

HEINL RADIO BUSINESS LETTER

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No. 835

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G L B / S D

June 18, 1935

MILLS BADLY OUTSMARTS N.A.B. LEADERS

There were no cheers for the National Association of Broadcasters leadership which has resulted in the virtual splitting of the Association's ranks in the present Copyright mess. The general opinion is that E. C. Mills, General Manager of the Composers, has badly outsmarted the Broadcasters' leaders in so successfully causing a split in their membership.

Furthermore, it seems almost a foregone conclusion that the bold move of Mills in offering favorable music contracts to the networks, Ike Levy, of WCAU, Philadelphia and Alfred J. McCosker, of WOR, may serve to seriously weaken, if indeed not defeat, the Government's anti-trust suit against the Composers.

Nathan Burkan, chief counsel of the ASCAP has already asserted four times during the trial that the Government allegations that an excessive fee was being exacted by the Composers are completely answered by the fact that the country's two great networks, NBC and Columbia, and an outstanding independent station, WCAU, of Philadelphia, on the eve of the trial had voluntarily continued their present agreement for five years.

It is believed the trial may last for weeks and weeks. As this goes on, in the meantime more and more stations having signed up in the scramble to get aboard the band-wagon, the Composers will surely not let the Court lose sight of their smashing victory resulting from the coup d'etat of their Field Marshal Claude Mills.

Insofar as the National Association of Broadcasters is concerned, their next move will probably not be known until after the meeting of the NAB Board of Directors which has been hastily called in New York for Saturday, June 22. Whatever may result from this gathering will only be a preliminary to the controversy over the Copyright situation which doubtless will be waged at the annual convention of the National Association of Broadcasters to be held in Colorado early in July.

"If the Composers were offering the remaining broadcasters who are now expected to sign up such an advantageous contract as Ike Levy, of WCAU, has secured for himself, that would doubtless be very satisfactory", a member of the industry said. "I understand that Ike pays no sustaining fee, that he only pays on the music he actually uses instead of on the entire program, is allowed to deduct his selling expenses and other important concessions.

"If that were the kind of a contract Mills was offering to all of us, it would be fair enough, but it isn't and I believe those who sign up now will do so with heavy misgivings and the feeling that they have been unnecessarily placed in this position by weak NAB leadership and the daring strategy of Mills. The latter will not only seriously influence the outcome of the Government's trial but may very seriously impair the future usefulness of the Broadcasters' Association."

Judge Henry Goddard, in the Federal District Court for Southern New York, where the suit against the Composers is being tried, announced that he had definitely been assigned to another court on July 1 and that if the Composers' case ran beyond that date, which there is every indication that it will, that the completion of the case would have to go over until Fall.

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WARNS PRESS ASSOCIATIONS AGAINST SELLING NEWS TO STATIONS

Addressing the Inland Daily Press Association at Chicago, E. H. Harris, Chairman of the Publishers National Radio Committee, sponsors of the Press-Radio Bureau, assumed a threatening attitude towards press associations who sell news to broadcasting stations.

"In contemplating the future of Press-Radio relations, many of us are opposed to the press associations selling news to radio broadcasters for advertising sponsorship", Mr. Harris said. "We cannot overlook the fact that the responsibility for the actions of the press associations rests with us individually as publishers. We are the principal clients of these press associations.

"The three newspaper press associations depend upon the newspapers of this country for their existence. But the newspapers are not dependent upon them. It is always within the power of an individual newspaper or a group of newspapers to set up a new agency for obtaining news.

"The unlimited free use of radio facilities by members of Congress and the administrative department of our Government offers a challenge to our newspapers. If the Government officials use radio to destroy the public confidence in the matter which the newspapers print, it may not be long before our form of Government will be changed and full dictatorial powers will be lodged in the Washington Government. Should this take place American journalism will be killed.

"You have it within your power to prevent such a situation. Adhere to your functions as disseminators of information in the form of news; advertising and editorial comment; reject propaganda when you know it to be what it is; and treat as

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advertising anything which one is willing to and does pay for in order to bring about its dissemination to the public through other agencies and you have little to fear.

