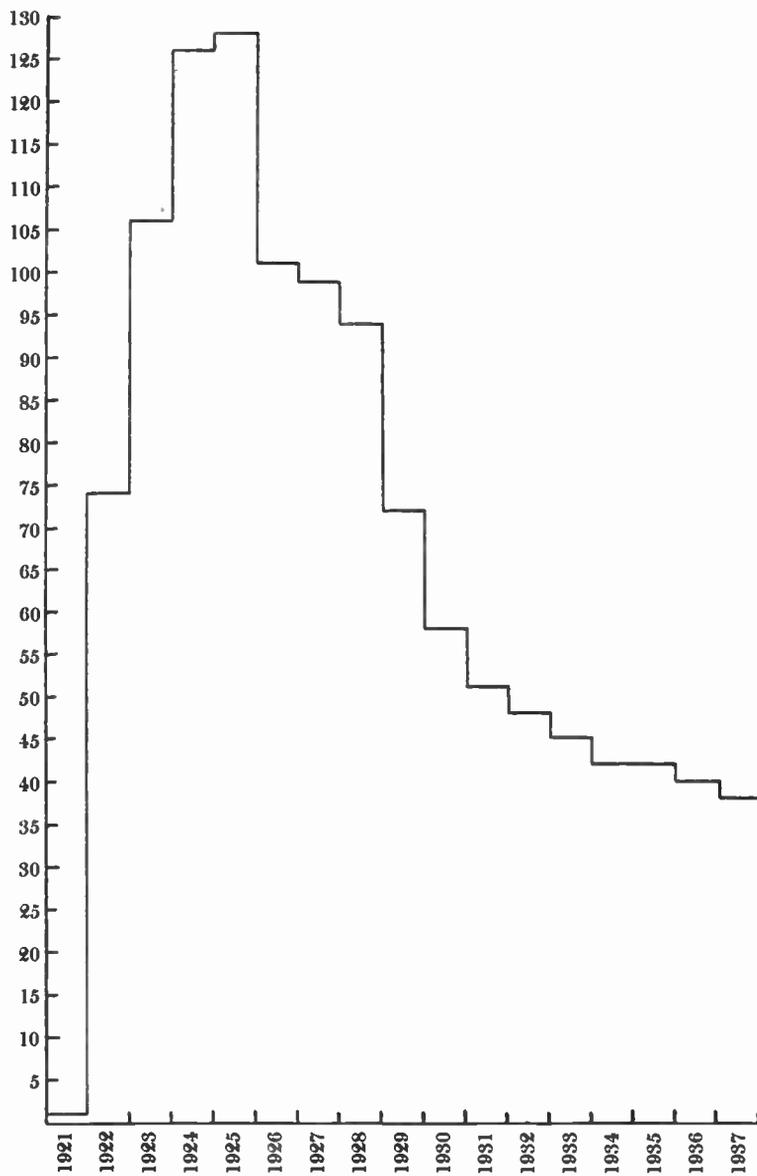


FIG. 2.—Broadcast licenses held by educational institutions

would be attracted to their institutions in great numbers and that enrolment could be expected to increase rapidly, saw the instrument as a means of wide publicity.

Thus, for many in educational institutions, radio became the center of intense interest. The federal government was sympathetic with this concern and sought to grant licenses to educational institutions whenever possible. Conceiving radio as an instrument of "public interest, convenience, or necessity," it felt that such institutions were best fitted to use it toward this end. Consequently education was given first consideration and many privileges.

