

# HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

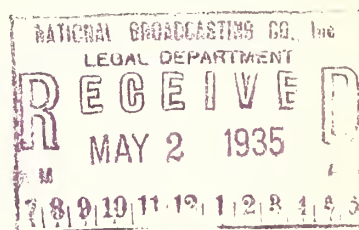
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## INDEX TO ISSUE OF APRIL 30, 1935

Will Endeavor To Get Copyright Bill Through Senate Quickly.....	2
Chairman Prall Has Ptomaine Poisoning Attack.....	4
Even Marconi Set Couldn't Get Vatican Direct.....	4
Columbia Puts On Fine Show For White House Newsmen.....	5
Could An Amateur Radio Performer Be Libelled?.....	6
Editors Rap N.A.B. For News Fight Money Collecting.....	7
Education By Radio To Be Discussed At Ohio State.....	7
Canada Forbids Only Sunday "Spot" Advertising.....	8
NBC Facilities Offered For Local Recorded Program.....	9
Four Additional Splawn Report Volumes Issued.....	10
Sarnoff, Music Week Chairman, To Broadcast.....	10
Former Gov. Gardner Telephone Investigation Counsel.....	11
Pennsylvania Would Tax Music Royalties.....	11
"Cheerio's" Popularity Shown By Almost 10,000 Letters.....	12

No. 821



*Handwritten signature: J. G. S.*

April 30, 1935.

## WILL ENDEAVOR TO GET COPYRIGHT BILL THROUGH SENATE QUICKLY

There is every indication that an attempt will be made to get the Copyright Bill through the Senate with the least possible loss of motion. When the Patents Committee meets tomorrow (Wednesday) morning, if the illness of Senator McAdoo, of California, permits his attending, Senator Duffy, of Wisconsin, author of the Copyright Bill will argue against holding public hearings, first on the ground that the meetings of the Interdepartmental Committee, at which both the broadcasters and composers were heard, served this purpose, and, second, that with the present log jam in the Senate, there should be the least possible commotion about the copyright situation.

It is believed, judging from the way the Copyright Treaty passed the other day, that the Copyright Bill will pass the Senate speedily.

What will happen to it in the House is another question and there again, whether or not hearings will be held will have to be considered. Representative Sirovich, of New York, is Chairman of the House Committee. Someone remarked, "If Sirovich ever gets his hands on the Copyright Bill, he will try to rewrite it."

In submitting his report on the Copyright Bill, Senator Duffy, of Wisconsin, said that the new copyright convention "specifically provides for authors' security in the matter of radio broadcasting and it otherwise has kept abreast of the times as new discoveries, inventions, and methods have magnified the importance to authors of the maintenance of copyright."

Senator Duffy made public for the first time the report of Wallace McClure, Chairman of the Interdepartmental Committee on Copyright, with regard to the broadcasting industry. This report said, in part:

"The great outstanding fact in the copyright situation, apart from the desirability of prompt adherence to the Copyright Convention, is the fundamental unity of interest between the producer and the Industrial consumer. The authors, song writers, and dramatists of the United States are the most favored in the world. Because of the magnificent development of the publishing industry and the birth and astounding growth of the broadcasting and motion-picture industries, they are in a position, whether their paramount wishes look toward service to their fellow men or toward fame or fortune for themselves, to obtain returns for their efforts surpassing anything that was even approached prior to the present generation."

With regard to the question of fixed minimum statutory damages for infringement, Mr. McClure said:

"The most important questions, however, have grown out of the provision of the present law fixing minimum statutory damages, in connection with the interpretation given by the courts which makes public performance of copyrighted works for even incidental profit an infringement of the copyright. The result has been that small mercantile establishments, such as drug stores and ice-cream parlors, which may operate receiving sets or phonographs, on which copyrighted music is played, are liable to actions for infringement. Since the minimum statutory damage is fixed at \$250, a sum often out of all proportion to the injury done to the copyright holder, opportunities for gross injustice are manifold. There has been vast complaint from many sections of the country in regard to practices based upon these provisions of law. Theoretically, unless ruled out as a matter of charity, a street organ grinder, collecting pennies from passing children, would be liable to an action for infringement and the payment of damages from \$250 to \$5,000, if, without license, he inadvertently played upon his grind organ a piece of music in which copyright existed.

"The Interdepartmental Committee's bill limits actionable infringement in respect of copyrighted works received by means of radio or 'canned music', to use in establishments such as theaters and restaurants where per seat or per cover charges are definitely and particularly made for the entertainment afforded. Accordingly, the bootblack stand, drug store, and similar establishments will be exempt when the bill becomes law.