"There is a vast difference between the methods of handling news in a newspaper and in sponsored programs emanating from broadcast stations. Can you imagine a great newspaper - great in tradition, great in its sense of responsibility to its reading public - leading off its principal story on Page One with a paragraph something like this:

"'Ladies and Gentlemen: The double-column story of vast national importance which is herewith presented to you in these columns is presented through the courtesy of Messrs. Blank and Blank, the largest manufacturers and distributors of hot-air appliances in the world. When you read this story, just recall that it has come to you through the courtesy of Messrs. Blank and Blank.

"'We hope you will enjoy it and we especially hope that when you next buy a hot-air appliance you will keep Messrs. Blank and Blank in mind. Try their appliances once and you will never use any others.'

"Or can you imagine a newspaper breaking a news story, or a series of news stories, right in the middle to insert items puffing the products of an advertiser without indicating clearly and unequivocally that the puffs are really what they are?

"Even if they were foolish enough to do such a ridiculous thing, newspapers by law are compelled to mark as advertising all reading matter which is paid advertising.

"When news becomes commercialized it immediately becomes subject to prostitution.

"So again we are faced with the dual problem of protecting our property rights in the news which we gather or pay to have gathered for us and of protecting the public's right to have news which is factual, actual, and presented in a manner where its identity cannot be confused with something else."

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MICHIGAN GOVERNOR OFFERS F.D.R. McDONALD'S YACHT

In the hope of making the invitation extended by the State of Michigan to President Roosevelt to spend the Summer on historic Mackinac Island, more to the taste of a seafaring man, such as the President is, Governor Frank D. Fitzgerald has offered Mr. Roosevelt the use of the yacht "Mizpah", owned by Commander E. F. McDonald, Jr., of Chicago, prominent explorer and radio manufacturer. The "Mizpah" is described as the finest and largest yacht on the Great Lakes and was considered by President Roosevelt a year ago when there was some talk about the presidential party making a Great Lakes cruise.

Governor Fitzgerald's letter to the President follows:

"The legislature of Michigan recently adopted a resolution inviting you and your family to spend a vacation this Summer on historic Mackinac Island.

"In the hope of making this invitation even more alluring, I am taking the liberty of supplementing it with a suggestion that you include a visit to Isle Royale, and the waters of Northern Georgian Bay.

"Isle Royale, as you probably know, is an unspoiled wilderness in Lake Superior which both the National and State government are considering as a splendid spot for public recreational purposes. A herd of moose on this island has grown to such proportion that the State recently found it necessary to move some of the animals to the mainland. It abounds in other game and is unsurpassed in scenic beauties.

"Commander E. F. McDonald, Jr., of Chicago, one of the many conservationists interested in the movement to preserve the beauties of Isle Royale, has offered the use of his yacht, the 'Mizpah', for your voyage. Likewise, he would be honored by an opportunity to pilot you from Isle Royale into the waters of McGregor Bay, off Northern Georgian Bay, for a fishing expedition. He assures me the fish of McGregor Bay are actually as large as those described by fishermen who have been there.

"I trust, Mr. President, that Michigan's invitation impresses you as offering opportunities for rest and recreation that meet both your personal inclinations and your convenience."

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PRALL ON THE JOB UNTIL 1943

The Senate confirming President Roosevelt's appointment of Chairman Anning S. Prall of the Federal Communications Commission for a 7-year term, assures Mr. Prall's service with that body until July 1942. It is thought that Chairman Prall's confirmation was hastened by the objection raised by Representative Connery, of Massachusetts and 16 other Democratic Congressmen who objected to the FCC refusing to take action in the broadcast of an alleged indecent song on the Mexican Government program over the NBC.

One of Mr. Prall's first official appearances following confirmation will be his speech at the National Association of Broadcasters' convention in Denver early in July at which time he is expected to tell station owners what they may or may not safely broadcast in the way of medical advertisements upon which he has lately been waging war.

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AMENDED COPYRIGHT BILL IS FAVORABLY REPORTED

An amended Copyright Bill introduced by Senator Duffy, of Wisconsin, has been favorably reported by the Senate Patents Committee. Few changes are noted from the previous bill which are of importance to the broadcasters. Its early passage in the Senate is predicted.

