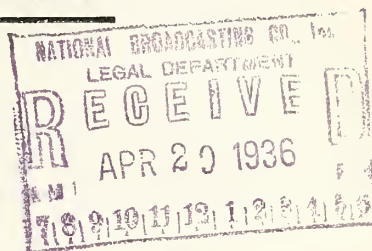


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April 28, 1936

BALDWIN PROPOSES "BUREAU OF COPYRIGHTS" FOR NAB

Creation of a Bureau of Copyrights within the National Association of Broadcasters was proposed Monday, April 27, to the NAB Board of Directors by James W. Baldwin, Managing Director, in Chicago as the ultimate solution to the broadcasters' copyright dilemma.

Following out instructions from the Directors, given him in February, Mr. Baldwin submitted a detailed report and three specific recommendations in lieu of establishment of a separate corporation, such as a Radio Program Foundation. The three-point proposal is:

1. Making available to broadcasters a complete and accurate catalog or index of active musical compositions.
2. Creation of a standard library of musical compositions taken, for the most part, from the public domain of music.
3. Establishment of a system for making available to the industry copyrighted musical works on a measured service basis.

Organization of a Bureau of Copyrights, Mr. Baldwin said, necessitates the employment of a Director who should be "a man of high academic training in music who has had extensive practical experience in the field of copyrights and their use in building radio programs." No legal formalities are necessary, he said.

Warning the Directors that "the plan can succeed only if it is adequately financed", the Managing Director explained:

"In the beginning it will be necessary only to provide funds for the employment of a Director of the Bureau of Copyrights and his staff; and necessary office space and equipment. But prosecution of the entire plan will require substantial expenditures, and ways and means should be provided so that the NAB's income will be sufficient to meet them. This is a matter that must be passed upon by the membership."

Mr. Baldwin acknowledges in the report assistance from Walter J. Damm, Milwaukee, "for the musical classifications"; and "the advice and counsel" of Philip G. Loucks and Louis G. Caldwell, Washington radio attorneys.

The report opens with a review of the copyright tangle in which broadcasters find themselves.

"For more than ten years the broadcasting industry in the United States has been endeavoring to solve what it calls the copyright problem", Mr. Baldwin said.

"The industry has at different times both supported and opposed copyright legislation in the Congress. It has instituted a lawsuit against the largest group of copyright proprietors in the world and has aided the Government in its suit against this same group. It has waged fierce fights against groups of copyright proprietors over terms and conditions in contracts and over methods of royalty payments. It has attempted on two occasions to establish and operate its own music source. It has expended many thousands of dollars; consumed many hours in discussion; considered many plans and proposals; and adopted many resolutions and reports. But today the problem remains unsolved.

"The present copyright laws are antiquated and should be revised. The provision of the present law imposing minimum damages for infringement should be repealed. It is an anomaly in our law. No other nation in the world has a similar provision in its copyright laws. Other changes also are needed. But revision of the law, however favorable to broadcasters, will not in and of itself solve the problem.

"A monopoly of music performing rights, if in violation of our laws, should be dissolved by the Government. But dissolution of the monopoly, however sweeping the decree, will not in and of itself solve the problem.

"The broadcasting industry has learned one thing from its ten years of fighting. It has learned that it must give more attention to its own business and less to the business of copyright owners. Nobody knows whether the industry is paying too much or too little for its use of copyrighted music. As long as the present situation exists, nobody can find out.

"Not a single license agreement in existence today holds any promise of a permanent solution of the problem. Not only is this true from the viewpoint of the broadcasters; but it is equally true from the viewpoint of the originator or creator of musical compositions. When broadcasting developed a new market for creative works, it found the author and composer allied with publishers. The publishers are commercial users of musical works in very much the same sense as broadcasters. Unlike conditions of a decade ago, the publisher and broadcaster now compete for the creation of the author and composer. It was simply a fact that the creator had disposed of a part of his valuable performing right to one class of customers before another class had risen to prominence. Broadcasters want, and are willing to pay generously for the works of the creator. Their interest is in the author and composer. They are not concerned with the profits or losses of the publishers or other users.

