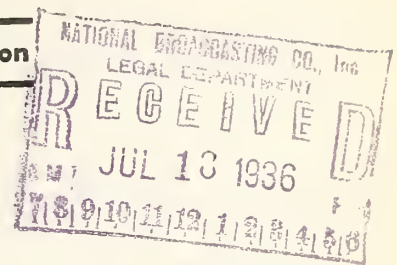


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BOAKE CARTER MAKES STINGING REPLY TO LIBEL SUIT

While the entire broadcasting industry awaits the result of a \$100,000 radio libel suit filed by Governor Hoffman, of New Jersey, against Boake Carter, Philco radio commentator, CBS, and WCAU, Philadelphia, the outspoken newspaper man took another fling at the Governor in a recent broadcast period.

If the suit is carried through the courts, it is believed the ruling will establish a precedent for the limits of free speech over the air. Carter significantly pointed out that Hoffman filed suit against him although newspapers in editorials were just as critical of the Governor's interference in the Hauptmann case.

"I feel highly flattered to be picked out from a large majority of the press of the nation, which also - like myself - expressed shocked amazement at the three-ringed circus at Trenton", he said, "at the time of Hauptmann's last week of life - and not to mention the majority of the press of the Governor's own State - as well as that group of responsible citizens of Princeton, and professors of Princeton University.

"I am told that in New York today that this newest of the bizarre performances is looked upon as a keen publicity stunt promoted by me. To those who so think, I answer with the curt-ness that their thoughts deserve - that I have not yet reached the point where I feel disposed to use the body of a murdered baby of 20 months as a springboard for a publicity stunt - and much less disposed to use the horrors of the last moments of life on this earth of a man jerked back and forth from the electric chair by the whoms of a Governor, as another springboard for a publicity stunt. The Governor, I am afraid, must take credit for initiating the court action.

"But his method of initiation is interesting and perhaps speaks for itself. The papers for his action were certified in the New Jersey Supreme Court in Trenton, the State Capitol. The papers for service were given to the Essex County, N. J. Sheriff, although the Governor's own county is Middlesex County - not Essex. If the Governor feels that he has grounds for so clear-cut an action - then why does he bring his action in the State of New Jersey? Why does he bring his action in a State of which he is the Governor, the chief magistrate? Why does he bring his action in a State where he is the official political leader? Why does he bring his action in a State where he would stand before the jury box in the role of Governor - and I am simply a private citizen of another State and newspaperman? It

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is quite clear he prefers not to bring his action in a neutral State, the State of Pennsylvania - the State in which I work and live and whence came those spoken editorials to which the Governor takes exception.

"Thus - the Governor has laid down a challenge - within the confines of his own sphere of influence - so we pick it up and put this challenge back down on his desk - that if he has so good a case - let him come to the State of Pennsylvania and initiate his action - it is only 27 miles away from the New Jersey State House - let him file his action in a dispassionate - non-partisan place - where we may both stand before the court of justice - not as Governor on the one hand and plain newspaperman on the other - but as man to man, individual to individual - and let the stories be told on an equal footing. By filing his present action in the State of New Jersey, the Governor well knows he can obtain no service upon me - and I and no other, was the writer and speaker of those editorials - written in the capacity of honest, decent and truthful journalism to which is accorded the inalienable right under our own constitution to freedom of the press, freedom of speech and the right to question the propriety and criticise the official conduct of every officeholder in the performance of his public acts. Knowing then that he can obtain no service on me - does he expect me to walk - like the convenient fly into the web neatly set for it by the spider - into the sphere of his jurisdiction? Hardly. Thus, if he fails to accept the challenge I lay before him - to debate his case in another State where we may stand on equal footing, man to man - then the only interpretation on his Jersey action left open to accept, is that the move is a political expedient in face of the Fall elections and that he is afraid to accept the proposal I just made.

"But actually and factually, this is no issue between Carter and Hoffman. A far greater principle is involved - a principle which touches the very foundations of government in the United States and reaches back to the days of the Magna Charta, when the common man overthrew the shackles bound around him by the feudal lords and won for himself his first fruits of the freedom of a democracy. The Bill of Rights was fought for by the English. It became a heritage of the Anglo-Saxons. It was brought to America by the early settlers. It was immortalized in the Declaration of Independence and embodied in the organic law of the land in the first five amendments in the American Constitution. Freedom of speech and the press have been jealously guarded heritages of the American people. The issue here is Hoffman versus the freedom of the press and the freedom of the radio. The essence of honest, truthful journalism is to report as the journalist sees and honestly believes the facts."