To provide more protection to the author, Section 1 has been amended to include radio facsimile as well as television, and other phases of broadcasting.

Section 9. Section 11 of the original bill has been amended to read as follows:

"Sec. 11. That copyright may also be had of any work of an author which has not been published, upon the deposit, with claim of copyright, of one complete copy of such work if it be a book, monograph, essay, article, story, poem, lecture, or similar production, a map, a dramatic, musical, or dramatico-musical composition, a choreographic work or pantomime, or a work prepared expressly for radio broadcasting or electrical or mechanical recording; of a title and description, with not less than five prints taken from different sections of the film, if the work be a motion picture; of a photographic print, if the work be a photograph; of a description and drawings or plans sufficient to identify the work, if it be a work of architecture; and of a photograph or other identifying reproduction thereof, if it be a work of art, a plastic work or drawing, or a model or design for an architectural work.***"

Sec. 17. Section 25 of the new bill is amended to read as follows:

"Sec. 25. (a) That if any person shall infringe the copyright in any work protected under the copyright laws of the United States, such person shall, subject to the stipulations of this section, be liable:

"(1) To an injunction restraining such infringement except as otherwise provided in this Act. No temporary restraining order shall, however, be issued which would prevent the broadcasting of a program by radio or television, the publication or distribution of a newspaper, magazine, or periodical, or the production substantially commenced or the distribution or exhibition of a motion picture*****"

"(d) In the event that advertising matter of any kind carried by a newspaper, magazine, or periodical, or broadcast by radio shall infringe any copyrighted work, where the publisher of the newspaper, magazine, or periodical, or the broadcaster, shall show that he was not aware that he was infringing and that such infringement could not reasonably have been foreseen, the person aggrieved shall be entitled to an injunction only (1) before work of manufacture of the issue has commenced, or, in the case of broadcasting, before the rehearsal of the program has begun;*****Provided, however, That no injunction shall lie against the completion of the publication and distribution of any issue of such newspaper, magazine, or periodical, or the broadcast of any radio program, containing alleged infringing matter where the work of manufacture of such issue has commenced, or, in the case of broadcasts, where rehearsals have begun*****"

"(h) There shall be no liability, civil or criminal, under this Act, on the part of any person for the following:

"(2) The auditory reception of any copyrighted work by the use of a radio receiving set, wired radio, or other receiving, reproducing, or distributing apparatus, or the performance, other than by broadcasting, of any copyrighted work by a coin-operated machine or machine mechanically or electrically operated or by means of a disk, record, perforated roll, or film, manufactured by or with the consent of the copyright owner or anyone claiming under him, except where admission fees, other than for the ordinary occupation by a guest of a hotel or lodging-house room, are charged to the place of operation or, in the case of restaurants, cover charges distinct from the charges for food, or other minimum charges, are made;

"(4) The merely incidental and not reasonably avoidable inclusion of a copyrighted work in a motion picture or broadcast depicting or relating current events."

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I.T.&T. SHOWS INCREASED NET INCOME

In a statement of consolidated income account of the International Telephone & Telegraph Corporation and subsidiary companies for the three months ended March 31, Sosthenes Behn, President, reports the net income of \$1,228,758 for this period compares with the corresponding net income of \$1,075,477 for the first quarter of 1934 after eliminating the losses of the Postal Telegraph and Cable Corporation and Subsidiary Companies in the amounts of \$661,965 and \$176,710, respectively.

The number of shares of capital stock (without par value) of your Corporation outstanding in the hands of the public at March 31, 1935, remained the same as at December 31, 1934, namely 6,399,002 shares.

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CONTROL OF MUSIC BY ASCAP TOLD

The Government adduced more testimony yesterday (Monday) in the Federal Court in New York to prove that the American Society of Composers, Authors and Publishers has a monopoly on the nation's popular music in violation of the anti-trust law.

William J. Benning, program and musical director of Station WTMJ, Milwaukee, told Federal Judge Henry W. Goddard that all his efforts to prepare a musical program without using products of the Society had been futile.

