

HEINL RADIO BUSINESS LETTER

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No. 1615

March 31, 1944

MR. FLY FLIES OFF THE HANDLE AGAIN ON MONOPOLY AND NAB

Seemingly getting close to the bottom of the barrel on what are apparently his interminable appearances before the House Committee investigating the Federal Communications Commission, Chairman James L. Fly again began whacking away at his two favorite whipping boys, the major networks and the National Association of Broadcasters. Also the Chairman endeavored to enlighten the Committee on the phrase, "public interest, convenience and necessity", a concept which he said the broadcasters had found themselves baffled with but which standard, Mr. Fly declared, "had been an integral part of our law for about a century and a half".

Furthermore Mr. Fly declared the Commission had neither the authority nor the desire to dictate the kind of programs the public should have. He said the Supreme Court hadn't added a thing to the fundamental authority of the Commission but that the major networks had capitalized on the phrase "composition of traffic" to raise the hue and cry that the FCC was trying to choke off free speech.

Mr. Fly asserted that through the Supreme Court decision "the monopolistic shackles which RCA (through NBC) and CBS had imposed on the radio broadcast industry were finally broken." Rep. Miller (R), of Missouri, asked if he had once referred to the National Association of Broadcasters as an organization which was like a "dead mackerel in the moonlight because it both shines and stinks". Mr. Fly admitted this saying that the control of the networks over the broadcasters "stank at that time and still stinks".

"I do think, though it is not my business, that the broadcasters ought to have an association that is not dominated by the networks", Mr. Fly told the Committee, denying, however, that he had ever taken any "substantial" part in promoting the organization of any other such association.

He said it was "not true" as charged by Mark Etheridge, former NAB President at the St. Louis "mackerel in the moonlight" NAB meeting, that the study President Roosevelt had requested Mr. Etheridge to make of the radio industry had been with design rendered abortive by the release of an "anti-monopoly" report by the Commission and regulations issued thereunder "violently altering the structure of the American system of broadcasting."

While the regulations were promulgated, as stated, Mr. Fly insisted there was "no relation" between the date of the release of the report, on an investigation which had been started in 1938, and the survey Mr. Etheridge had been about to undertake, but then abandoned, announcing that it had been rendered ineffective.

In concluding his comment upon the phrase "public interest, convenience and necessity", the witness said:

"With the roots of the 'public interest' standard embedded so deep in Anglo-American law, why the recent outcry that this standard, as employed in the Communications Act, is too vague and too broad? The answer is, of course, clear. The Commission promulgated eight regulations directed at the big radio monopoly, and these regulations were upheld by the Supreme Court. That is why we now hear the powerful voice of these monopolists cry that 'public interest is too vague a standard' and that the FCC, under the Supreme Court's decision, 'has the power to determine what shall and what shall not be broadcast to the American people.'"

With regard to the Supreme Court decision, Mr. Fly said:

"Thus, in the network case the Supreme Court did nothing more than decide the issue before it -- the validity of the anti-monopoly regulations. The law with respect to the Commission's power, or rather lack of power, over radio programs was left just where it has always been. Under Section 326 of the Act the Commission is specifically denied the power to tell a radio station what it shall or shall not broadcast. The only power which the Commission does have is the power to review the over-all service of a station to determine whether it is operating in accordance with public interest, convenience and necessity. The Courts more consistently held that if the Commission finds that licensees have been operating their stations for private purposes only or to abuse people or various religious denominations or in any other manner inconsistent with the public interest, it has the power to refuse to issue renewals of license. It is significant that everyone who testified before the Senate Committee on Interstate Commerce on the White-Wheeler Bill has said that the Commission should have power to deny licenses in such situations. Certainly it cannot be said that this power has been abused by the Commission. The evidence before the Senate Committee clearly shows that the power has been very sparingly exercised.

"In short, the cry of the networks and the NAB has been for Congress to 'repeal the Supreme Court decision'. I have shown you that the decision has nothing to do with programs and therefore to overturn the Court's decision would have no effect so far as programs are concerned. It comes down to this. The only result that would follow from a repeal of the Supreme Court decision would be the restoration of the monopoly that the big networks formerly enjoyed. This monopoly must not be restored, particularly when we are on the threshold of television and frequency modulation which would make that monopoly far more powerful than it ever has been in the past."