"The problem has been made to appear more difficult than it really is. There are millions of musical compositions now in existence and many more millions will be written. But of the millions of works in existence, less than 800,000 are currently copyrighted in the United States. Of copyrighted and non-

copyrighted musical works of all classes, about 35,000 compositions are active, that is, in ordinary day to day use. An average broadcasting station, operating full time, will perform about 75,000 separate selections in a year. If the same composition is performed once a week for fifty-two weeks, a library of 1,500 different compositions would supply the needs of a broadcast station. But some numbers are performed more frequently and some less frequently, and 1,500 compositions would not be considered by any broadcaster as an adequate repertory. But, contrary to the popular belief, the broadcaster does not need all of the copyrighted music in the world; nor should he be required to pay for such extensive accessibility.

"The first task of the broadcaster, therefore, is to obtain some estimate of his actual musical needs. Having determined this, he should then set about acquiring on the best terms possible that music which will satisfy his needs. He should not endeavor to influence the price or prices asked by the copyright owner. If the price is disproportionate to the merit or value of a work or works, he has the option to refrain from use. As a member of an industry interested in a never-ending supply of new musical works, the broadcaster is desirous of encouraging the creator. He is interested in encouraging authors and composers to write for radio presentation. He will not forever be interested simply in acquiring performing rights of music written primarily for publication or for the stage, motion picture, dance hall or night club. As an art, broadcasting must develop creations written primarily for radio presentation and adapted to conditions peculiar to broadcasting. Any proper plan devised by broadcasters for the utilization of original creations must inevitably inure to the benefit of authors and composers. The use of such creations should determine the extent of compensation to authors and composers. Merit of such creations should determine the extent of their use."

Regarding the "per-piece" plan, Mr. Baldwin said:

"Much has been said and written about the so-called 'per piece' plan. The plan has been commended as the only sound and scientific method for the licensing of performing rights and, at the same time, it has been condemned as impractical and unworkable. In these discussions mention is seldom made of the fact that so-called 'grand rights' are nearly always obtained on a 'per piece' or a 'per performance' basis. But it is a fact that this method of obtaining 'grand rights' has never been extended to the more extensively used 'small rights'. In existing licensing agreements 'grand rights' are specifically withheld and are available in most instances only upon a 'per performance' basis.

"At the present time broadcasters are at a distinct disadvantage in checking their performances and entering such performances upon their program logs. But if for no other reason than to be in a position to defend against an infringement suit erroneously commenced, the broadcaster must be in a position to make proper entries on his log. This is now virtually impossible and will continue to be impossible until confusion over ownership of performing rights is abated and the stations are in possession of adequate information to check accurately.

"It is a condition precedent to the institution of a 'per piece', 'per performance' or any measured service plan, that each station should have in its possession a complete catalog of the works it is licensed to perform and that accurate entries be kept on program logs at all times. Furthermore, broadcasters have a right to know what they have have a right to perform under their licenses. They should not be put to the expensive and almost impossible tasks of trying to ascertain what they have no right to perform. In no other way can the constant danger of infringement, with its unfairness to both the broadcaster and the copyright owner, be avoided."

Discussing the delicate question of who should pay the copyright fees, he said:

"The preceding section deals entirely with the matter of responsibility for clearing performing rights. It does not mention by whom payment of the royalties should be made. Custom in the industry is not uniform. Transcription companies, as a general rule, do not clear performing rights. Network companies clear performing rights for affiliates with respect to certain licensing groups but do not do so with respect to the largest and most important group. As a general proposition the station pays the performing right royalties whether the program is supplied by the network of transcription company.

"The fee must be paid. Whether the fee should be paid by the network or transcription company for all stations taking a given program; whether it should be paid by the stations individually; or whether it should be divided up among the stations and network or transcription companies, is a serious policy question which is now, and perhaps always must be, a matter of private contract between the stations and originating companies directly concerned.

"But this is true. All of the costs which go into program production must be paid by someone. If the originating company is required to add copyright performing fees to its other program production costs then it should have the right to adjust its station agreements to take into consideration this new cost item.

"As pointed out before, this is a matter of contract between stations and originating companies. It would seem, however, that no distinction should be made between copyright costs and other items of cost which go into the production of the entire program.

"In the final analysis the advertiser pays all of the costs which go into the production and broadcasting of his program; and copyright fees are just as much a part of this program cost as is the cost of talent, telephone lines, recording operations, and other items. In a few instances the copyright fee is passed on to the advertiser as a direct charge but the general practice is otherwise. It may be that the time has arrived when the advertiser should pay for the use made of music in his program as a direct charge and under a system whereby he might have the benefits which will accrue from a market in which copyright owners sell their rights in competition with each other and in which prices are fixed by such competition. This is a question of policy which cannot be answered in this report."