However, in a great number of institutions only a few sensed the value of radio and were enthusiastic as to its possibilities. In a large measure the great majority of administrative officials and staffs were apathetic or decidedly uninterested. The situation at Columbia University was typical. When in 1920 Station KDKA broadcast returns of the Harding-Cox election. Dr. Levering Tyson was in charge of "extension work" on the campus. When he read, on the morning of November 2, 1920, the account of the broadcast in the *New York Times*, he was electrified with the idea that here was an ideal means for doing the job to which he had been assigned. He tells the story thus:

I did not even finish my bacon and eggs that morning but hurried over to the University. At five minutes after nine I walked into President Butler's anteroom. Of course he was not there, but I waited and at a quarter to eleven he walked in. I told him what I had read, and my enthusiasm had not been dimmed at all by my long wait. In effect he said, "Tyson, don't bother about that. There are gadgets turning up every week in this country, and this won't amount to anything." I argued but did not get to first base, and I finally left his office downcast.¹

Later, when the American Telephone and Telegraph Company was making plans to erect Station WEAJ, which was to be the most powerful station then in existence, Columbia University was approached through Dr. Tyson with an invitation to supply all the educational programs broadcast over these facilities. The proposal fascinated Dr. Tyson and a small few of his

¹ Levering Tyson, "Looking Ahead," in *Education on the Air* (Columbus: Ohio State University, 1936), p. 58.

colleagues. However, "we had a terrible time. We could not interest the faculty of Columbia at all. In my own department I literally had to drag in a few of my staff. I did persuade a few personal friends . . . to help me out."²

This story, in part at least, might be repeated of a number of institutions at which were a few vitally interested in radio and who saw its possibilities, however dimly, while the administration and the vast majority of the faculty thought the whole thing mere foolishness.

However, at a few institutions the enthusiasm for radio was more general and those most interested had the co-operation and encouragement of both administrators and faculty.

Nevertheless, experience with the radio soon brought bitter disillusionment to many.

Institutional enrolment did not increase as had been expected. Individuals listening to programs originating at educational institutions were not attracted to the college or university broadcasting in any great numbers. Of course a few were so attracted, but it was a disappointing few. Money that had been invested in radio stations and charged to publicity did not bring "adequate" returns.

Checks made of listening audiences showed that, in comparison to commercial stations, few were tuning in programs from educational stations. In farm areas it was found that agriculturalists did listen to weather and market reports and informational material dealing with crop care, planting time, spraying, and the like. However, educational broadcasts were found to draw comparatively few interested listeners.

Professors came to realize that classroom lectures were not suited to broadcasting. They saw that success at the microphone required long hours of careful study and manuscript composition. Further, it was discovered that good teachers were not always good broadcasters. A "radio voice" and a "radio personality" were found to be essential to microphone success, and it was soon evident that very few teachers had either. Consequently the task of supplying broadcast lessons

² *Ibid.*, pp. 59-60.

became more and more difficult and in some instances wholly impossible. Teachers who were talented in this way felt that the additional work necessary for broadcasting was too great a tax upon their time and energy, especially since it did not increase their salaries.

Further, new and vastly improved studio and transmitter equipment was coming on the market and the federal licensing authority was demanding, in the interest of purer and more efficient broadcasting, that such be installed by all stations. It was held by the licensing authority that to permit a station to use inferior equipment when much better was available was not in the interest of public service. Commercial stations with large financial resources were complying with these demands readily, thereby offering clearer and more satisfying broadcasts which were drawing away listeners from educational stations and further reducing their already limited audiences. To instal such equipment was expensive and, in a number of cases, educational institutions found that their already overtaxed financial resources did not allow for such expenditure. Though the licensing authority was lenient, often allowing colleges and universities extensions of time in which to comply with the orders, it felt that its duty to the listening public made necessary insistence that such orders be complied with. In some instances, however, educators felt that exceptions should be made for them. This conflict of attitude resulted in some bitter feeling on the part of a few educators toward the licensing authority.

Again, commercial stations with far greater financial resources than educational institutions were able to pay high salaries for talent which, because of its popularity and superiority in terms of listener interest, attracted great numbers away from educational programs. A college band or orchestra could not compete with the highly paid and trained musical organizations from stage and concert hall presented by commercial broadcasters, nor could productions of college dramatic clubs compete with dramas in which appeared well-known artists from the legitimate stage and screen.