"Look how officials have used radio in other nations, killing civil liberties and destroying the very foundations of democratic government. In America the fight to maintain the freedom of the air has been carried on since inception of radio.

"Censorship was flatly prohibited in the law, and freedom of speech reaffirmed. Philco itself said it believed in this American principle last February, when it declared, 'The American public is entitled to uncensored expression of opinion that it may use its own judgment and draw its own conclusion. Philco has taken time on the air for daily comment on current events by Boake Carter, but Philco has never exercised nor will exercise any censorship over him whatsoever. The comments and opinions expressed by him on the air are his and his alone, for Philco is convinced that in the exchange of intelligent comment and editorial expression lies a real service to the public. It feels that this confidence has been fully justified and believes that the public is entitled to hear Boake Carter's views courageously and honestly expressed.

"Very well - believing as I have always believed in 17 years of newspaperwork, in unafraid, honest, truthful journalism - reporting events as I see them - I have tried to live up to this principle - in the past - and come an army of Hoffmans, I shall continue to do so to the best of my ability in the future."

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LEVY PLANS TO START NAB RIVAL IN FALL, REPORT

Isaac Levy, former Treasurer of the National Association of Broadcasters and co-owner of WCAU, Philadelphia, plans to start his rival organization of broadcasters in the early Fall, according to an unofficial report reaching Washington. Levy resigned from NAB after assailing the handling of copyright negotiations by James W. Baldwin, Managing Director, and the NAB Directors.

One report in Variety was that Mr. Levy has received letters from about 35 broadcasters expressing approval of his action. It said the new organization plans to have a legal representative in Washington and a Managing Director as sole officer. Membership fees will be \$400, or \$500, a year, the report stated.

Meanwhile, Mr. Baldwin, back from the Chicago convention with the overwhelming support of the NAB membership, continued his efforts to get the NAB Copyright Bureau functioning. Not only did the NAB Directors back him to the limit, but it voted him a salary increase of \$2,000 a year to \$13,000.

The three men assailed by Mr. Levy for their role in the Radio Program Foundation - Hostetler, Loucks and Schuette - were said to be awaiting receipt of an official transcript of the remarks before deciding what action, if any, to take.

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UNFETTERED RADIO HELD SYMBOL OF DEMOCRACY

The untaxed radio receivers scattered over America, taking from the air a variety of programs, all free, are symbols of a new democracy of opportunity in mass information, education and culture, Gen. James G. Harbord, Chairman of the Board of the Radio Corporation of America, told the Institute of Public Affairs at the University of Virginia, Charlottesville, July 16th.

Frederic A. Willis, Assistant to the President of the Columbia Broadcasting Co., also participated in a discussion on the responsibility of mass communication media in a democracy.

While means of mass communication remain unshackled, as in America, it will be, General Harbord said, "the very cornerstone of democracy, a bulwark against the tyranny that thrives on the suppression of truth.

"Untrammelled books, an untrammelled press, and an untrammelled radio are more fundamentally important than votes", he continued. "Before a vote is worthy of the name the voter must have the opportunity of obtaining information. Men had votes in ancient Rome, but the republic failed. It failed because, among other reasons, it had no mass communication."

General Harbord traced the development of electrical communication since the invention of the telegraph, and told how the Radio Corporation of America is carrying on experiments in television and in use of ultra short wave radio.

Radio's responsibility in a present-day democracy is great, began Mr. Willis. "The responsibility for broadcasting in our democracy is really the responsibility of good American citizenship.

"This includes a duty to encourage free speech, free communication, free interplay of thought (remembering that only in this way can democracy be perpetuated). It includes a duty to give fair play not alone to majorities, but to responsible minorities.* * * *. To suppress them would destroy our democracy. It includes a duty to see America as a unity, as well as a land of parts - remembering that the welfare of the whole is vital, if the interests of each part are to be served."

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There is no radio broadcasting in the Bahamas, nor is the establishment of a local station seriously contemplated. Radio users depend principally on stations in the United States and particularly WQAM and WIOD at Miami, which is only about 200 miles distant.

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NAPA STARTS SERIES OF RECORDING SUITS IN N.Y.C.

Continuing its campaign to compel broadcasting stations to obtain permission of artists before transmitting phonograph recordings, the National Association of Performing Artists this week launched a series of injunction suits in the New York Supreme Court and the Federal District Court in New York City.