"The question remained whether there should be a minimum statutory charge for any purpose. Various conferees argued for retaining the present minimum, for reducing it to \$150 or to \$100, and for the elimination of a fixed minimum altogether. In view of the enormous difference between the economic status of various types of copyright users, for instance between the street organ grinder and a great network of broadcasting stations, it seemed to the committee desirable to leave the minimum wholly to the discretion of the court and to raise the maximum from \$5,000 to \$20,000.

"Conferees on behalf of producing interests alleged that too low a fixed minimum would in practice operate as a license to infringers. Accordingly, the provision written into the present bill instructs the courts to fix damages at a figure which will not operate as a license for infringement and which shall be just, proper, and adequate in view of the circumstances of the particular case.



"Particular attention should be given, in a review of the bill under consideration, to the numerous provisions which it contains that are calculated especially to improve the position of the author of a literary or artistic work."

"The broadcasters and motion-picture interests, as well as the periodical publishers, were desirous of safeguards against the undue use of injunction. A careful survey seemed to reveal that they could be incorporated into the law without depriving copyright owners of any important right. Indeed, the actual dependence of producers and consumers upon one another makes inevitable resulting good to both out of what improves the welfare of either."

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#### CHAIRMAN PRALL HAS PTOMAIN POISONING ATTACK

Anning S. Prall, Chairman of the Federal Communications Commission, was stricken with ptomaine poisoning and what was described as a slight attack of colitis last Friday. Chairman Prall was still confined to his apartment at the Shoreham today (Tuesday) but it was said at his office that he would probably be able to return within a day or two.

In the meantime, sessions were presided over by Dr. Irvin Stewart, newly elected Vice-Chairman of the Commission.

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#### EVEN MARCONI SET COULDN'T GET VATICAN DIRECT

Anticipating the recent address broadcast by short-wave from the Vatican City in Rome from the station which Marconi built, the great Italian inventor sent short-wave receiving sets to papal representatives throughout the world to see how many of them could successfully pick up the Vatican.

One of these sets went to the Apostolic Delegate in Washington but either on account of atmospheric conditions or other difficulties, he was not able to hear the speech direct by short-wave and was said to have listened to it as distributed throughout the country by the networks.

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## COLUMBIA PUTS ON FINE SHOW FOR WHITE HOUSE NEWSMEN

There was high praise for the vaudeville show which Columbia staged in connection with the White House Newspaper Correspondents' Dinner last Saturday night, attended by President Roosevelt, Vice-President Garner and most every high official in Washington. As a result of this, Harry C. Butcher, Columbia's Washington representative, found himself seated at the head table between the President's close friends and advisors, Secretary of Commerce Roper and Administrator Harry L. Hopkins. Anning S. Prall, Chairman of the Communications Commission was also slated to sit with this distinguished group but was prevented from doing so on account of illness.

A large group of stars which Columbia brought to Washington included Col. Stoopnagle and Bud; James Melton, tenor; the Revelers, quartet; Virginia Rea, soprano; Gertrude Niessen, exotic singer; Benay Venuta, new star; May Eastman, soprano; Norman Gordan, barytone; Carson Robison and his Buckaroos; Virginia Verrill; Paul Duke, magician; Minor and Root, dancers; Everett Marshall, Broadway star; Cookie Bowers, comedian; Arthur Boran, mimic; Pat Casey, pianist, and Enoch Light and his orchestra.

A sound picture satirizing the first two years of the New Deal was thrown on the screen as a part of the entertainment. It was put together by Lawrence Stallings and Lowell Thomas. There was a funny takeoff on President Roosevelt's "panning" the different members of his Cabinet, but the thing which will probably be talked about the longest was the sound picture of General Johnson talking about the "termites, Huey Coughlin and Father Long". The General was so badly mixed up in what he said that a question was raised as to whether or not he had posed for the picture or it had been taken as he really talked.