As the broadcast spectrum became crowded and licensing a

more difficult task, the federal authorities insisted that all stations use every hour allotted to them for broadcasting. They did not feel justified in permitting valuable air space to lie unused. This meant an increased tax upon those in educational institutions responsible for programs. Material was already hard to secure, and in many cases it was found impossible to increase further program offerings to the amount demanded. When, for one reason or another, an educational institution was unable to use all the time that had been granted to it under its license, the federal authority felt constrained to grant the unused time to other broadcasters, thereby decreasing the institution's licensed time. There were always commercial stations anxious to take this time and in a position to use it in ways judged adequate by the licensing authority. Consequently the licensed time of educational stations was considerably decreased.

In some instances programs offered by educational institutions were recognized both by the licensing authority and the institution as of poor quality when compared with those of commercial stations. Thus it was held that public welfare demanded turning over the time and frequency to other broadcasters who would use them in ways more in line with what was recognized to be "public interest, convenience, or necessity."

As radio developed it began to cost money, time, and experienced effort. Numerous educational institutions discovered that they had little or none of these to expend in this manner. Some felt that their already meager financial resources should be devoted to the more traditional activities of education or to assisting deserving students in continuing their education. Others found that already overworked faculties did not have the time to make radio on the campus a success or to present programs consistent with the educational and cultural standards of the institution. In many instances those individuals available and willing to do radio work had neither the experience nor the talent to make the venture a success. To employ adequately trained and experienced talent was often out of the question.

Careful study of the records available in files of the Federal Communications Commission and at the various educational institutions concerned reveals that the licensing authority, recognizing these difficulties, was, in most instances, patient and lenient with educational stations, often granting extensions of time in which to comply with its orders and regulations. Indeed, whenever requested, the authority has permitted educational stations to close during the summer vacations.

However, many institutions recognized their inability to present programs in accordance with the wholly justifiable demands of the government and consonant with the cultural and educational standards of the institution and withdrew from broadcasting voluntarily. Figure 3 shows the distribution by years of broadcast licenses issued to educational institutions and lost for causes suggested above.

A few institutions, feeling that the requirements of the government were not fair, attempted to continue broadcasting even under the limitations imposed by this authority. However, these eventually surrendered their licenses or sold their stations to commercial interests.

In an attempt to get a picture of this history of broadcast licenses issued to educational institutions, and to discover in the case of each license the reasons for its loss by the institution, a careful search was made of the files of the Federal Communications Commission, in which are to be found all the files regarding radio from the United States Department of Commerce and the old Federal Radio Commission. Further, an attempt was made by correspondence and personal interview to get as much information as possible from institutional files, state government files, and personal memories regarding this history. In each case individuals connected with the institution studied were asked to give the reason or reasons for loss of the broadcast license. These responses were checked against official files in the office of the Federal Communications Commission, against each other, and against additional information secured from a variety of sources.

Of the 176 institutions studied it was found that a total of

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202 broadcast licenses had been issued to them during the period from 1921 to December 31, 1936. Of these 124 expired before December 31, 1936, and 40 were transferred to other interests after sale of transmitting equipment or by voluntary assignment. Thus on December 31, 1936, a total of 164 broad-