The station, he said, had found only 329 suitable orchestrations of popular songs by non-members of the Society, compared with a total of 9,092 by members. The station's musical library, he said, contained 6,753 popular songs by members and only 294 composed by others.

Nathan Burkan, attorney for the Society, pointed out that there was a large body of music in the public domain.

"But the arrangements required for these are copyrighted by the Society", said Mr. Benning.

"You could hire arrangers yourself if you wanted to, couldn't you?" Mr. Burkan asked.

"We couldn't stand the expense and stay in business", Mr. Benning said.

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ARBITRATORS FIND FOR CHINA IN MACKAY-RCA CASE

The Board of Arbitration selected last year to determine whether the Chinese Government had violated its traffic agreement with the Radio Corporation of America by making a subsequent traffic agreement with the Mackay Radio and Telegraph Company has handed down a decision in the negative and ordered costs shared equally between both parties.

In finding for the Chinese Government, however, the Board pointed out that the plaintiff had overlooked certain practical considerations in its pleas and it went at length into actions which China could not perform validly under the RCA agreement, which it said might be submitted for arbitration later, if desired, by either party.

Dr. J. A. van Hamel, of Holland, Auguste Hubert of Belgium, and Dr. Reinhold Furrer of Switzerland, were the arbitrators who decided the case, the traffic agreement of Nov. 10, 1928, between China and the RCA having provided for arbitration of disputes. The RCA contended that conclusion of a radio traffic agreement between China and the Mackay company on June 27, 1932, and a supplemental agreement of April 7, 1933, had violated the RCA agreement and asked the arbitrators to order China to cease operating the Mackay circuit, to give the RCA account of all telegrams transmitted over that circuit, and to pay to RCA all sums that would have accrued to it if such telegrams had been handled over its circuits. The RCA asked for costs also.

The arbitrators, after finding that the RCA contract had not been violated and ordering an equal sharing of the costs, said that the other demands made by the plaintiff do not come up for consideration. They did find, "with regard to any other question, concerning the defendant government's practical observance of its positive obligations established by the Radio Corporation traffic agreement", that certain recommendations could be made to the parties concerned, but that such questions were not specifically discussed and brought before the Board for a decision. They could be submitted subsequently for arbitration by either party, if desired, the Board of Arbitration held.

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AN ENGLISHMAN'S IDEA OF AN ANNOUNCER

Professor A. Lloyd James, British Broadcasting Company's expert on spoken English, has revealed what he considers the necessary qualifications for a good radio announcer. They follow: Read a news bulletin full of Japanese, Chinese, Bolivian, Indian, Portuguese, Persian, French and German names without turning a hair; give an S.O.S. in French that has a remote chance of being recognized as French where that language is spoken; read a weather report in such a way that people will really take an interest in that depression off Iceland.

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TESTS GIVE G.E. "V" DOUBLET CLEAN BILL

A test of the General Electric "V" doublet antenna erected directional northeast and southwest and compared with three straight doublets, an underground serial and an "L" was made by Charles A. Morrison, President of the Dx'ers Alliance at Bloomington, Ill. Conclusions reached by Mr. Morrison were:

"(1) The "V" Doublet reduced local QRM more than 50% over the other serials. In fact when not a single station could be tuned in through certain types of QRM by switching to the V Doublet, the louder stations would pop right out of the noise. (2) The aerial showed a better all-around efficiency than the other aeriels, turning in a better performance on the BCB than any other type. Very efficient on the Ultra-high frequencies, Excellent on 16 meters, Good on 19 meters; Fair on 25 meters, Fair on 31 meters; Average on 49 meters.

"Although it did not show as much signal gain as a Doublet tuned to a given frequency, it did show a much higher ratio of signal to QRM."

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MEASUREMENT OF SOUND TRANSMISSION

RP800 in the June number of the Journal of Research gives a description of the equipment and method now used in making sound-transmission measurements at the Bureau of Standards. The method of measurement is essentially the same as that described in an earlier paper, but the equipment has been improved in line with developments in amplifier circuits, loud speakers, and microphones.