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WABC has signed up for a circus campaign with Ringling Bros. and Barnum & Bailey Combined Shows, Inc., for the circus, on a Tuesday, Wednesday, Thursday and Friday schedule effective April 25.

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LONELY DEFENDER SEES CONGRESS PERSECUTING WALTER WINCHELL

Editor's Note - Space doesn't permit reprinting but if readers are sufficiently interested, they will find the exchanges between Representative Dickstein, of New York, and Representative Hoffman, of Michigan, about Walter Winchell as reported by the Congressional Record of March 29 (Page 3316) very amusing. There are other extended references to the Winchell case in the same issue by Representative Horrman on p. 3311 and Representative Lynch of New York, page A1712.

Although Walter Winchell is known to be President Roosevelt's No. 1 defender and though there are more than 200 Democrats in the House, all quick on the trigger in defending any friend of the President, only two that we know of have gone to the rescue of the rapid fire commentator. One was the old Administration wheelhorse, Representative A. J. Sabath, of Illinois, who did it apologetically, and the other was Representative Dickstein, of New York, who said:

"It grieves me very much that I have to take the floor and say what I have to say on this much discussed question of Winchell, Dies, Hoffman and Rankin. In my judgment, Winchell has become a symbol of persecution by the Congress of the United States. Congress has given this verbal battle so much publicity, time, and energy that the American people have begun to wonder whether we have forgotten about the war. Again and again during the last six months we had to listen to attacks upon Walter Winchell on the floor of this House. Why? Because he has criticized certain Members of Congress. He has not criticized the Congress of the United States as a political institution. I may not agree with everything he has to say, but I would let him say it since that is his privilege as a free citizen of a democracy.

"It was very surprising to me to hear my distinguished colleague, the gentleman from Michigan (Mr. Hoffman) just a little while ago make the 'charge' that J. Edgar Hoover was seen in a restaurant with Walter Winchell. Is it such a terrible thing to discover, that a public official is having dinner - or a chat - with a newspaperman? If it is, then many of us here are guilty of such 'misbehavior' - it seems we all like to talk to newspapermen. Now the gentleman from Michigan gives notice and threatens that because of that incident he is going to see to it that we withhold appropriations from the F.B.I. Because of his dislike of one man, the gentleman from Michigan threatens to hold up the appropriation used by an important Government agency in its work carried on for the protection of all the citizens of the United States and not for any individual person, whether it is J. Edgar Hoover, its able director, or any of the five or six thousand men who are under him. If that is not a misuse of congressional power to intimidate people, I do not know what to call it."

Here Representative Hoffman (R), of Michigan, broke in:

"The gentleman is absolutely wrong in saying that I suggested that appropriations should be withheld. I made no such statement. I said that when the Department of Justice came up here for appropriations we should ask Mr. Hoover where he stands, whether he is going along with Winchell in his attacks on Congress, on the loyalty of Members of Congress, whether he is going to continue to let Winchell use him and the Department for the benefit of his broadcasts. It is time the F.B.I. tells the public and the courts whether in its opinion it is true as charged by Winchell that there are saboteurs in Congress. That is what I said, and I stand on that."

"I have been here long enough to know that the Members on both sides of the aisle are Americans of outstanding ability", Representative Dickstein replied. "In trying to do one's job one necessarily steps on other people's toes and as people in public life we should expect attacks from our opponents. The record of a man in public life is a much better weapon than any speech he can make to defend himself against such attacks. If a man's record is such as to make a liar out of his accuser, why not just point that out and let the American people who have a lot of good common sense, decide the issues involved. We have been acting like a lot of prima donnas lately."