Those from the Communications industry who attended the dinner were:

K. H. Berkeley, National Broadcasting Co., Washington, D. C.; Col. Thad C. Brown, Federal Communications Commissioner; Harry C. Butcher, Columbia Broadcasting System, Washington; Vincent Callahan, NBC, Washington; Wells Church, Program Director Station WJSV, Washington; J. G. Gude, General Press Representative of CBS; Gerald Gross, Federal Communications Commission; John W. Guider, Radio Counsel; F. P. Guthrie, Washington Manager, R.C.A. Communications, Inc.; Robert D. Heintz, Heintz Radio News Service, Washington; C. G. Jolliffe, Chief Engineer, Federal Communications Commission; Paul Kesten, Vice-President of CBS; Lynne M. Lamm, radio news writer; Philip Loucks, Managing Director of the National Association of Broadcasters; G. W. Johnstone, Chief of Press Relations, WOR;

Also, Frank E. Mason, President of the National Broadcasting Company; Herbert L. Pettey, Secretary, Federal Communications Commission; Hon. Sam Rayburn, Chairman of the House Interstate Commerce Committee; George Porter, Radio Counsel; A. D. Ring, Federal Communications Commission; John F. Royal, Vice-President, CBS; A. A. Schechter, NBC Press Radio Bureau; Oswald Schuette, Radio Consultant; Paul M. Segal, Radio Counsel; Carlton Smith, Manager of WMAL, Washington; Paul D. Spearman, General Counsel, Federal Communications Commission; Eugene O. Sykes, Federal Communications Commissioner; Sol Taishoff, Broadcasting Magazine; Glenn I. Tucker, Radio Consultant; Sen. Burton K. Wheeler, Chairman, Senate Interstate Commerce Committee; Paul White, Director, Special Events, CBS; Frederick William Wile, Radio Commentator; A. D. Willard, Jr., Assistant Manager, Station WJSV, Washington; and Frank Wisner, Press Department, Federal Communications Commission.

In addition to Chairman Prall, several others of prominence were prevented from attending the dinner in the last minute and these included David Sarnoff, Chairman of the Radio Corporation of America, Edward C. Klauber, Vice-President of Columbia; M. H. Aylesworth, President of the National Broadcasting Company; William S. Paley, President of the Columbia Broadcasting System; Richard C. Patterson, Jr., Vice-President of the NBC; Frank M. Russell, Vice-President of NBC and Washington Manager of WRC.

The dinner was preceded by Columbia holding an "open house" for friends and their dinner guests.

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#### COULD AN AMATEUR RADIO PERFORMER BE LIBELLED?

Since people seem to sue for damages on almost any pretense these days, the question was raised in a conversation among several broadcasters recently as to whether or not an amateur radio performer might have grounds for a libel suit against either Major Bowes or a broadcasting station, or both, in connection with his giving the "gong" to any of the performers, or if they might feel that they had ground for a suit as a result of any comments the Major might make as to giving the "gong" leading to further ridicule of the performer.

It would seem on the surface that an amateur knowing fully what he has to face in case his performance did not get over, would not feel that he had grounds for suit. Nevertheless, it was the opinion of at least one person, that some bright amateur, with an eye to publicity, might file such a suit. If so, he believed that in the future, it would perhaps lead to the signing of some sort of a release by each amateur before appearing on the radio.

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## EDITORS RAP N.A.B. FOR NEWS FIGHT MONEY COLLECTING

The American Society of Newspaper Editors assembled in Washington adopted the following resolution against the cooperative effort of radio stations "to break down the principle of property right in news":

"Resolved, That the American Society of Newspaper Editors, assembled in Washington for its annual convention, declare its disapproval of the action of the National Association of Broadcasters in undertaking to finance a court fight to break down property rights in news as developed through the years by newspapers and press associations; and be it further

"Resolved, That this Society give to the Associated Press a vote of approval for the well directed effort it is making in the case of Station KVO5 to outlaw piracy of news as practiced by those radio stations rebroadcasting published information without the consent of those who pay for gathering the news and its distribution."

Several members discussed the resolution, but none of the old antipathy to the radio as a medium of communication appeared. One member characterized the resolution as "merely a support of the laws you have in every state against ordinary theft", another recalled advice he had received from an A.S.N.E. member some years ago - "don't fight the radio. Go home and buy a station."

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## EDUCATION BY RADIO TO BE DISCUSSED AT OHIO STATE

Leaders in education, radio, and government will meet in Columbus May 6, 7 and 8, when Ohio State University entertains the sixth annual institute for education by radio and the fifth annual assembly of the National Advisory Council on Radio in Education.

The two groups are meeting together this year for the first time. Sessions will be held in the State Office Building.

"The Council and the Institute are this year holding a joint meeting for the frank discussion of broadcasting conditions and techniques", according to the meeting announcement issued by Levering Tyson, New York City, Director of the Council, and Dr. W. W. Charters, Ohio State University, leader in the Institute.



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Federal and State officials who will participate include John W. Studebaker, U.S. Commissioner of Education; Anning S. Prall, Chairman of the Federal Communications Commission; B. O. Skinner, State Director of Education for Ohio; and Agnes Samuelson, State Superintendent of Public Instruction for Iowa.