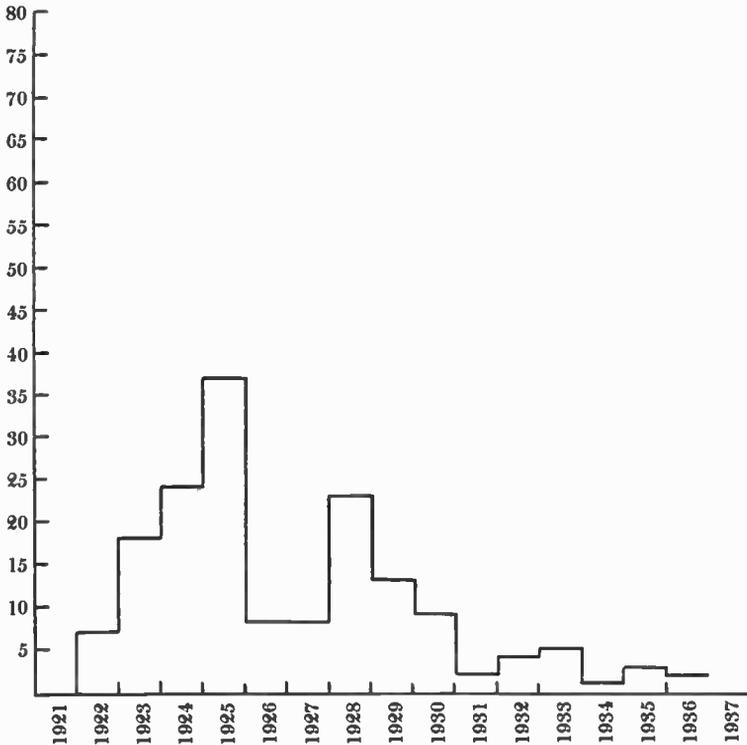


FIG. 3.—Broadcast licenses lost by educational institutions

cast licenses once held by educational institutions had been lost, leaving only 38 then so held.

In most instances several causes contributed to loss of the license. An analysis of these reveals the following:

Institution unable to purchase and instal new and more modern equipment as required by the licensing authority	26
Institution unable to carry the financial load necessary for maintaining an adequate broadcast station	24

Administrative authorities felt that the value to the institution of the station was not commensurate with the expense involved	19
Program talent and program material was too difficult to obtain	17
It was found impossible to obtain adequate financial support for the project	15
The equipment had become obsolete and the institution either could not or did not care to purchase the necessary new equipment	11
The signals of the educational station were interfering with reception of broadcasts from other stations in the service area and causing ill will toward the institution	10
Programs were recognized as inferior	9
The educational station was unable to compete with commercial stations for listeners or to present programs of a quality comparable with those from commercial stations	9
The institution could not afford to build an adequate station . .	8
Hours of broadcasting were so restricted as to make the station of little value to the institution	7
After the individual or individuals interested in the original project left the institution there was no one sufficiently interested or equipped to continue the work	7
Broadcasting was intermittent	7
Station equipment was meager and inferior	7
Administrative authorities felt that available funds should be expended for other and more traditional activities of an educational institution	6
The institution could not afford to meet the demands of the licensing authority as to time on the air	6
Interest in the work waned	5
Coverage of the station was not adequate for the purposes of the institution	5
The institution experienced trouble with the commercial station sharing its frequency	4
The frequency assignment was poor and inadequate for work that the institution wished to undertake	4
Expense of defending the station before the licensing authority was too great to be carried by the institution	4
The institution desired a transmitter for instruction or experimentation only and did not care to do regular broadcasting	4
Administrative authorities felt that operation of a broadcasting station was not part of the function of an educational institution	4

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The listening audience was too small to be worth while.....	3
Reception from the station was poor.....	3
The institution could not afford to employ adequate program talent.....	3
The institution felt that the licensing authority was antagonistic to its efforts.....	3
The institutional station was shifted from point to point on the dial so often as to confuse listeners and reduce the audience..	3
Cost of the project was too great to be considered.....	2
Operation of a radio station did not increase the institution's enrolment to the numbers expected.....	2
Interests better able to use the facilities in public interest wanted them.....	2
The licensing authority was not satisfied that the station was being operated in public interest.....	2
The station operator was unable to obtain a license.....	2
The institution could not afford to pay royalty on program material.....	1
To continue on a quasi-commercial basis would have necessitated changing the institution's charter so as to open the way for taxation of all its property.....	1
The cost of adequate programs was found to be too great.....	1
The institution did not care to finance an adequate station....	1
Other stations interfered with the educational station's broadcasts.....	1
Dispute over ownership.....	1

A study of this material reveals that by far the majority of licenses were lost because of financial considerations and that in only a very small number of instances was it felt by the educators themselves either that the federal licensing authority was antagonistic to their efforts or that commercial interests were seeking by unfair means to crowd them off the air.