"Why, my dear friends, Congress now, has practically become a co-sponsor of - what is that lotion - Jergens' lotions - all the free publicity we have been giving this product must have boosted its sale quite a bit. We have made it so popular in the last few weeks - mentioning it repeatedly on the floor of the House that everybody should have heard about this product by now. We have given more publicity to Jergens' lotion than Jergens himself could possibly ask or pay for. Now, what is it all about? Let us take the facts, and I do not try to be facetious. I did not come here to create a fight. I am giving you the facts. I have sat on this floor for months, day in and day out and have heard 'Winchell', 'Lipschitz', and other names being flung around with all kinds of insinuations and innuendoes attached to them."

"Oh, no; I never said his name was Lipschitz", Mr. Hoffman said, but I will cite you the book where Winchell offered \$100,000, years ago, if anybody could prove his name was Lipschitz."

Discussion got around to the bill that Representative Hoffman introduced which would prevent a Naval officer from criticising Congress or the President. It was aimed at Mr. Winchell, who is a Naval officer on inactive status. Representative Hoffman believes the passage of this bill would cause Winchell to be discharged from the Navy.

"Since you are worried about the Navy officers' status as gentlemen", Mr. Dickstein said to Representative Hoffman, "and since one of your basic requirements for a gentleman is his refraining from using disrespectful words against the President and the Vice President and so forth, I must call your attention to the fact that many a Member's status as gentleman may be seriously challenged if we recall

the language they used while referring to the President and the Vice President. If certain conduct is expected from gentlemen in one branch of the Government, the same standards should be set up for all other branches of the Government. What right have we - "

"Listen", Mr. Hoffman broke in . "When I retaliated when the President said that we were perpetrating a fraud by passing the so-called soldiers' vote bill, and when he charged we were passing a bill for the greedy when we put through the tax bill - might be - might be - we are exchanging compliments with the White House - might be. Members of the majority used stronger language than did I. So did Members of the other body - members of the President's own party. "

Representative Dies asked Winchell in a radio speech last Sunday night to name the "great personage with so much power that he can reach into the Navy to keep Mr. Winchell on the air and off the seas." Winchell told the St. Louis Star-Times in a copyrighted interview later that Admiral Arthur J. Hepburn told him to stay on the radio.

Representative Dies (D), of Texas, in an address in Chicago, said he had been informed that sponsors of radio programs, "such as the Winchell program", are permitted to deduct the costs of such programs from their income tax returns and asked the Internal Revenue collector what steps could be taken to halt the practice.

Mr. Dies said he had been told that such deductions "run into millions of dollars annually and that instead of this money going to the war effort, in some instances it is being used to spread disunity through attacks upon the legislative branch of our Government. "

The letter was addressed to Internal Revenue Collector Joseph D. Nunan, Jr. In conclusion Mr. Dies asked what action is necessary to eliminate income tax deductions by sponsors of radio programs such as the Winchell broadcasts.

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PHILCO SEEKS N.Y., WASHINGTON AND BRITISH TELE OUTLETS

Philco has applied for television station construction permits for New York City and Washington, D. C. The former would be operated on Channel #9 (180000-186000 kilocycles), and the Capital station would be operated on Channel #4 (78000-84000 kilocycles).

Philco Radio and Television Corporation of Great Britain has bought a factory from General Aircraft, Ltd., and control of the manufacturing organization involved, as a potential production plant for the post-war television setup. Philco officials declared their intention to put mass produced television sets on the market immediately after the war. The Radio Industry Council and the Government Council on Television in England have advanced a plan by which 85 per cent of British homes could be linked up via television within nine months of the end of the war and operated through 12 stations relaying a main BBC program, it was stated.

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DR. A. HOYT HONORED BY U.S. FOR RADAR DEVELOPMENT

Dr. A. Hoyt Taylor, Chief Physicist of the Naval Research Laboratory, last Tuesday, as one of the inventors of radar, was awarded the new Medal for Merit in recognition of exceptionally meritorious conduct in the performance of outstanding services. Dr. Taylor and John C. Gerand, inventor of the Gerand rifle, were the first two to win this medal, which was awarded by President Roosevelt and presented by Secretary of State Hull, who is Chairman of the Medal Board.

Dr. Taylor was praised for having "labored tirelessly in a course of intensive research and experimentation which eventually resulted in the discovery and development of radar."

In this country the development began in 1922 when two scientists, Dr. Taylor and Leo C. Young, of the Naval Research Laboratory, discovered the basic principle of radar.