The action is similar to that in which the NAPA, through its President, Fred Waring, won an initial court ruling in a suit against WDAS, Philadelphia, last Winter. The NAPA also sponsored an unsuccessful amendment to the Copyright Act intended to give artists protection similar to that now provided the copyright owner.

Paul Whiteman brought suit in the Federal Court against the WBO Broadcasting Company, owner of Station WNEW. In the Supreme Court suits were brought by Lawrence Tibbett, Don Voorhees, Frank Crumit and Walter O'Keefe.

Mr. Tibbett's suit is brought against the Debs Memorial Fund, Inc., as owner of Station WEVD. He says that "he is an actor, singer and performer", and as an "interpretive and creative musical artists he has established a reputation as such by hard and diligent effort and by a great investment of time and energy."

In the suit by Mr. Voorhees, orchestra leader, against the Audio-Scriptions, Inc., the plaintiff said:

"Recently there has grown up in the entertainment industry a practice which is harmful and injurious to the careers of performing artists."

He said the defendant operated a device which recorded the artist's talents on a record or transcription of the broadcast. He alleged that "the defendant has captured one of plaintiff's broadcasts and has reduced the same to physical form for sale to whomever will pay the price."

"These bootleg recordings are modified and altered so as to contain advertising material and announcements of new sponsors, who thus have the use of the talents of myself and other artists without payment of any compensation to them."

In the suit by Mr. O'Keefe against the Teleflash Loudspeaker Corporation, he alleges that his recitation, "The Daring Young Man on the Flying Trapeze", is being used by the defendant, which he says is in the business of conveying by wire and reproducing public performances in cafes, restaurants and elsewhere sports information and musical performances played for recording purposes.

The suit by Mr. Crumit was brought against the Marcus Loew Booking Agency as owner of Station WHN. The plaintiff says he has made a number of recordings of musical compositions intended for home phonographs and not for commercial exploitation, including the song "The Dashing Marin." He says that Station WHN has been using this record for commercial purposes.

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RULING DEMANDED ON UNAUTHORIZED BASEBALL BROADCASTS

The Federal Communication Commission has been called upon to decide whether the broadcasting of off-the-scene versions of professional baseball games without permission of the baseball clubs is "piracy" or just ingenuity.

A formal complaint against WMCA, New York, alleging that it is "pirating" play-by-play baseball broadcasts of the New York, Boston and Philadelphia American League baseball clubs, was filed with the FCC by these clubs and by the American League of Professional Baseball Clubs this week.

The complaint asks that, unless WMCA ceases the practices complained of, such as "pirating, appropriating, using or disseminating, to any person, news reports or information of all or any part of the baseball games conducted by the complainants, without their express consent and approval", the license of the station be "revoked and terminated."

John M. Littlepage, Washington attorney for WMCA, stated his opinion that the FCC has no jurisdiction in such matters. Moreover, he brought out that there is precedent to confirm that view, since the FCC some months ago disallowed a complaint alleging rebroadcasting of a World Series baseball game on the ground that it did not violate FCC regulations governing rebroadcasts,

WMCA does not actually rebroadcast the games. The WMCA baseball announcers, it is said, tell the listeners that they are broadcasting their "versions" of the games and do not state that the broadcasts are direct from the parks. General Mills, Inc., is the sponsor.

The FCC first will decide whether it has jurisdiction in this particular case. It is unlikely that there will be any action for several weeks. The FCC may decide to dismiss the case for want of jurisdiction in which event, it is thought, the baseball clubs may take recourse to the courts.

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LOHR BUYS 21-ACRE ESTATE ON HUDSON

Lenox R. Lohr, President of the National Broadcasting Company, has bought Hawthorne, 21-acre estate of Mrs. David L. Luke, in North Broadway, Tarrytown, for an all-year home. The property, fronting on the Hudson River, is the old Robert Hoe estate, noted for its landscaping. The Georgian type brick residence, containing about twenty-five rooms, was built in 1915 by the late David L. Luke.

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FCC APPROVES TRANSFER OF KNX; NBC ADDS WEBR

The Broadcast Division of the Federal Communications Commission on July 17th approved the transfer of Station KNX, Los Angeles, from the Western Broadcasting Co. to the Columbia Broadcasting Division. The deal, which was aired at a special hearing before the FCC, is the largest in broadcasting history, involving \$1,250,000.

The Commission at the same time renewed the KNX license on a permanent basis. The station has been operating under a temporary license for the past year because of alleged violations of rules governing programs.