One particular procedure of the licensing authority, however, has resulted in some discomfort to educational broadcasters. Because of the crowded condition of the broadcast band a station owner wishing additional time on the air or a change of frequency must so petition the federal licensing authority, designating the facilities of the station using the desired time or occupying the desired frequency and giving evidence to prove that he is better able to use these facilities in "public interest,

convenience, or necessity" than the present occupant. When such a petition is presented a federal examiner is appointed to study the case and report, along with his recommendations, to the licensing authority. In case such recommendations are not satisfactory to either of the parties concerned a hearing may be held before the licensing authority. At this hearing each individual or group involved may be represented by counsel who presents his case and argues accordingly.

In a few instances commercial interests have petitioned for the facilities of educational institutions. Representation at the hearings called to consider such petitions has necessitated the employing of counsel at considerable expense to the institution. In one or two cases repeated experiences of this nature have drained the financial resources of the institution involved to such an extent that eventually it has been forced to sell its station, usually to the commercial interest petitioning for the facilities.

The licensing authority has been cognizant of this difficulty in its procedure and has sought whenever possible, to avoid a hearing on such petitions. Nevertheless, hearings have been necessary at times and their expense has been a severe strain on the resources of the educational institution involved.

Because of these factors and conditions, of the 202 broadcast licenses that have been issued to educational institutions, 164 have been lost. Of this latter number, 49, or 29.8 per cent, were held by the institutions concerned for a period of less than one year; 83, or 50.06 per cent, were so held for less than two years; and 106, or 64.6 per cent were held for less than three years. Figure 4 shows the distribution by years of the life of these licenses.

Though the mortality among educational stations has been high owing to the factors analyzed above, 38 broadcast licenses were held by educational institutions as of December 31, 1936. Of these 19, or 50 per cent, had been so held for a period of between fourteen and fifteen years. Figure 5 shows the length of time these licenses have been "live."

Figure 6 is a complete picture of all broadcast licenses that

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have been issued to educational institutions, showing the length of time these have existed.

The history of educationally owned radio stations reveals many discouraging and many encouraging factors. Foremost