Dr. Taylor, born in Chicago, and now 65 years old has been connected with the Naval Research Laboratory at Bellevue, Anacostia, Md., a suburb of Washington, since its establishment and has been closely associated with the development of radio in the Navy since 1917. He first joined the Government service in November, 1917, with a commission as commander in the Naval Reserve, and he served five and a half years in the naval uniform as an engineer. Four years of this service was in the aviation corps as a consulting radio engineer.

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ARMY NEEDS 20% MORE DRY BATTERIES

Members of the Flashlight Case and Battery Industry Advisory Committee have been told that a 20 per cent increase over present production of dry cell batteries for military purposes will be needed to meet 1944 military requirements, the War Production Board reported this week.

The industry expects to maintain production of batteries for civilians at the present level, IAC members said. Facilities not adaptable for military production are used for the manufacture of civilian batteries.

A representative of the Standards Division of the Office of Price Administration, praised the dry cell battery industry for its efforts to maintain quality of its products during the war. He also outlined the work done by the OPA Price and Standards Divisions in their efforts to relate price and quality of over-age military batteries which are now being sold, some in re-assembled form, for civilian use.

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WLB GRANTING PETRILLO REQUEST WILL HEAR AFM TUESDAY

Granting the request of the Petrillo AFM group, the War Labor Board will hold a public hearing in Washington next Tuesday, April 4th. At this time the musicians will have an opportunity to present their objections to the recent report of the New York Panel. The Petrillo organization objected to the report stating that it was contrary to law and fact and beyond the powers and jurisdiction of the Board.

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BACKS DOWN ON FCC PROBE GAG; HEARINGS OFF UNTIL APRIL

Evidently the House Committee threw a scare into Attorney General Biddle when the Administration resorted to its usual tactics of gagging a witness - in this case Charles R. Denny, General FCC Counsel.

After more than an hour of futile questioning concerning Mr. Denny's position with regard to the removal from the air of Stefano Luotto, Italian language broadcaster at Station WHOM, New York City, a motion to cite the witness for contempt and compel him to reply was made last Wednesday by Representative Miller (R), of Missouri.

The next day the Attorney General, evidently sensing the temper of the Committee, and the anti-FCC wave that now seems to be sweeping over the Capital, backed down and permitted Mr. Denny to answer the questions in executive session.

The first question was:

"In the light of available information, is there any reason from the Commission's standpoint, why Stefano Luotto should not be permitted to broadcast?"

"The answer is no, there is not", Mr. Denny said. "And while on this point, I cannot speak for the Commission, I will say as its counsel that at this time I would not recommend revocation of the license of a station for employing him."

The other question, was:

"Has he (Luotto), to your knowledge, done anything that would justify his exclusion?"

"Yes, there was justification for that action, when taken", Mr. Denny replied, explaining that questions previously raised as to Mr. Luotto's 'attachment' to the United States had since been resolved in his favor and that no reason now existed for his further exclusion from the air.

According to the present plan there will be no more hearings by the House FCC Investigating Committee until after the Congressional Recess - April 12th.

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DR. LOVETT LANDS JOB WITH PUERTO RICO UNIVERSITY

Dr. Robert M. Lovett, former Secretary of the Virgin Islands, who along with Dr. Goodwin Watson and William Dodd, Jr., of the Federal Communications Commission, whose pay was cut off by Congress for alleged subversive affiliations, has joined the English Department of the University of Puerto Rico at San Juan. Dr. Lovett was a former Professor of English in the University of Chicago. He was the honor guest at a farewell reception at St. Thomas in the Virgin Islands, which, according to dispatches from there, attracted the largest crowd ever assembled in these islands for any similar event. He received a testimonial from twenty-nine civic organizations.

According to Drew Pearson, the inside story of how Dr. Lovett finally was separated from the Government pay-roll was this:

"Lovett, one of the most controversial figures in the Government, was voted out of his job by Congress after an adverse report by the Dies Committee because he belonged to certain liberal organizations.