CBS also plans to lease or buy WLWL, New York, from the Paulist Fathers, following FCC approval of the merger of WOV and WLWL. The Paulist Fathers last week purchased WOV for \$300,000. Reports are current that CBS is planning to build up a second network, to rival NBC's two hook-ups, with WLWL as the new key outlet; CBS officials, however, scoff at the prediction.

On July 15 WEBR, of Buffalo, was added by NBC. Other stations which will be placed on the network as soon as various obstacles are removed are: WEAN, Providence; WICC, Bridgeport; WNBR, Memphis; WTFI, moving from Athens to Atlanta; KGKO, Wichita Falls; KXYZ, Houston, and WDSU, New Orleans.

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MOVIE EXHIBITORS SEEK BAN ON RADIO WORK

Lux, Camel Caravan and Hollywood Hotel weekly broadcasts with picture names in the casts are the targets of exhibitors throughout the country in a determined effort to get motion picture distributors and producers to ban their players from continuing radio work, according to Variety.

"The exhibitors fired a strong broadside at the Lux and Hollywood Hotel programs to the producers here", a Hollywood correspondent reports. "They claim that these programs, which grab off the big star names created by and for the film industry, are sounding a box office knell and that if the producers further encourage and approve their big box office names going on radio then programs they will take reprisal measures by cutting the rentals on pictures which are affected by the broadcasting done with screen talent."

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TWO NEW STATIONS RECOMMENDED BY FCC EXAMINERS

The granting of construction permits for two new broadcasting stations, one in El Paso and another in Kinston, N. C., was recommended to the Federal Communications Commission this week by Examiners.

The applicants are Dorrance D. Roderick, of El Paso, for 1500 kc. with 100 watts power, unlimited time, and Jonas Weiland, of Kinston, for 1200 kc. with 100 watts night, 250 watts daytime, unlimited time.

Denial of an application by Ted R. Woodard, of Kingsport, Tenn., for a permit to use 1210 kc. with 100 watts, daytime, was also recommended.

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GERMANY SEEKING COUNTRY-WIDE TELEVISION SERVICE

The German Post Office has just ordered two new sight-and-sound ultra-short-wave television transmitters, according to World-Radio, British Broadcasting Corporation organ. One of these will be installed on the summit of the Brocken, the highest mountain in Northern Germany. The second is on the summit of the Grosse Feldberg, in the Taunus Mountains, north-west of Frankfurt-am-Main. It is hoped to complete the transmitters by next year.

"This announcement shows that the German Post Office is well on the way to the realisation of a television service which will cover the whole of the country", the periodical comments. "It will be remembered that a mobile television unit, containing a 10-KW ultra-short-wave sight-and-sound transmitter was driven up to the Brocken last Summer and kept up there for a considerable period of time. Tests proved that a permanent transmitter there would cover such important centres as Hanover, Magdeburg, and possibly Halle. The second series of tests was then arranged from the Grosse Feldberg, in the Taunus.

"In the official announcement it is stressed that the two new transmitters must be regarded as experimental, for there is as yet no decision regarding the ultimate method of providing a nation-wide television service. It is generally thought that the Teldberg (2,800 ft. above sea level) transmitter will cover Frankfurt-am-Main, Mainz, Wiesbaden, Mannheim, Worms, Heidelberg, and Darmstadt and will reach up as far as Marburg and Giessen in the north and to Coblenz in the west."

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PURDUE PUTS FCC IN TOUGH SPOT IN TELEVISION SCRAP

Purdue University, of Lafayette, Ind., and the National Television Corporation of New York, placed the Federal Communications Commission this week in an embarrassing position as they contested the FCC order moving all television experiments out of the medium frequencies into the ultra-high waves.

Witnesses warned the Commission that it "dare not become a body for suppression and repression", as they opposed an order issued by the FCC May 13.

Charles Francis Harding, head of the Purdue School of Electrical Engineering, one of the largest in the country, told the Commission that its action might deprive rural United States permanently of the benefits of television, which experts agree has passed into the stage of practical operation.

The FCC withdrew the frequency bands from television experiment on the ground that these frequencies were needed for police and government radios. Commission sub-officials said, however, that the Mackay Company and the Radio Corporation had made application to use these bands.

Purdue University has been conducting what its officials say are successful television operations on these bands for several years.

"It may be many years before the entire country can be covered by short-wave television stations, and it would probably never be economically feasible to provide the more sparsely populated areas with short-wave programs," Mr. Harding testified. "It is important that at least one intermediate wave channel be maintained."

Mr. Harding declared that Purdue had been successfully broadcasting pictures by television for four years and that pictures had been received from distances up to 1,000 miles.