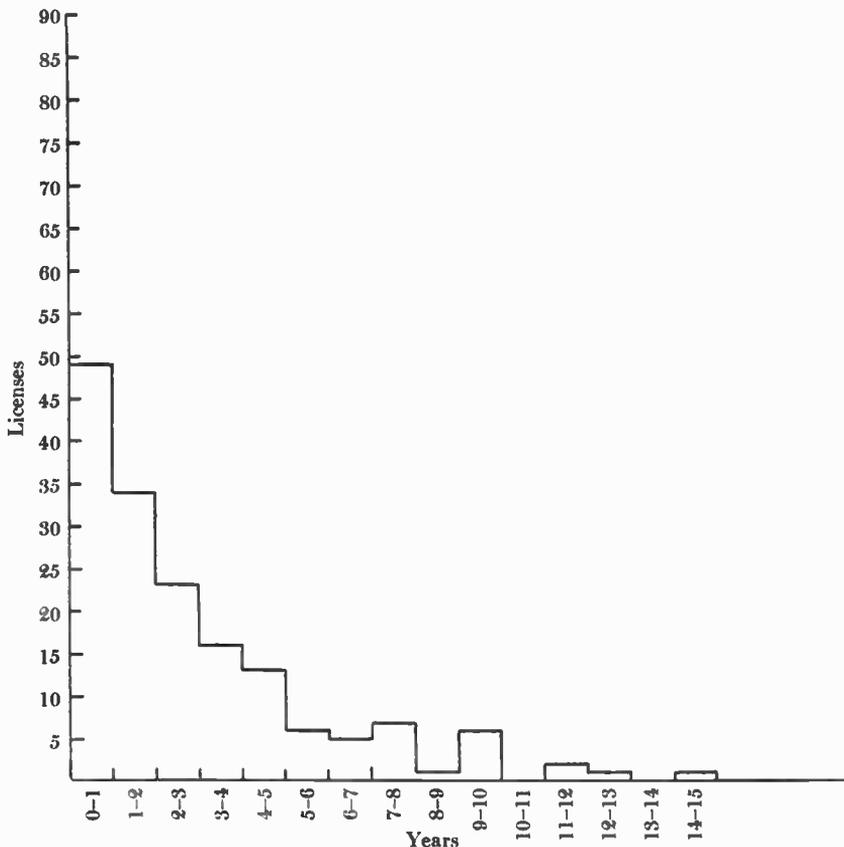


FIG. 4.—Length of time broadcast licenses issued to educational institutions and abandoned by these institutions prior to January 1, 1937, were in effect.

among these is the fact that broadcasting is an activity, success of which demands large financial resources, specialized and highly trained talent, and constant effort and experimentation. The owning of a radio station is not possible for most educational institutions. Their limited budgets do not make it possible for

the necessary expenditures to be made. Further, the great majority of institutions do not have available production and program talent of a quality to make the venture a success.

The nineteen broadcast licenses that have been held by educational institutions over a period in excess of fourteen years are

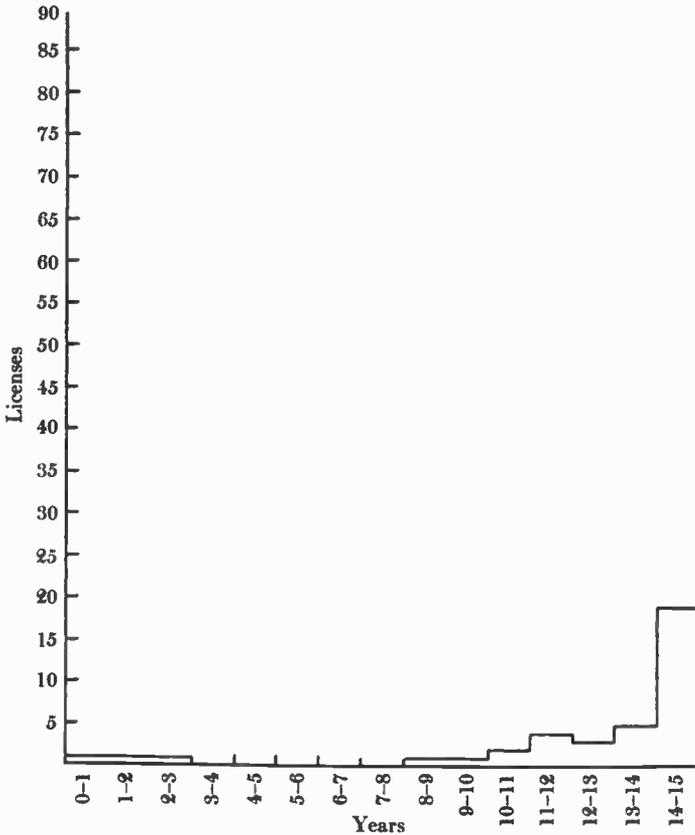


FIG. 5.—Length of time broadcast licenses issued to educational institutions and still in existence on January 1, 1937, have existed.

in the hands of institutions, for the most part, whose financial resources are large or who can look to state legislatures for support.

Further, there has been a gradual but very definite discovery

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of the function of educational radio in the nation's broadcast structure. Educators are coming to realize, largely because of the bitter experiences of the past, that an educational station invites its doom when it seeks to compete with commercial interests. These latter, because of their vast resources, are able to