"However, Ickes refused to fire Lovett - until the other day. He kept him on the job in the Virgin Islands in order to give Lovett a chance to make a test case before the Court of Claims or the U. S. Supreme Court as to whether or not Congress has a right to interfere with the President's appointments of executive officers.

"Last week the House Appropriations Committee was all set to raise another rumpus with Ickes when they met behind closed doors. In fact, one of the first questions asked of Ickes was whether Lovett was still on his payroll.

"If you had asked me that question at 9 o'clock", replied Secretary Ickes, with a twinkle in his eye, "I would not have been able to tell you. But the first thing I did when I arrived at the office this morning was to look up Lovett's status. When I found he was still employed in the Virgin Islands, I immediately dictated a request for his resignation."

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SMALL STATIONS NET \$14,536,000

The nation's small broadcast stations are prospering, according to a survey just completed by the Federal Communications Commission on stations of 1 to 1½ K.W. There were 160 of these operating last year, some with reduced power at night, and 11 were non-commercial.

Returns from the 125 which filed financial reports with the Commission show 1943 "net time sales" of \$14,536,000. Same stations reported only \$11,897,000 in 1942, an increase of 22%. Only 14 of the 125 making statements showed reduced time sales. All of the others are up. Forty-four reported sales increases of between \$25,000 and \$128,631 for the year. Of these stations, 93 have network affiliations.

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ZENITH'S UNFILLED ORDERS CONTINUE TO EXCEED \$100,000,000

The Zenith Radio Corporation reports an estimated consolidated operating profit for the first nine months ended January 31st, 1944, of its current fiscal year, amounting to \$5,112,138 after depreciation, Excise Taxes and reserves, including reserves for voluntary price reduction on war contracts and renegotiation, but before provision for Federal Income and Excess Profits Taxes.

Federal Income and Excess Profits Taxes on this profit are estimated at \$3,452,921.

Reserves which have been established for renegotiation are considered adequate by the management. Any adjustments necessary should not greatly affect the net result reported herewith in view of the existing high Excess Profits Taxes.

"The Company is continuing to produce large quantities of war material. All branches of the Armed Forces are very complimentary in their appraisal of the Company's performance on its contracts, particularly in regard to its outstanding record in producing all items on schedule", Commander E. F. McDonald, President of the company, reports.

"Unfilled orders continue to exceed one hundred million dollars.

"The Company has, in close cooperation with the Armed Forces, continuously pioneered the development and manufacture of vital radionic war apparatus. It has been and is the largest producer of frequency meters (used to check the radio frequencies of transmitting and receiving stations) and many items in the field of communication; has been a leader in the development and production of radar and has developed and lately perfected several vital and advanced types of secret apparatus for which it will be the prime source of supply.

"Because of the great benefit to the war effort, through placing large numbers of hard of hearing persons in war plants, the Company has been able to secure sufficient materials to substantially increase production of its new Radionic Hearing Aid. It will be some time, however, before the current backlog of orders is filled.

"The Company's subsidiary, Wincharger Corporation of Sioux City, Iowa, producer of wind-driven electrical equipment for farms and electrical dynamotors for military and aviation, has been shipping at a rate of 50% above the previous year. In view of the substantial backlog of orders on hand, it is expected this increased rate of shipping will continue."

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 ::: TRADE NOTES :::
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Though the Cincinnati Times-Star has its own station WKRC, it is dropping its column of radio gossip for the duration. This follows the lead of the Cincinnati Post affiliated with WCPO.

The Cincinnati Enquirer, which has no radio station connection still continues its radio page.

The Columbia Broadcasting System has asked the FCC for the go ahead signal for a powerful new 50 KW wartime international broadcast station at Delano, Calif., to be operated on 6120, 6170, 9650, 11830, 15270, 17830, 21520 and 21570 kilocycles.

The three notes of the famous NBC Chimes - the musical triad heard daily by countless millions of radio listeners are now sounding every fifteen minutes in the lobby of the NBC Building, Radio City. The actuating device, developed by NBC's Engineering Department, is operated by electronic means, which insure absolute pitch. Only the chimes sound on the quarter and half hour but they are followed on the hour by gong-like tones giving the exact time.