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FCC INDICATES LINE OF INQUIRY AT JUNE 15 HEARING

The sweeping nature of the informal engineer hearing to be held before the Federal Communications Commission on June 15th upon the recommendation of its Chief Engineer, Commdr. T.A.M. Craven, was disclosed this week as the FCC sent out notices. The hearing, it was explained, will be very broad in its scope, and "neither individual applications nor individual assignments within service bands will be considered."

A five-point purpose of the inquiry was set forth as follows:

- (1) Determining the present and future needs of the various classes of services for frequencies above 30,000 kc., with the view of ultimately allocating such frequencies to services;
- (2) Securing for the public and the Commission a keener insight into the conflicting problems which confront the industry and the regulatory body in the application of the new frequencies to the service of the public;
- (3) Guiding experimentation along more definite lines as may be justified from the evidence presented at the hearing;
- (4) Reviewing present frequency allocations to services in the radio spectrum below 30,000 kc., and
- (5) Assisting the Government in its preparation for the International Telecommunications Conference at Cairo in 1938.

"Questioning will follow three general forms, the FCC explained. Persons who expect to appear in behalf of a particular service, such as maritime, police, aviation, aural broadcasting, or television, the notice said, should be prepared to furnish information along the general lines specified.

The first form, headed "Evaluation of Services from the Standpoint of Public Need and Benefit", comprises:

- "(a) The dependence of the service on radio rather than wire lines.
- "(b) The probable number of people who will receive benefits from the service.
- "(c) The relative social and economic importance of the service, including safety of life and protection of property factors.
- "(d) The probability of practical establishment of the service and the degree of public support which it is likely to receive.
- "(e) The degree to which the service should be made available to the public, that is, whether on a limited scale or on an extended competitive scale.
- "(f) Areas in which service should be provided and, in general, the points to which communication must be maintained."

Technical questions will be concerned with:

"(a) The frequency bands required for a given service and the exact position thereof in the radio frequency spectrum; also the width of communication bands or channels within each portion required for station frequency assignments.

"(b) Suitability and necessity for particular portions of the spectrum for the service involved. This includes propagation characteristics and reliable range data.

"(c) Field intensity required for reliable service.

"(d) The number of stations required to enable efficient service to be rendered.

"(e) The distance over which communication must be maintained.

"(f) The relative amount of radio and other electrical interference likely to be encountered.

"(g) The relative amount of noise which may be tolerated in the rendering of service."

Under the heading "Apparatus Limitations", the Commission will seek information on the following:

"(a) The upper practical limit of the useful radio frequency spectrum and, in general, what higher limit can be expected in the future.

"(b) The operating characteristics of transmitters with respect to external effects and practicability in service for which intended, including frequency tolerances which should be prescribed.

"(c) Types of antennas which are available for service for which intended, and their practical limitations, including the best methods of obtaining the most effective use of frequencies.

"(d) Receivers available and in process of development, including data with respect to selectivity and practical usefulness for the service for which intended."

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PRESS-RADIO BUREAU EXTENSION VOTED UNANIMOUSLY

Adopting the recommendation of E. H. Harris, Chairman of the Publishers' Radio Committee (see April 24 news letter) the American Newspaper Publishers' Association at its closing session in New York City, voted unanimously for extension of the Press-Radio Bureau another year.

The resolution carries with it authorization to expand the service by making it available to radio stations in remote sections of the South and West.

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WNAC, NEW NBC AFFILIATE, GIVEN POWER INCREASE

Station WNAC, Boston, which next Fall leaves the Columbia Broadcasting System to join the NBC-Red network, was granted a daytime power increase from $2\frac{1}{2}$ to 5 KW by the Federal Communications Commission at its last meeting.

At the same time the Commission granted renewal of licenses on a temporary basis to stations involved in the "Brooklyn case", which will come up for a rehearing on May 7th. The stations given extensions are WARD, WBBC, WLTH, and WVFW, all of Brooklyn.

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VISUAL BROADCAST OF OUTDOOR SCENE IS SUCCESSFUL

A successful demonstration of visual broadcasting of an outdoor scene by RCA Victor engineers, in preparation for the \$1,000,000 field tests in June from atop the Empire State Building, New York City, was held April 24 in Camden, N. J.