Presidents of four universities will appear on the program - George W. Rightmire of Ohio State University, Herman G. James, President of the University of South Dakota, and President-elect of Ohio University, Athens; A. G. Crane, University of Wyoming; and Robert A. Millikan, California Institute of Technology.

Representatives of the broadcasting industry will include: Philip G. Loucks, Managing Director of the National Association of Broadcasters; Judich C. Waller, Central Division Educational Director of the National Broadcasting Company; William Hard, NBC political analyst; C. L. Menser, Production Manager for the NBC Chicago studios; H. V. Kaltenborn, Columbia Broadcasting System news commentator.

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#### CANADA FORBIS ONLY SUNDAY "SPOT" ADVERTISING

The Canadian Radio Commission's ban on Sunday commercial plugs over Canadian station applies only to "spot" advertising and not to all commercial programs, according to a press statement issued by Leopold Houle, Publicity Director (French Section) of the Commission. Mr. Houle's statement follows, in part:

"The impression seems to have been conveyed that all commercial programs will be banned on Sunday. This, of course, is completely incorrect and arises from misinterpretation of the term 'spot' announcement. A 'spot' announcement is a spoken advertisement for a commercial product, or firm, unaccompanied by a program of musical or other entertainment. These 'spot' announcements are usually sandwiched in between two programs and as entertainment are completely nil. Legitimate commercial programs are completely unaffected by the new regulation, inasmuch as the commercial announcements in these programs do not exceed five per cent of the broadcast time."

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## NBC FACILITIES OFFERED FOR LOCAL RECORDED PROGRAM

The complete programming facilities of the National Broadcasting Company are now available for the creation of recorded programs for use on local radio stations.

The advantages of this offering are set forth in a booklet just issued entitled "NBC Recorded Program Service for National and Local Spot Advertising".

This is the first time that the full range of NBC program facilities has been made available to advertisers and agencies for the purpose of producing recorded programs of high quality.

"The NBC Program Service helps to make more effective the use and the flexibility of Spot Broadcasting as an advertising medium", according to the announcement. "It is a service ideal for:

"Advertisers whose appropriations are limited, but who wish to include radio in their advertising lists to do either a basic job or to supplement other media.

"Advertisers whose distribution is sectional or local; who may wish to cover only a portion of their markets, or reach into markets of certain sizes or types.

"Advertisers whose limited appropriations do not permit of network, or national coverage.

"Advertisers who desire to "test" their Radio campaigns in selected territories preliminary to extending them to other markets.

"Advertisers who desire to broadcast in foreign countries."

Some general idea as to the cost of NBC's complete custom-built program service may be determined from these few examples:

A 15-minute program completely recorded on a 16-inch 33-1/3 rpm record can be designed for as little as \$250.00 and up, per program. The price is dependent upon the talent used, complexity of show, number of musicians required, etc. There is an additional charge of approximately \$4.50 each per program per station, to cover extra pressings, musical copyright charges, transportation costs and Federal Excise Tax.

A 5-minute program recorded on a 12-inch record at 78 rpm can be produced for a cost of \$90.00 and up, per program. This price is also dependent upon the type of show, musicians, etc. plus an additional charge of approximately \$2.50 per program per station for extra pressings and incidental fees and charges, as outlined in the paragraph above.

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Three 2-minute announcements recorded on a 12-inch 33-1/3 rpm disc, may be produced for \$35.00 and up, per announcement.

Six one-minute announcements may be produced and recorded on a 12-inch 33-1/3 rpm disc for a little as \$20.00 per announcement.

In the recording of one, two and five-minute programs, NBC recommends the use of 12-inch records rather than the larger 16-inch records because they are more economical and more easily handled by the individual stations.

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#### FOUR ADDITIONAL SPLAWN REPORT VOLUMES ISSUED

Four more portions of the so-called "Splawn Report" on communications companies have been printed. They are known as Volumes 3, 4, 5 and 6 of House Report No. 1273 of the 73rd Congress, Second Session. These volumes concern mostly the telephone companies with, however, some broadcasting statistics. They are so voluminous that an observer remarked, "It would take a dray to haul them away."

At the moment the additional volumes are so scarce that it seems impossible to secure copies of them. However, they are promised for distribution within the next week or ten days to those who write to Hon. Sam Rayburn, Chairman of the Interstate Commerce Committee, House of Representatives, Washington, D. C.