Edward H. Loftin gave similar testimony on behalf of the National Television Corporation after identifying himself as a former naval radio expert who had held high government radio posts and played a large part in the development of transatlantic radio communications.

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PHILIPPINES PLAN LARGEST FAR EAST OUTLET

KZRM, the largest Philippine broadcasting station, operating with a power of 25 KW at the antennae, proposes to spend approximately P50,000 in improving its facilities, on condition that it receives from the Government a contract guaranteeing continuation of its subsidy by installing the newest type of radiator antennae that will increase the radiated power two and a half times without any additional consumption of electric power and by the installation of the latest High Fidelity Type Short Wave RCA Broadcast Transmitter, according to U. S. Trade Commissioner J. Bartlett Richards, Manila.

The present long wave transmitter and the new short-wave transmitter would normally broadcast the same programs simultaneously, although they could, of course, be used to broadcast separate programs. It is believed that, with the new equipment, KZRM could be heard all over the Far East, including Japan, China and the Dutch East Indies. It is hoped that improved facilities would lead to an increase in the number of listeners, which would in turn increase the revenue and permit improvement of the programs. It is acknowledged that improvement of the programs is of primary importance, if the company is to realize its hope of becoming the best known broadcasting station in the Far East.

In asking for a contract guaranteeing the subsidy for at least five years, KZRM does not have in mind the present subsidy arrangement guaranteeing the monthly deficit up to a maximum of P6,700 a month. They would require a reversion to the old arrangement under which they were paid out of radio license revenues the full amount of the difference between their expenses and their revenue from advertising. That arrangement was never entirely satisfactory to them, as radio license receipts were never sufficient to make up their deficit. They feel, however, that, with a more powerful station and improved programs, more sets will be sold and many present owners of sets will pay their license fees and put their sets into commission again. It is also hoped that delinquencies will be reduced when the collection of radio license fees is placed in the hands of the Bureau of Internal Revenue, as it probably will be within the next two or three months. It is also pointed out that as the station becomes better known throughout the Far East, they will have a more attractive proposition to present to American advertisers and will be able to increase their advertising revenue, thus reducing the amount of deficit payable from license fees.

They do not anticipate that the new equipment would increase their cost of operation very substantially, estimating that, including depreciation on the new equipment as well as additional power cost for the short wave transmitter, their additional cost would not be much over P500 a month. (Their present rate of depreciation is only about $4\frac{1}{2}$ percent per annum on the cost of the equipment). They would, however, plan to spend more money on programs.

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MUSIC TRADES REVIVAL CREDITED TO RADIO

Radio is primarily responsible for a 300% increase in piano sales during the past year, according to letters recently received by the National Broadcasting Company from executives in the piano industry. Once considered a dangerous competitor of the instrumental music industries, radio is now credited with being one of the fundamental factors in the recent upturn in that business, and statistics now offered by the music trades provide significant confirmation of repeated claims by broadcasters that radio is the most effective medium yet devised for stimulating music appreciation and promoting general music culture.

"After a careful and dispassionate study of the nearly 300% increase in piano sales during the past twelve months over 1933", W. A. Mennie, secretary of the National Piano Manufacturers' Association, declares, "radio must now be considered one of the major reasons for this increase. Millions of listeners, who might otherwise never have attained an appreciation of music, are manifesting an interest in music culture and endeavoring to become participants themselves. These converts to the musical arts are purchasing musical instruments of every description, and the piano being the basic musical instrument, has benefitted most of all from this stimulation. Radio, with its limitless possibilities, has educated listeners to appreciate music and it has produced a natural desire to create it, thus opening a hitherto non-existent market."

Other letters were received from Theodore Steinway, president of Steinway and Sons; William A. Alfring, President of the Aeolian-American Corporation and Lucien Wulsin, President of the Baldwin Piano Company.

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CBS AND N.Y. PHILHARMONIC SIGN 5-YEAR CONTRACT

The New York Philharmonic Symphony Society will continue to broadcast exclusively over the nationwide Columbia network for the next six seasons, according to terms of a new contract just negotiated. The new contract, on a five-year basis, will go into effect following the termination of the present agreement in the Spring of 1937.

A potential audience of more than 75,000,000 people will be reached by the concerts, broadcast over the coast-to-coast CBS hookup and the nationwide Canadian network - a total of approximately 115 stations. Periodic surveys conducted for CBS by Dr. Daniel Starch show that 59.4% of all radio homes have heard the Philharmonic broadcasts. Of homes in the highest income group 85.1% have listened, while even of the lowest group 44.7% have tuned in.

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