To determine the transmission of sound through the test panel it is necessary to know the average sound pressure in the immediate vicinity of the panel. To make the sound pressure as uniform as possible a revolving loud speaker is used as a moving source, and the frequency is varied through a certain range to give a "warble note" and hence a continuously shifting interference pattern. A thermoelement is used as an integrating device to give the average sound pressure. Measurements are taken at a number of points on each side of the panel at nine frequency bands covering a range from 128 to 4,096 cycles per second.

The results of sound transmission measurements on a number of floor and wall panels are given. Results on the transmission of impact noises are also given for the floor panels, and there is a brief discussion of methods of reducing this type of noise.

Specifications for the construction of the various panels are appended.

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OPERATING DATA FROM MONTHLY REPORTS OF TELEGRAPH CARRIERS

Compilations by the Federal Communications Commission subject to revision, from reports of revenues and expenses of telegraph, cable, and radio carriers

Name of carrier	For the month of January, 1935				
	Total	Total	Operating	Net	
	operating	operating	income	Income	
	revenues	expenses	1/		
	(b)	(c)	(d)	(e)	
All America Cables, Inc.:	\$398,947.52:	\$291,471.10:	\$82,759.53:	\$92,094.88	
Canadian Pacific Ry.Co.:	:	:	:	:	
(Lines in U.S.)	163.78:	1,404.75:	<u>1,240.97:</u>	<u>2/</u>	
Central Idaho T. & T. Co.:	219.01:	37.80:	172.01:	172.01	
Central Radio Telegraph Co	-:	110.48:	<u>133.12:</u>	<u>133.12</u>	
Colorado & Wyoming	1,203.07:	669.22:	453.85:	190.76	
Telegraph Co.	:	:	:	:	
Commercial Cable Co.	:	:	:	:	
(N. Y. & Ltd.)	345,134.56:	286,082.56:	45,664.73:	<u>d 37,991.37</u>	
Commercial Pacific Cable:	96,598.23:	62,391.32:	28,150.52:	45,357.19	
Continental Telegraph Co.:	960.93:	2,196.39:	<u>d 1,370.07:</u>	<u>2/</u>	
Globe Wireless, Ltd.	25,296.49:	19,956.09:	5,208.83:	5,235.97	
Great Northwestern	:	:	:	:	
Telegraph Co. of Canada:	-:	-:	<u>d 53.65:</u>	<u>3/ 1,044.94</u>	
Mackay Cos., The (Postal	:	:	:	:	
Teleg. & Cable Co.)	1,765,149.79:	1,696,978.18:	11,504.95:	<u>d 213,571.95</u>	
Mackay Radio & Telegraph:	:	:	:	:	
Co., Inc. (Calif.)	79,026.08:	75,358.09:	1,921.97:	<u>d 11,712.72</u>	
Mackay Radio & Telegraph:	:	:	:	:	
Co., Inc. (Del.)	65,006.73:	86,460.00:	<u>d 20,585.33:</u>	<u>d 49,600.70</u>	
Magnolia Radio Corp.	209.10:	319.38:	<u>d 109.98:</u>	<u>d 109.98</u>	
Michigan Wireless Telg.Co.	-:	213.73:	<u>d 213.87:</u>	<u>d 213.87</u>	
Minnesota & Manitoba Rail-	:	:	:	:	
road (Lines in U.S.)	250.82:	281.40:	<u>d 30.58:</u>	<u>d 30.58</u>	
Mount. in Telegraph Co.	270.49:	266.62:	<u>d 14.77:</u>	<u>d 77.86</u>	
Mutual Telephone Co.	:	:	:	:	
(Wireless Dept. Hawaii)	4,235.25:	3,759.58:	80.67:	80.67	
Northern Telegraph Co.	5,173.41:	3,535.02:	1,297.45:	1,414.62	
Pere Marquette Radio Corp.	788.48:	788.48:	-:	-	
R.C.A. Communications, Inc.:	353,398.11:	304,492.26:	31,512.91:	32,931.26	
Radiomarine Corp. of America	71,069.38:	62,023.16:	6,650.22:	7,053.69	
Tidewater Wireless Telg.Co.	367.55:	388.97:	<u>d 28.12:</u>	<u>28.12</u>	
Tropical Radio Telg. Co.	71,776.53:	45,743.60:	29,956.46:	29,229.81	
U.S. - Liberia Radio Corp.	4,925.94:	4,641.72:	27.65:	28.04	
Wabash Radio Corp.	957.37:	957.59:	<u>d 0.22:</u>	<u>d 0.22</u>	
Western Radio Telg. Co.:	252.74:	505.25:	<u>d 258.31:</u>	<u>d 258.31</u>	
Western Union Telg. Co.:	6,906,716.86:	6,111,462.40:	545,000.46:	29,080.31	
	:	:	:	:	
Total	:10,280,098.22:	9,062,495.16:	766,323.22:	<u>d 69,814.65</u>	