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#### SARNOFF, MUSIC WEEK CHAIRMAN, TO BROADCAST

The formal opening of National Music Week will be made by David Sarnoff, President of the Radio Corporation of America, and new Chairman of the National Music Week Committee, when he addresses an NBC-WJZ network during the Symphony Concert broadcast from 7 to 8 P.M. EST Sunday, May 5.

C. M. Tremaine will introduce Mr. Sarnoff who has been chosen to succeed the late Otto Kahn, first and only Chairman of the Committee since Music Week became a national institution in 1924. Mr. Sarnoff will have as his topic the keynote of this year's celebration: "Develop Our Musical Resources."

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## FORMER GOV. GARDNER TELEPHONE INVESTIGATION COUNSEL

Oliver Max Gardner, former Governor of North Carolina has been appointed FCC counsel for the Telephone Investigation at a salary of \$10,000. Governor Gardner has been engaged in private law practice in Washington where, it is said, he represented the Duke tobacco interests. His biography as it appears in "Who's Who" is as follows:

"Born Shelby, N.C., March 22, 1882; s. Oliver Perry (M.D.) and Margaret (Blanton) G.; student State Coll. Agr. and Engring., Raleigh, N.C., 1899-1903; B.S., U. of N.C., 1903; studied law, 1905,06; m. Fay Lamar Webb, of Shelby, N.C., Nov. 6, 1907; children - Margaret, James W., Ralph, Max. Practiced at Shelby, N.C. since 1906; chrm. Dem. Exec. Com., Cleveland Co., N.C., 1906-8; state organizer Dem. clubs, 1908; mem. Dem. State Exec. Com. 1910-14; mem. State Senate 2 terms 1911-15 (pres. pro tem. 1915); lt-gov. of N.C. 1916-21; candidate for nomination for gov. of N.C. 1920; gov. of N.C. term 1929-33; Teamster 2d Ill. Regt. Spanish-Am. War, 1898; capt. Co. G, 1st N.C. Inf. 1907-14. Trustee N.C. State Coll., Raleigh, N.C., Mem. Am. and N.C. bar assns. Sigma Nu, Odd Fellow, Elk, Baptist. Home: Shelby, N.C."

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## PENNSYLVANIA WOULD TAX MUSIC ROYALTIES

A Bill has been introduced into the Pennsylvania State Legislature proposing a 10% tax on all royalties for the use of music. It isn't believed that the Bill has much chance of passing, but if it does, Pennsylvania broadcasters would have to deduct 10% of the gross royalty on music and send it to the State. As explained by one broadcaster, if the amount were \$1,000, instead of paying the American Society of Composers the \$1,000 gross, they would simply pay the Composers \$900 and send the other \$100 to the State.

The National Association of Broadcasters is opposing the Bill on the ground that after all, it is a tax on music which is a raw material of broadcasting. Consequently since broadcasting is interstate commerce, it would amount to a direct tax on interstate commerce.

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## "CHEERIO'S" POPULARITY SHOWN BY ALMOST 10,000 LETTERS

Proof of the continued popularity of "Cheerio" who was first put on by the National Broadcasting Company March 14, 1927, is the fact that during a two weeks' period he received 9,834 letters and post cards from practically every State in the United States and from many parts of Canada.

Only about one-half of the total mail (4011) was analyzed as it was found that the percentages for this quantity agreed very closely with those computed after but about 1300 letters had been analyzed. If the entire volume of mail had been read and analyzed, the final percentage doubtless would show but fractional differences. One exception to this, however, is the ratio of letters to post cards, a factor highly indicative of the depth of interest of the audience. Among the analyzed half of the mail was included practically all of the post cards, so that these percentages, if based on all mail, would be higher for letters and lower for post cards.

Some of the high spots from the statistical analysis of this "Cheerio" mail are as follows:

1. Three-fourths of the mail was letters requiring stationery and three cent stamps (in most cases) instead of the one cent post cards requested.
2. The large majority of mail was classified as "good" and "fair" handwriting, and "good" and "fair" stationery, indicating an average audience, or possibly above average.
3. More than one-quarter of the writers stated that their letters were "first letters."
4. The analysis of "number of years listened" shows a large percentage of regular and loyal listeners.
5. More than two-thirds of the letters and post cards stated that the writers were mothers of growing children.
6. One-quarter of the writers volunteered the information that the program had helped them through personal problems.
7. One-fifth of the mail mentioned that the interest of the writers was connected in some way with their interest in elderly people or shut-ins.
8. More than half of the letters contained a statement to the effect that the program gives them a "good start for the day."
9. Almost one-third of the letters stated quite specifically, "Don't take the program off the air."

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