The number of Blue Network employees has increased from 324 to 832, including 134 in the armed services, Edgar Kobak, Executive Vice-President, told the members of the Akron Rotary Club last Wednesday, in outlining the Blue's growth since it was set up as an independent network in January, 1942.

Showing a marked upturn in year 'round sponsorship and a decline in seasonal cancellations, 119 of WOR's advertisers in 1943 remained on the air Summer and Winter although many of them were seasonal products. Of the 119 accounts, 77 of them used WOR for the entire 52 weeks of 1943.

In Washington, Charles Michelson, the veteran publicity director for the Democratic National Committee, gave a dinner for his successor, Paul Porter, former CBS counsel in Washington. After all the guests assembled and the small-talk was over, Mr. Michelson presented Porter to them. The new publicity director stared at the veteran Michelson, who had guided the Democratic National Committee through three presidential campaigns, then, according to Leonard Lyons, "I feel", Porter confessed, "as if I had just walked onto the podium at Carnegie Hall, and Kriesler gave me his fiddle and said, 'Play.'"

A suit for \$90,000 charging James C. Petrillo, as President of the American Federation of Musicians, with preventing Opera-on-Tours, Inc., from using transcribed music in its productions was filed in the New York Supreme Court this week.

It was learned the suit had been filed when the opera company sought a pretrial examination of Mr. Petrillo and Richard F. Walsh, President of the International Alliance of Theatrical Stage Employees, who also was named as a defendant.

Permitted uses of Manila fibre in the manufacture of certain types of essential papers include the production of electrolytic condenser paper for the manufacture of electrical condensers or capacitors where such paper is required, but such paper must not be heavier than 18 pounds per ream in sheets measuring 24 x 36", the War Production Board's Pulp Allocation Office explained yesterday.

Roy Harris' Sixth Symphony, specially commissioned by the Blue Network, will be performed for the first time Saturday, April 15th, during the regular broadcast of the Boston Symphony Orchestra, sponsored by Allis-Chalmers Mfg. Company. Harris has devoted the past year to the composition of the symphony, based on Lincoln's Gettysburg Address.

WCHS, Charleston Broadcasting Co., Charleston, W. Va., has asked the FCC to reinstate its application for construction permit to install new transmitter, changes in directional antenna for night use, change frequency from 580 kc to 640 kc, increase power from 5 KW to 50 KW, and move transmitter.

Neil Dalton, Assistant to the President of the Courier-Journal & Times, Louisville, Ky., on Thursday joined the Office of War Information as Assistant Chief of the News Bureau, Domestic Branch. Mr. Dalton served as Managing Editor of the Louisville newspapers after ten years as city editor. Dowsley Clark, former Managing Editor of the Minneapolis Tribune, is Chief of the News Bureau. Announcement also was made that Herbert C. Plummer, Assistant Chief of the OWI News Bureau's general news desk, has been made general news chief.

Incandescent and fluorescent lamp manufacturers in the immediate future may expect to continue to use tungsten and molybdenum at the present rate, War Production Board officials have told members of the Incandescent and Fluorescent Lamp Industry Advisory Committee, WPB reported today. Very little change in the production of these metals is anticipated at present.

Frank R. Deakins, whose career parallels the development and expansion of the radio industry, has been named President of RCA Victor Company, Ltd., of Canada, a wholly owned subsidiary of the Radio Corporation of America. Mr. Deakins rejoins the Canadian company in which he held the position of Executive Vice President from 1932 to 1934. He will direct the activities of more than 3,300 employees employed in the manufacture of radio and electronic equipment for the wartime needs of the Canadian government.

Mr. Deakins first became associated with the radio industry when he was with the General Electric Company. He rose to become the Sales Manager of the Radio Department. He joined RCA in 1930 as assistant to the President when RCA began to manufacture its own radio and electronic equipment.

He was made Manager of RCA's Engineering Products Division in 1931 and the next year joined RCA Victor, Ltd. of Canada as Executive Vice President. He returned to RCA Victor, Camden, in 1934 to become Manager of the Special Apparatus Division. Since the entry of the United States into the World War, Mr. Deakins has been Executive Assistant to the General Manager.

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