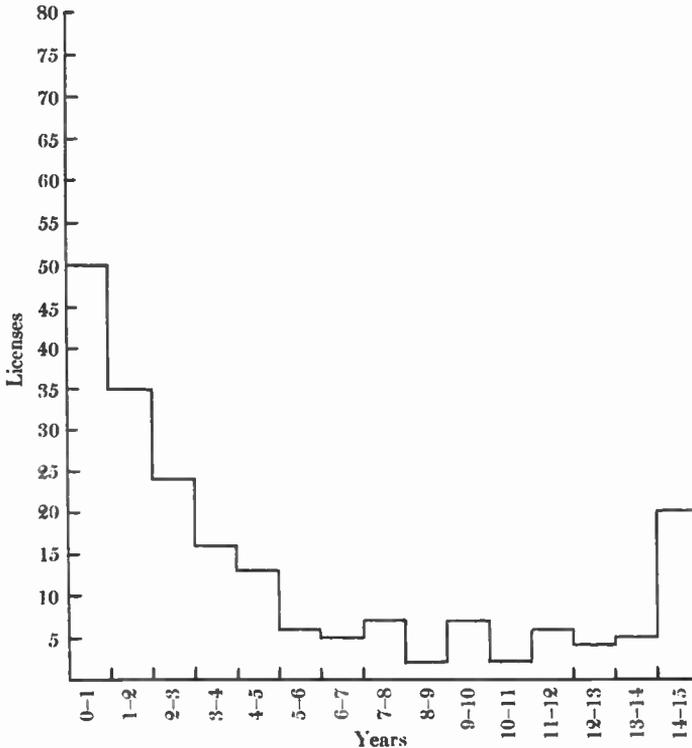


FIG. 6.—Length of time broadcast licenses issued to educational institutions were in effect.

present many types of programs wholly beyond the reach of educational stations. When an educational station seeks to present similar programs it is beaten at the start.

However, it is equally being recognized that because educational stations cannot compete with commercials they are not, therefore, to be eliminated from the broadcast structure. Those educational stations at institutions willing and able to

spend large sums for the most modern transmitting equipment available, for experienced and talented personnel, and for research and experimentation—where there have been individuals willing to devote long hours to careful planning, hard work, and research—have found and explored to some extent a field in which they and they alone can function. Such stations are finding themselves not as competitors of commercial stations, but as a necessary part of the whole broadcast structure doing a work that commercials are unable to do.

Minority groups, often neglected by commercial stations because of their interest in making a mass appeal, can and are being served by educational stations in a most efficient and valuable manner. Many stations on the campuses of colleges and universities are finding a most rewarding area for public service here.

Further, educational stations are able to function as experimental centers for program structures and techniques, especially in the field of teaching via radio, in a way impossible to commercial stations. Often programs of great value have been developed on educational stations to be taken over later by commercials and given a nation-wide circulation. Freed from the pressure of financial profit, these stations may venture where others fear to go until there is some concrete evidence of merit and success. In this way educators can and must make direct contributions to the progress of radio.

Education, as it has been defined in this study, is at home in these institutionally owned stations. Commercial interests are, for the most part, primarily concerned with the financial success of their advertisers. Educational interests, with few exceptions, have a more direct concern with the building of "adequate self-directive intelligence." Consequently educational stations have a peculiarly vital mission in the building of a society the characteristics of which are democratic. They are in a position to leaven the lump of American radio.

The task is not easy. The facile enthusiasm of the early 1920's has been sobered by the disillusionment of experience. Out of this has come some understanding of radio and of its

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educational function. There is much yet to be done. As educators and broadcasters find their proper areas of service in the American broadcast structure, and as they learn to co-operate in "public interest, convenience, or necessity," their growing understanding of the task of each will serve to point radio along the way of its most complete service in making possible broad, wide, varied, and rich shared contacts for everyone, open-mindedness for the consideration of possible consequences of proposed activity, and flexibility of thought and action so that such consequences can become determinants of action—in short, the democratic way of life.³

³ Detailed data upon which this chapter is based may be found in S. E. Frost, Jr., *Education's Own Stations* (Chicago: University of Chicago Press, 1937).

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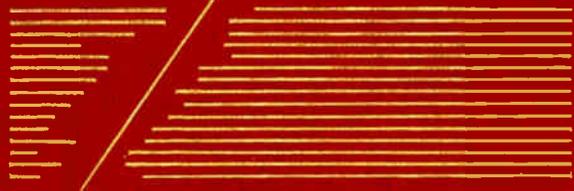
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S. E. FROST, JR.