d Deficit or other reverse item.

1/ Represents difference between columns (b) and (c), also includes deductions for Uncollectible operating revenues and Taxes assignable to operations.

2/ Operating deficit assumed by parent company.

3/ Operated by Western Union Telegraph Co., Lessee.

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AUDIBLE ARTS INSTITUTE COMPILES RADIO PREFERENCES

Pitts Sanborn, Director of the Radio Institute of the Audible Arts, which is sponsored by Philco, recently compiled a list of radio program preferences of famous people. It is a painstaking and thorough listing, the report of which covers twelve typewritten pages.

Among those who contributed to the survey were Mrs. James Roosevelt, mother of the President; Mme. Ernestine Schumann-Heink, Rosa Ponselle, Geraldine Farrar, Frederick Jagel, Paul Althouse and Giovanni Martinelli, singers; Arthur Bodanzky, famous conductor; Daniel Carter Beard, Boy Scout pioneer; Grace Morrison Poole, Pres. General Fed. of Women's Clubs; Belle de Rivera, pioneer clubwoman; Booth Tarkington, Faith Baldwin, Gertrude Atherton, Ellis Parker Butler, Julia Peterkin, Thornton Wilder and Sophie Kerr, novelists; Cecilia Beaux, James Montgomery Flagg, Neysa McMein and Howard Chandler Christy, artists; Daniel C. Roper, Secretary of Commerce; Gov. Harold G. Hoffman, New Jersey; Gov. Edward C. Johnson, Colorado; Gov. Louis J. Brann, Maine; Dr. Karl A. Menninger, psychiatrist; Dr. Morris Fishbein, Editor, Journal of the American Medical Association; Dr. Willia R. Whitney of General Electric, winner of the 1934 Edison Medal; Cecil B. DeMille, Motion picture executive; H. W. Phelps, Pres. American Can Co.; James R. Leavell, Pres. Continental Illinois Bank & Trust Co.; Judith Anderson, actress; Mary Anderson, Director, U.S. Women's Bureau; Martin Johnson, explorer; Percy Crosby, cartoonist and creator of Skippy; Robert L. Ripley of Believe-It-Or-Not fame; Charles E. Clark, Dean of the Yale Law School; and other equally prominent personages from all walks of life.

The responses indicate that tastes vary sufficiently to provide an appreciative audience for most of the well-known programs on the air. Of approximately seventy-five responses received by The Radio Institute of the Audible Arts, no two listings were alike in all groups. Two persons from the same profession might agree on one, two or even three choices, but on the fourth choice they would split widely.

The reponses in general support the oft-stated theory that "A little nonsense now and then is relished by the wisest men" -- and women; and that it is not at all unusual for famous writers, musicians, industrialists and civic leaders to derive pleasure from both the Philharmonic Symphony broadcasts and Ed Wynn; from the You and Your Government programs and "Amos'n' Andy".

The New York Philharmonic Symphony program was the only program upon which the majority of those participating in the survey seemed to agree. It is listed as a favorite in forty cases.

In the field of music, 56 current programs are named as favorites, with the Philharmonic leading. Nineteen news programs are named, with Boake Carter, Lowell Thomas and Edwin C. Hill grouped for the lead. Popularity of educational programs is evenly distributed among some 40 broadcasts, while the same lack of agreement on the superiority of any one program is noted in the entertainment field, where 49 programs are reported as "favorites."

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