Orrin E. Dunlap, Jr., Radio Editor of the New York Times, who witnessed the exhibition, described it as follows, in part:

"With the scene illuminated by a brilliant April sun, television outdoors was demonstrated in a mile broadcast with members of the local Fire Department as the actors.

"A special alarm was sent in for the firemen, and as they rushed up to the scene of the 'blaze' the eye of a television camera poked out of a window to record the activity, while a microphone picked up the clang of the bells and roar of the sirens.

"Television spectators a mile across the city watched the 'fire'. In a greenish hued picture, 5 by 7 inches on top of the radio set, the observers saw the fire fighters scale the ladders to extinguish the 'fire' on a roof about 100 feet away from the electric 'eye' of the television camera, known as an iconoscope.

"Smoke curled up from the roof, and the hose 'splashed' water across the television screen. Passers-by who gathered in the street were pictured unbeknown to them, as were automobiles rushing across the Philadelphia-Camden bridge in the background. Even the bill-boards and budding trees showed up clearly in the radio picture. The clamor of the community came clearly over the loud-speaker.

"The latest television receiver at first glance looks like an ordinary console radio, but inside the mechanism is radically different, more complex. There are thirty-three vacuum tubes in the circuit, compared to the average broadcast receiver's twelve. Adding to the complexity are fourteen control knobs, seven white ones arrayed on the front of the cabinet and seven black knobs on the top. They regulate the sound, govern the brilliancy of the picture, focus, synchronize, center the image, regulate its size and generally refine the image.

"Tuning is accomplished by a single knob, because the sound-sight is combined on one wave, and once the sound is accurately turned the picture 'takes care of itself', as the engineers explain the operation. The images travel on a six-meter wave.

"On top of the receiver cabinet, under a hinged cover, is a large funnel-shaped cathode ray tube called a kinescope protruding through a circular opening. The end of this tube is covered with a fluorescent material. There the image is 'painted' electrically. The cover of the set can be raised so that the image from the tube's face is reflected from a mirror to the spectator. These kinescopes are estimated to cost from \$50 to \$100, depending upon the number produced. The cost is taken as an indication of what the multi-tube home-television instruments may sell for, probably \$300 to \$800, according to the engineers, who report no definite retail price has been established.

"As further evidence of television's prowess in handling a 'show', guests were pictured as they stood under the glare of powerful studio lamps. Films were also projected. It is believed that reels will be the backbone of television. In this test Lou Little, football coach, was the featured actor.

"The film is broadcast by television at the rate of thirty pictures a second, although the film passes through the projector at twenty-four pictures a second, because the associated sound is recorded at twenty-four frames a second. What happens to the other six pictures the television engineers hold as a secret, for the sleight-of-hand is one of their tricks. The receiving antenna is only ten feet long.

"Engineers describe the system as 'all electronic'. No mechanical parts are utilized. There are no whirling disks festooned with lenses, as in early television methods. Scanning is now electrical.

"The radio camera's 'eye' is a large, simple-looking 'eyeball', the retina of which is a mica plate covered on one side by millions of particles of light-sensitive material; on the back is platinum. An electron beam sweeps across the optic 10,000 times a second to register the image on the radio 'brain', or transmitter.

"The received picture is comprised of 343 interlaced lines designed to minimize flicker. The green tint of the picture is purposely arranged because the human eye is more sensitive to that color, according to Dr. V. K. Zworykin, inventor of the kinescope and iconoscope. He said the ultimate home-television receiver will probably offer a pale yellow picture."

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BALDWIN REPORT APPROVED BY NAB DIRECTORS

The report and recommendations of James W. Baldwin, Managing Director of the National Association of Broadcasters, regarding the creation of a Bureau of Copyrights within the NAB (see lead story) was approved by the NAB Directors on Tuesday, April 28, according to a telegraphic report from Chicago.

The report will now be submitted to the NAB membership at its convention in Chicago July 5, 6, 7 and 8th. The Directors decided to hold the convention in the Stevens Hotel.

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POLITICS HINTED IN FCC DELAY ON HEARST STATIONS

The apparent caution with which the Federal Communications Commission is considering the applications of Hearst Radio, Inc., for FCC approval of purchase of three Texas stations and an Oklahoma City outlet has led to rumors that the radio ambitions of William Randolph Hearst may run into political obstacles.

The very fact that Hearst is an arch critic of the New Deal and the Roosevelt Administration would induce the FCC to move slowly even if no definite word were passed along from high administrative circles.

With radio in the strategic position that it is during the election campaigns now under way, the FCC would be granting Hearst an additional weapon with which to attack the New Deal should it approve the station purchases.

Neutral observers believe that the Commission is in another tough spot, and whichever course it takes, it will bring down criticism upon itself if not more serious consequences.

The stations which Hearst has bought from Southwest Broadcasting System, subject to FCC approval, are WACO, Waco; KNOW, Austin; KTSA, San Antonio; and KOMA, Oklahoma City, Okla.

Strongly in Hearst's favor is the fact that Elliot Roosevelt, son of the President, is head of the operating company.

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67 MORE SUITS FILED BY WARNER BROS.

Radio stations, night clubs and restaurants throughout the country are made the defendants in 67 more actions filed within the past ten days by Harms, Inc., Remick Music Corp., M. Witmark & Sons, T. B. Harms Co., New World Music Corp. and Music Publishers Holding Corp., all of which are music publishing subsidiaries of Warner Bros. Pictures, Inc. The damages sought in the 67 latest suits total \$102,700. All of the defendants are alleged to have infringed on song copyrights owned by the suing publishers. The amount in each case varies from \$250 to \$10,000.

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TWO NEW STATIONS APPROVED BY EXAMINERS

Construction of new broadcasting stations in Eau Claire, Wis., and Tucumari, New Mexico, was recommended to the Federal Communications Commission this week by Examiners.

The Eau Claire station, if authorized by the FCC, would operate on 1050 kc. with 250 watts, daytime only, under the name of the Central Broadcasting Co. The New Mexico applicant is J. Laurance Martin, who seeks authority to operate on 1200 kc. with 100 watts power, unlimited time.

Examiners recommended adversely against applications to erect a 250-watt station in Winston-Salem, N. C., and a 1 KW station in Pittsburgh, Kansas.

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\$3,000,000 IN PHONE RATE CUTS CLAIMED DURING FCC INQUIRY

Communications Commissioner Paul A. Walker said on Monday, April 27, according to an Associated Press report, that telephone rate slashes resulting in savings to subscribers of more than \$3,000,000 annually had been made since the Federal Communications Commission launched its investigation into the far-flung American Telephone and Telegraph Company last Fall.

Director of the inquiry, Mr. Walker said the reductions included a revision of long-distance charges which cut person-to-person rates at night and inaugurated a new lower rate on Sunday.

"Although this particular concession was initiated by the telephone companies", he said, "it was coincident with the informal inquiries initiated by the Commission with respect to overtime charges on person-to-person calls."

The hearings today (April 28) will start a study of the A. T. & T. long lines department.

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4,500 EDISON MEMORIAL BROADCASTS PLANNED

The radio industry, which in part owes its existence to the genius of Thomas Alva Edison, will pay Edison's memory a mass tribute of more than 4,500 broadcasts during the months of May, June, July and August, The Thomas Alva Edison Foundation announced April 27. Broadcasting officials said this is the largest serial broadcast ever attempted, both in the number of stations participating and in potential listening audience.

The three great major networks - National, Columbia and Mutual - and at least 75 independent stations from coast-to-coast will put on the Edison programs once a week, or oftener, for 18 weeks.

The programs will be dramatic presentation of highlights in Edison's career, acted by a cast which for weeks has studied all available source of Edison biographical material.

Radio's debt to Edison dates from 1886 when he secured a basic wireless patent in connection with his work in developing telegraphy. Mr. Edison, at the time, did not foresee the future of wireless communication. Years later efforts were made by various interests to buy the patent, but he insisted that it be sold to Marconi, and it became the foundation of Marconi's radio patent rights.

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Station WCFL, operated by the Chicago Federation of Labor at Chicago, this week filed an application with the Federal Communications Commission for a construction permit to increase its power from 5 KW to 25 KW.

Charles K. McClatchy, whose five radio stations on the West Coast are to be affiliated shortly with the National Broadcasting Company, died April 27 at the age of 77 in Sacramento.

A general meeting of the Committee preparing for the Fourth Meeting of the C.C.I.R. will be held in the offices of the Federal Communications Commission, Room 1413, at 2 P.M., May 5. At this meeting final action will be taken on Question 7 and 9.

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